



# **PROCUREMENT POLICY AND PROCEDURES**

Summary .....	5
1. Introduction .....	7
1.1 Policy .....	7
1.2 Responsibility .....	7
1.3 Scope .....	7
1.4 Principles .....	7
1.4.1 Best Value for Money .....	7
1.4.2 Legal .....	7
1.4.3 Fairness & Honesty .....	8
1.4.4 Transparent .....	8
1.4.5 Confidential .....	8
1.4.6 Avoiding Conflicts of Interest .....	8
1.4.7 Risk Assessment .....	8
1.4.8 Non-Discrimination & Equal Treatment .....	9
1.4.9 Proportionality .....	9
1.4.10 Substance over Form .....	9
1.4.11 EU Treaty Principles .....	9
2. Government Framework Agreements .....	9
3. Sole Suppliers .....	9
4. Tendering .....	10
4.1 Pre-Tendering Phase .....	10
4.1.1 Identify Need .....	10
4.1.2 Strategy .....	10
4.1.3 Preliminary Market Consultation .....	10
4.1.4 Time .....	11
4.1.5 Estimate Cost .....	11
4.1.6 Budget Approval .....	11
4.1.7 Correct Procedure .....	11
4.1.8 Templates .....	12
4.1.9 Specification .....	12
4.1.10 Documentation .....	12
4.1.11 Support and Advice .....	12
4.2 Tendering Phase (National Level) .....	13
4.2.1 Contact Office of Government Procurement .....	13

4.2.2	Competitive Procedures.....	13
4.2.3	Time Limits .....	14
4.2.4	Tax Clearance.....	14
4.2.5	Evaluation .....	14
4.2.6	Approval to make Award.....	15
4.2.7	Notification .....	15
4.2.8	Publication of Award Notices .....	15
4.3	Tendering Phase – Above Threshold – EU Rules .....	15
4.3.1	Contact Office of Government Procurement.....	15
4.3.2	General Regime.....	15
4.3.3	Publication of Notices .....	16
4.3.4	Prior Information Notice (PIN).....	16
4.3.5	Contract Notice.....	16
4.3.6	Contract Award Notice.....	16
4.3.7	Minimum Time Limits .....	17
4.3.8	Receipt and Opening of Tenders .....	17
4.3.9	Selection Criteria.....	17
4.3.10	Economic and Financial standing .....	18
4.3.11	Professional and Technical Capacity .....	18
4.3.12	Insurance.....	18
4.3.13	Queries.....	19
4.3.14	Clarification.....	19
4.3.15	Award Stage.....	19
4.3.16	Presentations .....	20
4.3.17	Abnormally Low Tenders .....	20
4.3.18	Tax Clearance.....	20
4.3.19	Evaluation .....	20
4.3.20	Approval to make Award.....	21
4.3.21	Notification and Standstill Period.....	21
4.3.22	Procurement Checklist .....	22
4.3.22	Managing the Contract .....	22
4.3.23	Contract modification .....	23
4.3.24	Verifiable Audit Trail .....	23
4.4	Frameworks.....	23

5. Types of Procedures .....	25
5.1 Summary of Procedures.....	25
5.2 The Open Procedure .....	27
5.3 The Restricted Procedure.....	29
Appendix 1 – Procurement Timelines .....	31
Appendix 2 – Declaration of Confidentiality Form .....	32
Appendix 3 – Conflict of Interest Form .....	34
Appendix 4 - Checklist for Procurement and Contract File .....	35
APPENDIX 5 – Model Forms and Letters .....	36
APPENDIX 6 – Tier 1, Tier 2 and Tier 3 Members .....	<b>Error! Bookmark not defined.</b>

## Summary

The policy contains full details on a wide range of the procurement procedures. Not all staff or managers will necessarily need to use all of these procedures on a regular basis. The table provides a quick guide on thresholds and relevant procurement procedures.

Threshold (exc. VAT)	Procedure
Less than €5,000	<ul style="list-style-type: none"> <li>At least one verbal Quote from competitive suppliers</li> </ul>
Between €5,000 & €25,000	<ul style="list-style-type: none"> <li>Multiple Quote (minimum three, written)</li> </ul>
Between €25,000 & €221,000*	<ul style="list-style-type: none"> <li>Open Tender Process (National)</li> <li>Restricted Tender Process (National)</li> <li>Establishment of Framework following Tender Process (National)</li> <li>Use of Government Frameworks</li> </ul>
Greater than €221,000*	<ul style="list-style-type: none"> <li>Open Tender Process (EU)</li> <li>Restricted Tender Process (EU)</li> <li>Establishment of Framework following Tender Process (EU)</li> <li>Use of Government Frameworks</li> </ul>

