

**Introduction:-**

Once you have established how much you have to spend and what you want to buy, your next consideration is the actual procurement process to be used. The Procurement & Contracts Office will give you some options so that the best approach can be determined.

There are four types of procurement processes that are commonly used:-

**1. Open Procedure-**

Under this procedure all “interested parties” may submit tenders in response to our published Contract Notice on the eTenders website ([www.etenders.gov.ie](http://www.etenders.gov.ie)). In this process, bidders are requested to submit a complete response which comprises of two parts, by a specific closing date as specified in the Contract Notice:-

- a. Part 1: Eligibility Information i.e. legal, professional and/or technical, financial capacity and proven track record. These are standard questions that will be included in the template Invitation to Tender (ITT) documents that you receive from PCO. Generally, these are non-scoring questions – they are simply a “pass/fail” i.e. the required information is either included or not. Essentially this part of the process is designed to determine if the company is properly constituted and in a stable form to be considered further.
- b. Part 2: Tender Award. These are our Requirements Section. Interested parties respond directly to each of our requirements. Each response is then scored by an agreed Tender Evaluation Committee, using the agreed and published scoring matrix that is clearly laid out in these documents.

The Open procedure is often used where the item required is highly specialised and the field of competition is small or unknown. The publication of Government Circular 10/14, now encourages the wide use of this procedure.

**Timescale for Open Procedure:**

Default minimum is 40 days (reduction from 52 days) where all documents are made available electronically. The count commences from the day after the despatch of the notice to eTenders website. This can be shortened further if a Prior Information Notice (PIN) notice was advertised for a minimum of 52 days prior to any upload of documents.

**2. Restricted Procedure-**

This is a 2 stage process. Stage 1 commences with the publication of a Pre-Qualification Questionnaire (including an agreed scoring matrix) on the eTenders website. This contains much of the same information as mentioned in part 1 of the Open procedure. The main difference being that we can request more in-depth information on a similar range of topics, which is then scored. Interested Parties submit a response that is then reviewed and scored accordingly by the Tender Evaluation Committee. Only those respondents that reach or exceed our “minimum standards” will be shortlisted and invited to tender.

A minimum of 5 “suitably qualified” candidates must be invited to tender. The contract notice should be specific on a maximum number otherwise all candidates that meet our standards in Stage 1 will have to be invited to tender – ranges are permitted e.g. not less than 5 and no more than 8.

This procedure is normally used where the item or service is widely available and the field of competition is large. Circular 10/14 instructs that this procedure should only be used on contracts in valued <€134k.

#### **Timescale for Restricted Procedure:**

For stage 1 the default minimum is 30 days where a full electronic process is being conducted. The timescale for Stage 2 is reduced to 35 days (from 40 days) again for the use of a full electronic process. Where a PIN notice was published in advance of commencing the procedure and was advertised for a minimum of 52 days, then further reductions are permitted i.e. Stage 2 reduces to 22 days.

### **3. Competitive Dialogue-**

This procedure is designed to provide flexibility in the tendering process for more complex contracts, for example public private partnerships (PPPs), complex ICT projects etc. It is an alternative procedure to the open and restricted procedures. Through the process of holding dialogues with a range of candidates, the Budget Holder may identify suitable arrangements and/or solutions, which meet their needs. The same rules apply as the open and restricted procedures, up to the “qualifying of interested parties” and Budget Holders are advised that the same Tender Evaluation Committee should be involved in all stages of this process. This is essentially a 3 stage process:-

- a. Stage 1 - Candidates are pre-qualified in the same way as in the open and stage 1 of the restricted process. A minimum of 3 suitably qualified candidates is required to move to the next stage. Communication in writing is made with the unsuccessful candidates giving details of why they were unsuccessful.
- b. Stage 2 - All successful candidates are then issued a Descriptive Document which gives a broad outline of our requirements and our approach to running this process. It would also be prudent to include a comment regarding the importance of confidentiality etc. If the Tender Award Criteria was not published in the original contract notice, these must be made available in the Descriptive Document. If the weightings have not been finalised, then the tender award criteria should be listed in descending order. During this stage individual meetings occur to discuss the document. It is extremely important that the information gained by Budget Holders at these meetings is not shared between the candidates. It is common as the discussions go through more than a single round, for participants to decide to withdraw as they deem themselves technically unsuitable. Discussions include development of ideas/solutions, formal presentations, clarifications, contract terms, finance etc. This stage is formally closed off in writing before moving to the next stage i.e. tender.
- c. Stage 3 - At this point it is now possible to draw up a set of ITT documents using the information obtained during the dialogue stage. These documents will now focus on the Budget Holders requirements and the corresponding scoring matrix which will also include weightings. Responses received will be evaluated using this

matrix. It is still possible to clarify responses received on the proviso that the process does not involve changes to the basic features of the tender. Minor improvements to the tendered terms while rectifying any errors and inconsistencies. Limited changes are also permitted where it can be proved they arose due to unforeseen circumstances. The conclusion of the stage is also done in writing to all participants.

**Timescale for Competitive Dialogue Procedure:**

The same timescales apply for Stage 1 of this process as the Restricted Stage 1 i.e. the default minimum is 30 days were a full electronic process is being conducted. There are no prescribed timelines for Stage 2 Dialogue Stage or Stage 3 Tender stage. However reasonable timelines apply.

**4. Negotiated Procedure -**

**Used in very limited circumstances and as a rule not permitted to be used routinely.**

This is an exceptional procedure, which may be used only in the limited circumstances set out in Articles 30 + 31 of the revised public sector Directive. It essentially means that the Budget Holder is entitled to consult with parties of their choice and negotiate the contract terms after completing a 2 stage process, similar to the Restricted Procedure as detailed above. It is essential that the Budget Holder consult with the Procurement & Contracts Office before operating such a procedure.

There are two types of “Negotiated” procedure;

1) “Negotiated Procedure with a call for competition”; - allows interested parties to apply to participate in the process by providing the required information as stated in the contract notice. The information is requested in a PQQ format. Candidates are then shortlisted based on their responses. The minimum numbers of participants in the tender stage must be stated in the original contract notice. The minimum number as stated in the current legislation is 3. ITT documents issue only to suitably qualified participants.

2) “Negotiated Procedure without a call for competition”

The Procurement & Contracts Office must be contracted before such a procedure is invoked. This is an accelerated procedure with reduced timelines for both stages i.e. PQQ and Tender.

**Timescale for Negotiated Procedure:**

Default minimum is 30 days for responses to the contract notice using a full electronic process.