\*Threshold up to 31 December 2019



## FUNDING AND PROCUREMENT THRESHOLDS TABLE

Expenditure Approval Process (Values excl. VAT) <i>Must be carried out prior to procurement Procurement Thresholds Supplies &amp; Services</i>		Procurement Thresholds Supplies & Services (Values excluding VAT)	Tender / Quote Process	Purchase Order (PO)	Contract Signature
<b>Value</b>	<b>Authorisation Level</b>				<b>Amounts excluding VAT</b>
Up to €10,000	Tier 3	Less than €5,000	One verbal quotation or more from a known competent supplier(s), confirmed in writing by letter or email. Documentation to be retained by relevant department.	All Purchase Orders (POs) should be raised on iProcurement (eWorkflow) module as soon as the commitment is entered into.	<b>For Goods and Services up to €25,000</b>
€10,001 to €50,000	Tier 2 authorisation	Between €5,001 and €25,000	At least three written quotations from known competent suppliers on the basis of written specification provided by SFI. Manager to notify the successful tenderer in writing of tender outcome. Manager to notify Finance of result of the process. Documentation to be retained by relevant department.		Written notification of award of contract to awardee attaching SFI's standard Terms and Conditions for goods and services and provision of PO.
€50,001 to €250,000	Tier 1 authorisation	Between €25,001 and €221,000 (restricted procedure can only be used for contracts over €135,000)	Formal tendering via national advertising using the Irish Government website <a href="http://www.etenders.gov.ie">www.etenders.gov.ie</a> Evaluation Committee to be made up of three people, including one Finance member. Quotation(s) and signed evaluation sheet must be forwarded to Finance Department for Contract Register.		No formal contract required. If contract is presented it should follow the authorisation levels listed below.
Greater than €250,000* - <i>Board authorisation</i>	Board authorisation	Greater than €221,000	European tender process via advertisement in Official Journal of the European Communities (OJEU) using the Irish Government website <a href="http://www.etenders.gov.ie">www.etenders.gov.ie</a> Evaluation Committee to be made up of three people, including one Finance member. Quotation(s) and signed evaluation sheet must be forwarded to Finance Department for Contract Register.	If estimated expenditure goes from below €50,000 to above €50,000 approval is required at Tier 1 level, in writing, prior to the award of contract or incurring additional expenditure on a contract.	Contract signed by relevant Director ( <i>Tier 2 Member</i> )
Any item that brings approvals, for a consultant or company, to an aggregate of €250,000 (exclusive of VAT) within the same calendar year requires Board approval.					<b>For all Contracts between €25,000 and €100,000</b>
					Contract signed by Chief Operations Officer.
					<b>For all Contracts above €100,000</b>
					Contract signed by Deputy Director General.

*Note \* Authorisation levels: Tier 1 - Executive Committee; Tier 2 - Executive Directors; Tier 3 - Departmental Managers*

## 1. Introduction

The purpose of these guidelines is to promote best practice and consistency of application of the public procurement rules in relation to the purchase of goods and services. Procurement transactions and decisions must in all respects be fair, equitable and ensure value for money. This document sets out Science Foundation Ireland's (SFI) policies and procedures for ensuring all procurements are compliant.

The Procurement Policy of SFI forms part of its Strategic Procurement Planning.

### 1.1 Policy

It is the policy of SFI to ensure that the processes used for purchasing/procuring products and supplies promotes value for money and is cohesive. This policy adheres to the Office of Government Procurements' Public Procurement Guidelines for Goods and Services (July 2017) and EU Procurement Directives 2014/24/EU.

### 1.2 Responsibility

These procedures apply to all SFI for the acquisition of goods and/or services.

### 1.3 Scope

All non-pay expenditure made to clients/service users with the exception of IDA cross charges, external reviewer costs, staff expenses made in line with policy (e.g. mileage and overnight payments) and Sponsorship and Partnership payments sourced via a sole supplier come within the scope of this procurement policy. Procurement of supplies, works and services by all units of SFI regardless of whether they are funded by state grants or other sources are subject to this procurement policy.

### 1.4 Principles

The aim of procurement in SFI is to:

- Procure goods and services which best contribute to SFI's performance.
- Procure those goods and services as efficiently as possible and to obtain best value for money without compromising appropriate quality and standards.
- Ensure compliance with public sector guidelines, Irish Regulations and EU procurement directives.

This is achieved using the following principles.

#### 1.4.1 Best Value for Money

SFI acts in a position of public trust with resources provided by the State as well as income from other sources which is to be used in a manner to achieve the best outcomes for its clients and service users. As such procurement processes are carried out in a manner to achieve best value for money for SFI without compromising appropriate quality and standards. The resources managed by SFI should be deployed in the most cost effective and efficient manner possible.

#### 1.4.2 Legal

All procurement processes should be carried out in a manner which is legal, tax compliant, in compliance with public procurement guidelines, Irish regulations and EU procurement directives.

Before awarding a contract, SFI personnel responsible for the procurement should ensure that suppliers have regard to statutory provisions relating to minimum pay, legally binding industrial or sectoral agreements and relevant health and safety issues, when preparing tenders.

An appropriate reference to the need for compliance with such provisions should be included in purchase documents (e.g. tender documents, purchase orders, contracts).

#### **1.4.3 Fairness & Honesty**

Procurement processes should be carried out in a manner which is fair to all potential suppliers. All aspects of procurement processes should be carried out in an honest manner and records should be kept which are sufficient to demonstrate a high level of probity, particularly for high value procurement. These records should include quotations/tenders, signed evaluation documents, invitations to tender where applicable and any relevant correspondence with tenderers/suppliers. An Article 84 Form is required for all OJEU level tenders.

#### **1.4.4 Transparent**

Procurement processes should be carried out in a transparent manner.

#### **1.4.5 Confidential**

The confidentiality of all potential suppliers should be protected in so far as is practical. Disclosure of supplier and tender information relating to the tender process prior to contract award, and in particular to another interested party, is strictly prohibited. See the SFI Declaration of Confidentiality form for both Staff and External Advisors at Appendix 2.

#### **1.4.6 Avoiding Conflicts of Interest**

Where actual or potential conflicts of interest exist between potential suppliers and SFI personnel these should be documented, communicated appropriately internally and their impact minimised.

Care should be taken to ensure that project specifications and criteria should be as open and generic as possible to avoid favouring any one solution or any one party.

See SFI Conflict of Interest form for both Staff and External Advisors at Appendix 3.

#### **1.4.7 Risk Assessment**

SFI should engage in risk assessment and management in procurement where

- the value of the purchase is high
- the procurement process is complex
- adverse consequences could significantly affect a public body's operation
- delivering the public body's core services to the community is significantly affected

*Note: not all of these need to be present to carry out a risk assessment*

When risk is being considered with respect to procurement, SFI should ensure that risk is assessed in relation to each category of goods and services with reference, for example, to the following factors:

- the nature of the supply market, e.g. does it favour the buyer or the supplier?
- probability of supply failure
- impact on the organisation of supply failure
- strategic importance to the organisation

#### **1.4.8 Non-Discrimination & Equal Treatment**

Procurement should be carried out in a manner which does not discriminate on the basis of gender, civil/family status, sexual orientation, religion, age, disability, race or membership of the Traveller Community.

#### **1.4.9 Proportionality**

The level of complexity and work involved in the procurement processes used should be proportionate to the value of the procurement as well as the risk involved. Suppliers should have sufficient turnover proportionate to a contract to be able to deliver on the contract i.e. turnover requirement for a contract should be two times annual value or €50k whichever is the greater.

#### **1.4.10 Substance over Form**

Contracts and procurements should not be manipulated artificially in such a way as to avoid the principles and policies set out in this document.

#### **1.4.11 EU Treaty Principles**

In addition to the above principles, procurement should be carried out in a manner which respects EU Treaty Principles including mutual recognition, freedom to provide services and freedom of establishment.

## **2. Government Framework Agreements**

In accordance with DPER Circular 16/13 'Revision of arrangements concerning the use of Central Contracts put in place by the National Procurement Service' issued 23 September 2013, SFI is reminded that it is Government policy that public bodies, where possible, should make use of central framework agreements. Where public bodies do not utilise central procurement frameworks they should be able to provide a value for money justification. Value for money justifications should consider the full costs of running a public procurement competition. The current Schedule of Framework Agreements can be found at <S:\SFI\Finance & Operations\Procurement\OGP Contracts & Framework Agreements\Schedule of OGP Framework Agreements>

DPER Circular 02/16 'Arrangements for digital and ICT-related Expenditure in the Civil and Public Service' provides that all ICT procurement opportunities with a value of €25,000 or greater must be advertised on the Government eTenders website at [www.etenders.gov.ie](http://www.etenders.gov.ie) unless it is proposed to use a properly procured existing arrangement, central framework or other centrally established procurement vehicle. Mini competitions or supplementary requests for tender must be conducted fully within the rules governing the relevant framework or procurement vehicle.

The circular also provides that all ICT purchases (other than emergency purchases) must also get prior ICT control approval from the Department of Public Expenditure and Reform (OGP CIO) in addition to any necessary procurement procedures.

## **3. Sole Suppliers**

The only way to determine if there is a sole supplier situation is to go to the market i.e. tender. Where it is necessary to deal with a sole supplier, service provider or contractor, arrangements which provide best value for money should be negotiated. Care should be taken by SFI when they face a supplier, service provider or

contractor with an exclusive right to provide a particular supply or service in a designated territory. Open-ended arrangements with these exclusive distributors should be avoided where possible.

Evidence should be retained on file demonstrating that the supplier is a sole supplier, and this status should be reviewed. When considering whether a supplier is a sole supplier, particularly where patented or trademarked products are concerned, similar supplies should be examined. Care should be given in adopting proprietary software which will commit SFI to a sole supplier.

Where sole suppliers were in place prior to the adoption of this policy, they should be identified by the manager responsible for the supplier relationship. The reasons for use of the sole supplier should be documented and provided to the Finance Department.

## 4. Tendering

### 4.1 Pre-Tendering Phase

#### 4.1.1 Identify Need

SFI should first establish whether there is a clear business need for the good or service for example, by way of preparation of a business case. The procurement should be essential for the conduct of normal business or to improve performance. Stating that the need for the procurement 'is a good idea' is not a sufficient business case. SFI should ensure that the business case addresses future phases of the service or purchase of goods that may be required. **Part B of The Public Spending Code** provides guidance on the Appraisal and Planning Stages of public projects before expenditure is incurred.

#### 4.1.2 Strategy

SFI should avoid where possible casual or 'once-off' purchases and promote best value. SFI should check if the Office of Government Procurement has existing or planned procurement arrangements which may meet their needs for the good or service. If such an arrangement does exist but is not being used on this occasion, SFI should document the reasons why.

#### 4.1.3 Preliminary Market Consultation

The 2016 Irish Procurement Regulations explicitly allow a contracting authority to conduct market consultations with suppliers and expert bodies before the start of a procurement process which may facilitate improved specifications, better outcomes and shorter procurement times. Preliminary market consultation can provide insights about the capacity of the market to deliver on the requirements of SFI and the risks involved. It may reduce procurement timescales during the formal procurement process. In addition, it has the potential to drive a more responsive market and allows suppliers to ask questions at an earlier stage prior to the commencement of the formal process.

It is essential, however, that this practice does not create advantages for certain market players or result in specifications and tender documents being drafted in their favour. Market consultation should be sufficiently broad to provide SFI with meaningful feedback on the relevant market. Requests for information can be issued via eTenders to a wide number of suppliers according to their Common Procurement Vocabulary (CPV) codes.

If the market consultation is followed by a tender competition, it is important that there is no basis for any assertion of bias, unfairness, discrimination or lack of transparency. Therefore, the process adopted and information received during market consultation should be clearly recorded in writing. SFI staff member should take appropriate measures to ensure that participation by potential tenderers in pre-market consultations does not distort competition, that any relevant information exchanged in the context of, or resulting from, the involvement of a tenderer in the pre-market consultation is made available to the all other participating tenderers, and the adequate time limits for receipt of tenders are fixed to ensure each tenderer can submit a tender.

Compliance with the obligation of transparency requires that the process of obtaining market intelligence is kept separate from the tendering and award phase of the competition.

#### **4.1.4 Time**

SFI should ensure that there is an adequate amount of time in the procurement procedure and take account of the nature of the specifications and the complexity of the contract when fixing the timescale for submitting responses. This should allow suppliers reasonable and sufficient time for submitting the necessary information and preparing the tenders (taking into account holiday periods etc.). In the case of contracts for goods or services above the EU financial thresholds, contracting authorities must also ensure that the timescale complies with the minimum periods specified in the 2016 Regulations, which are set out in Appendix 1.

#### **4.1.5 Estimate Cost**

A realistic estimate of the value of all phases of the service or good to be procured is essential as this will determine the rules applicable to the procurement procedure to be followed and is important for budgeting purposes. When valuing a contract to ascertain the applicable procurement procedure the contracting authority must make a genuine pre-estimate of the contract value at the date of publication of the Contract Notice, exclusive of VAT, taking into consideration the entire term of the contract, i.e. assuming all extensions and all options under the contract are exercised. Contracts without a fixed term should generally be valued on the basis of four years anticipated supply. No project or purchase may be artificially split or sub-divided to prevent it coming within the scope of the National Guidelines or EU Directives. The valuation of Framework Agreements must consider the value of all potential call-off contracts under these agreements/systems over their lifetime. Where a project or purchase involves separate lots, the value of all lots must be included in estimating the value of the contract.

#### **4.1.6 Budget Approval**

SFI staff member should establish whether funds are available to meet the purchase, and ensure that all necessary budgetary approvals are sought in adequate time. See summary table for approval details on page 6.

#### **4.1.7 Correct Procedure**

For contracts below the relevant EU financial thresholds, staff members should follow the National Guidelines as set out in these Guidelines. For contracts above the relevant EU financial thresholds, the 2016 Regulations apply. The financial thresholds applying to all procedures are set out in the summary table on page 6. These EU financial thresholds are normally revised by the EU Commission every two years.

#### **4.1.8 Templates**

SFI has a suite of templates and individuals should ensure that the correct template tender documentation is used. If you have any query on which documents to use please contact the Procurement Liaison Officer or Sarah Smithwick, Finance Manager. The Request for Tender/ quote templates are located: [S:\SFI\Finance & Operations\Procurement\SFI Templates Contracts \\_RFT\\_Model\\_Letters docs](#)

#### **4.1.9 Specification**

Specifications should be based on the needs identified in the business case and ensure that the specifications are clear and comprehensive and not discriminatory. Specifications should use generic technical specifications and avoid proprietary brand names.

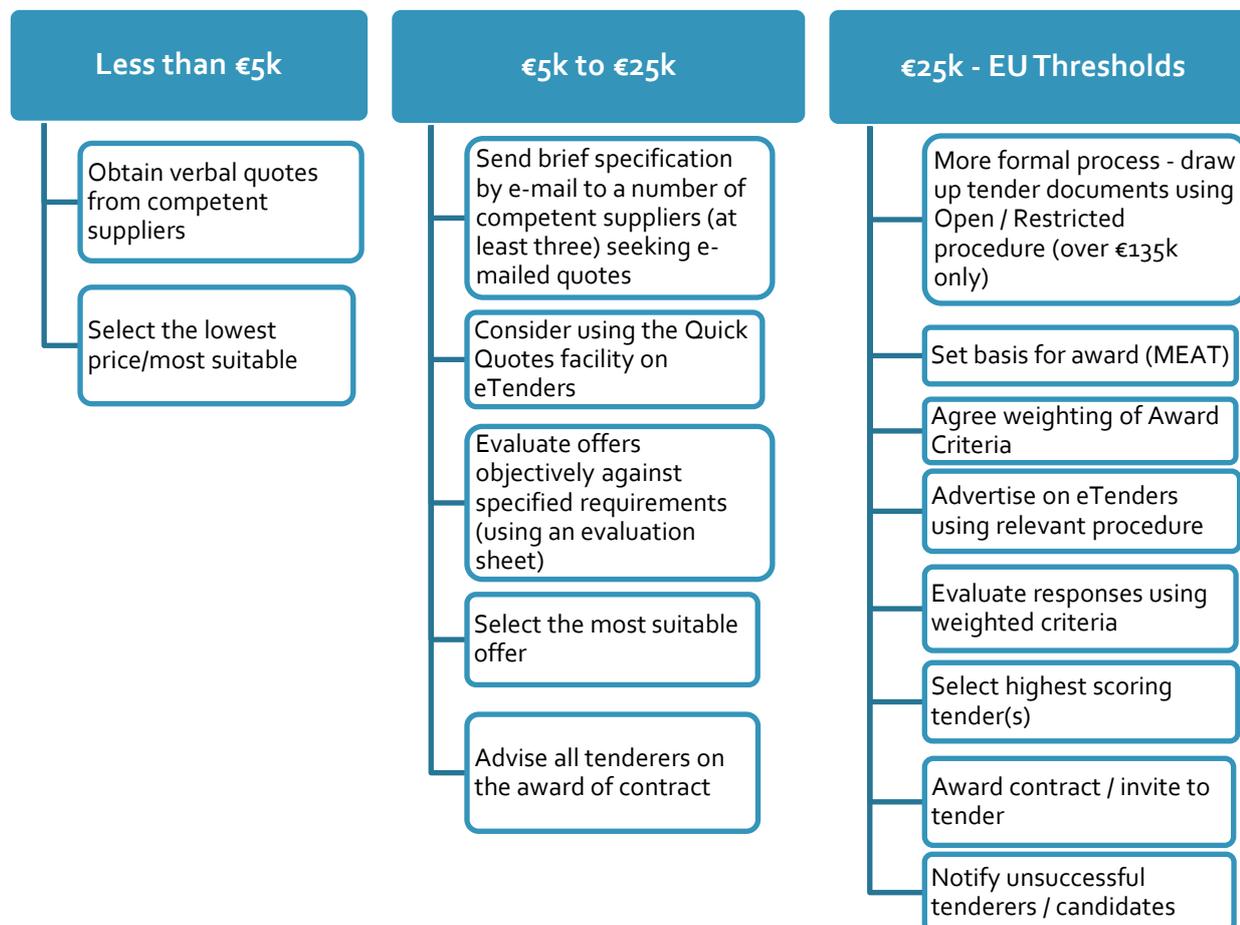
#### **4.1.10 Documentation**

Tender documents should be prepared, setting out Selection Criteria and Award Criteria and ensuring compliance with the procurement rules. All documents should be checked for completeness, accuracy and consistency prior to issuing. Clarity and completeness at this stage will help eliminate the need for clarifications later. The tender documents must set out all the criteria that will be applied in the award process, together with the relative weightings of each. This is a vital part of the process. These criteria will form the basis against which tenders will be comparatively evaluated and are the key to an objective, transparent award procedure.

#### **4.1.11 Support and Advice**

SFI may wish to liaise with external Procurement specialist and/or OGP in relation to the preparation of their tender documents. All requests should be directed through the Finance Office.

## 4.2 Tendering Phase (National Level)



### 4.2.1 Contact Office of Government Procurement

Before undertaking any procurements, the staff member should contact the Procurement Officer and advise them of the proposed tender. The Procurement Officer will then contact the Office of Government Procurement to see if there are any existing or planned procurement arrangements which may meet their needs. The OGP is also available to provide procedural advice and administrative assistance with any procurement process and this will be agreed in consultation with the Procurement Officer.

### 4.2.2 Competitive Procedures

For contracts or purchases below the EU threshold values (which are not “call- off” contracts under a Framework Agreement) the following procurement procedures apply:

- contracts for goods and services with an estimated value of less than €5,000 (exclusive of VAT) can be purchased on the basis of verbal quotes from one or more competitive suppliers (best practice is to seek a minimum of 3 quotes confirmed by e-mail)
- contracts for goods and services with an estimated value between €5,000 and €25,000 (exclusive of VAT) can be awarded on the basis of responses to written specifications (e.g. sent by email) to at least three suppliers or service providers - the Quick Quotes facility on eTenders should be considered as

it allows a search for appropriate suppliers using CPV codes which match their particular procurement needs and may facilitate this process

- contracts for goods and or services, with an estimated value of €25,000 (exclusive of VAT) and up to the value of €221k should be advertised as part of a formal tendering process on eTenders using the Open Procedure in line with DPER Circular 10/14.

#### **4.2.3 Time Limits**

There are no prescribed time limits in relation to below threshold procedures. However, sufficient time must be permitted for preparation and submission of tenders to allow for genuine competition and SMEs to participate in the tender process. As a general rule it is recommended that **a minimum of 21 days** be allowed for receipt of tenders i.e. contracts over €25k where a more formal tendering process is used.

#### **4.2.4 Tax Clearance**

It is a condition of a contract award that the successful tenderer(s) shall, for the term of such contract(s), comply with all EU and domestic tax laws. Prior to the award of a contract, the successful tenderer is required to supply its Tax Clearance Access Number and Tax Reference Number to facilitate online verification of its tax status by SFI. This is usually done as part of the Self Declaration process. By supplying these numbers the successful tenderer acknowledges and agrees that the contracting authority has the permission of the successful tenderer to verify its tax cleared position online.

In a two-phase tender competition the tax clearance of those candidates who are recommended to go through to the tender stage should be verified prior to being invited to tender stage, and this should be verified again before any award of contract is made.

In relation to payments under Public Sector contracts, SFI is required to verify the tax clearance of contractors prior to making payment.

#### **4.2.5 Evaluation**

In relation to larger contracts (with an estimated value of €25,000 and above), the tender evaluation should be carried out by a team with the requisite competency.

- A minimum of two staff is required to evaluate quotes below €25k, where it is considered preferable to have an evaluation committee.
- A minimum of three staff, one of whom should be independent i.e. from outside of the tendering department, is required to evaluate published tenders. A member of the Procurement Department may form part of the evaluation team. A Chair for the evaluation must be nominated.

All evaluation team members are required to sign both a Confidentiality form and a Conflict of Interest statement. See Appendix 2 and 3 for a copy of the relevant forms.

Transparency and objectivity is achieved using the weighted criteria, including price, which allows a comparative assessment of tenders under each criterion. All tenderers should be informed of the result of a tendering process without delay.

#### **4.2.6 Approval to make Award**

Prior to the issue of notification letters to the tenderers staff must ensure that the relevant approval is in place. See the SFI funding and procurement thresholds table for details of the appropriate authorisation levels.

On receipt of approval, in writing, notification letters can be prepared.

#### **4.2.7 Notification**

Where formal tenders have been received in a below threshold competition, all tenderers should be informed of the outcome as soon as possible after an award decision has been taken. Appendix 5 contains template letters for notifying successful and unsuccessful tenderers in such cases.

It is the policy of SFI to give constructive feedback to unsuccessful tenderers. This encourages better tenders in the future and promotes competition in the market. From the point of view of tenderers this provides reassurance about the integrity of the process and helps them to understand and operate the different procedures and practices that apply in the Public Sector.

Care should be taken to ensure that confidential information such as the identity of other unsuccessful tenderers, prices or pricing strategies of other tenderers or information that could compromise the competitive situation or infringe the intellectual property rights of others, is not disclosed.

Appendix 5 contains a set of Model Letters for use in relation to below EU threshold Competitions.

#### **4.2.8 Publication of Award Notices**

It should be noted that under DPER Circular 10/14 buyers are required to publish Contract Award Notices for all contracts over €25,000 on eTenders on completion of the award.

### ***4.3 Tendering Phase – Above Threshold – EU Rules***

#### **4.3.1 Contact Office of Government Procurement**

Before undertaking any procurements, the staff member should contact the Procurement Officer and advise them of the proposed tender. The Procurement Officer will then contact the Office of Government Procurement to see if there are any existing or planned procurement arrangements which may meet their needs. The OGP is also available to provide procedural advice and administrative assistance with any procurement process and this will be agreed in consultation with the Procurement Officer.

#### **4.3.2 General Regime**

The procurement of all goods and most services contracts require the full application of the public procurement rules in the 2016 Regulations as set out below. It is a legal requirement that contracts with estimated values equal to or above the EU thresholds must be advertised in the OJEU (which may be accessed via eTenders) and awarded in accordance with the provisions of the 2016 Regulations. Any infringement of the terms of the Regulations can have serious legal and financial consequences for SFI.

The 2016 Regulations also introduced a simplified award regime (a “light-touch” regime) for certain services, notably health, social, educational and cultural services, to take into account the specific nature of these services. *Please contact the Procurement Officer to determine if your service qualifies under Light Touch Regime.*

#### **4.3.3 Publication of Notices**

Standard OJEU Notices are available on eTenders and can be processed through eTenders which automatically transmits to the OJEU. The accurate completion of the publication notices is crucially important. All OJEU notices will be carried out by the Procurement Officer or SFI’s Procurement Consultant Agency.

#### **4.3.4 Prior Information Notice (PIN)**

It is the policy of SFI to publish a Prior Information Notice (PIN) in the OJEU setting out their intentions with respect to planned procurements. The PIN is normally submitted at the start of the budgetary year and sets out the categories of goods and services likely to be procured during the year. The period covered by the PIN cannot not be more than 12 months from the date on which it was published.

A PIN can be used in two scenarios:

- A market finding exercise – SFI cannot then avail of shortened timelines
- Notification to the market with a view to availing of shortened timelines.

To avail of the shortened timelines the relevant PIN must contain the information listed in Part 2 of Schedule 3 of the 2016 Regulations, including that the PIN was published between 35 days and 12 months before the contract notice. Publication of a PIN does not commit contracting authorities to purchasing or proceeding with a project if circumstances change. The purpose of a PIN is to alert the market to the upcoming procurement opportunities and it is intended as an aid to transparency for the benefit of suppliers. To follow up the publication of a PIN with a Contract Notice will be required, when they are ready, to carry out the procurement exercise.

#### **4.3.5 Contract Notice**

Contract Notices are generally used as the means of calling for competition in respect of all procedures and should be published in the OJEU (which may be accessed via eTenders). Contract Notices set out the key details of the procurement process and the type of contract being advertised.

*Please note that when OJEU notices are sent for publication, they will not appear on etenders for a few days as they are now required to appear at the same time on both sites. When the contract notice is published on OJEU it will also appear on the etenders site.*

#### **4.3.6 Contract Award Notice**

Within 30 days of the award of a contract or Framework Agreement a Contract Award Notice must be sent to OJEU via eTenders. The information which is required to be provided in the Contract Award Notice is set out in Part 4 of Schedule 3 of the 2016 Irish Regulations. The obligation to publish a Contract Notice in the OJEU extends only to the award of the Framework Agreement itself and does not apply to the award of specific contracts under the Framework. However, in line with DPER Circular 10/14, contracting authorities are required to publish all Contract Award Notices over €25,000 on the eTenders website on completion of the award. This is a separate step to publishing on the OJEU aimed at facilitating measurement of SME participation in public procurement.

Where you have a concern over the nature of information required in a Contract Award Notice where its release would impede law enforcement, be contrary to the public interest, would harm the legitimate commercial interests of a particular tenderer or may prejudice fair competition between tenderers, please contact the Procurement Officer.

#### **4.3.7 Minimum Time Limits**

For contracts above the EU thresholds, minimum time-limits are set down for the different stages of the particular contract award procedure chosen in the 2016 Regulations. The time limits in the 2016 Regulations are minimum time limits, you should take into account the complexity of the tender and the volume of information that the tenderers are required to submit when setting any time limits. The revised minimum time limits are set out in Appendix 1.

#### **4.3.8 Receipt and Opening of Tenders**

Personnel should ensure that the tenders are opened promptly after the closing deadline. SFI opening procedures should be adhered to for opening tenders to prevent any risk of abuse or impropriety at this stage of the procurement process.

Where tenders are not received electronically a formal opening of tenders received must take place. At least two SFI staff members should open the tenders. When tenders are opened, they should be date stamped and initialled. The pages containing pricing details should be stamped and initialled. Tenders received after the tender deadline should be rejected and returned to their owners, with their arrival time recorded. Tenderers cannot submit modifications to their tenders after the closing date for receipt of tenders. The stamped and initialled prices are the prices that must be used in determining the price of the tender. A report on the tenders received, those present at the opening of the tenders, and details of any tenders rejected and the reasons for the rejection should be produced, signed off at the appropriate level and placed in the project file.

eTenders facilitates the tracking of electronically received tenders and may be used for receipt and processing of tenders.

#### **4.3.9 Selection Criteria**

Where suppliers are not excluded from tendering for reasons based on the exclusion grounds, they are assessed based on information concerning their suitability to pursue a professional activity, economic and financial standing and/or as technical capacity and ability. At this stage only the supplier's ability to perform the contract is being considered and not whether they have made the best offer or not.

For Open Procedures, all tenderers that meet the Selection Criteria have a right to have their tenders evaluated at the award stage.

For two stage procedures (Restricted, Competitive Dialogue, Competitive Procedure with Negotiation, and Innovation Partnership), a limited number of candidates may be invited to tender (or negotiate) based on the Selection Criteria but this must be stated in the Contract Notice. Candidates have a right to be advised of the reasons they have not met the Selection Criteria. Records should be kept of this notification in line with SFI's obligations under Regulation 84.

#### 4.3.10 Economic and Financial standing

The assessment of a tenderer's economic and financial standing is a key part of any procurement process because SFI must be reasonably satisfied that a contractor will have the necessary economic and financial capacity to carry out any contract which may be awarded.

Establishing the appropriate Selection Criteria that are relevant and proportionate to the subject matter of a particular contract is a matter for the staff member but might include a minimum yearly turnover.

Any such requirements should be related and proportionate to the subject-matter of the contract. In particular, the turnover requirement should normally not exceed twice the estimated **annual contract/framework value**. However, in duly justified circumstances, it is possible to apply higher requirements.

Tenderers are asked to confirm by way of their completed ESPD/ Self declaration that they meet the minimum standards required by the contracting authority. They will generally be required to produce the necessary documentation (e.g. bank statements, audited accounts, proof of professional indemnity, etc.) only when provisionally short-listed in a Restricted Procedure or provisionally chosen as the successful tenderer in an Open Procedure. However, they can be asked for this documentation at any stage in the procurement process where this is necessary for the proper conduct of the procurement process.

#### 4.3.11 Professional and Technical Capacity

Where a tenderer's professional and technical capacity is being evaluated, you may request information, (e.g. a list of the main services provided by the tenderer over the past three years – previous experience) to show that the tenderer possesses the required professional and technical capacity to carry out the contract and that it possesses the necessary human and technical resources and experience to perform the contract. Where experience is specified as a selection criterion, it should not be framed in such a way as to unduly narrow a field of eligible tenderers (by specifying an exact work type or industry) or constitute a barrier to non-national tenderers.

You may consider the previous experience of individuals in the case of a start-up business that has yet to establish a track record as a business entity. Where particular profiles of technical ability (i.e. educational and professional qualifications) are required, you should request copies of the curriculum vitae of the tenderer's proposed project team for assessment against the required technical profiles.

***You can choose to evaluate CVs and people's experience (specifically if technical requirements) to carry out the required service at either the selection or award stage BUT NOT AT BOTH STAGES. You must ensure that in evaluating curriculum vitae you do so only once.***

#### 4.3.12 Insurance

It is SFI policy to only require such types and levels of insurance as agreed are proportionate and reasonable in the context of the particular contract. Factors which may be considered by buyers for the supply of goods and general services should include: the risks involved, the value of the contract and the subject matter of the contract. The required insurance coverage will vary from contract to contract. Any requirement for insurance cover must be signalled in the tender documentation.

Documentary evidence of the required insurance will only be required when a candidate is being assessed for shortlisting in a Restricted Procedure or has been identified as a successful tenderer in an Open Procedure procurement competition. The candidate must demonstrate that it can obtain the relevant insurance in accordance with the requirements set out. The evidence required to pass this criterion is confirmation from an insurance provider that the candidate has the current required level of insurance. Alternatively, if the candidate does not currently have cover at the levels stipulated they must produce evidence from the insurance provider confirming that the candidate can obtain cover at the stated levels if awarded the contract.

#### **4.3.13 Queries**

Candidates / tenderers can raise queries or request clarification from SFI in relation to Tender documentation. The date and time for acceptance of queries is stated in the contract notice and in the tender documentation. Queries are generally submitted via the messaging facility on etenders.

If additional information or material is supplied to a candidate, on request or otherwise, it must be supplied to all candidates / tenderers – this is usually done through the messaging facility on etenders.

#### **4.3.14 Clarification**

Under the 2016 regulations, in certain circumstances you can request the Tenderer to submit, supplement, clarify or complete information where information submitted by a tenderer appears, to you, to be incomplete or erroneous or where specific documents are missing. Please contact the Procurement Officer before seeking any such clarifications from tenderers.

#### **4.3.15 Award Stage**

Where a tenderer meets the Selection Criteria, and otherwise meets the requirements set out in the RFT (i.e. a compliant tender) then their tender is entitled to be given due consideration under the Award Criteria. In the event that the tender then proves to be the most economically advantageous tender under the Award Criteria, you may at any point up to the contract award ask the successful tenderer to reconfirm any of the qualification information.

SFI has at its own discretion decide not to award any contract and to cancel the entire contract award procedure at any time during the procurement process. In doing so it must so notify tenderers of its decision and provide reasons.

The 2016 Regulations provide that the contract should be awarded to the MEAT (most economically advantageous tender). To identify the most economically advantageous tender, the contract award decision should be based on

- price, or cost, using a cost-effectiveness approach such as life-cycle costing, or
- the best price-quality ratio to be assessed on the basis of criteria including qualitative, environmental or social aspects, linked to the subject matter of the contract
- quality only where the cost element is fixed price

The tender documentation must state in the procurement documents the relative weighting which it gives to each of the award criteria. Objectivity and transparency is best achieved by the use of a scoring system or

marking sheet based on the weighted criteria, indicating a comparative assessment of tenders under each of the award criterion. Sub-criterion may be used and these must also be set out in the tender document including their relative weightings.

#### **4.3.16 Presentations**

In Open or Restricted Procedures, tenderers may be asked to make a presentation on their proposals. These presentations should only be used as an aid to understanding and for purposes of clarification and cannot be scored unless this is stated in the RFT. Such presentations are not an opportunity for "post tender negotiation" on price or specifications. Negotiations of any kind cannot take place where an Open or Restricted procedure are used.

#### **4.3.17 Abnormally Low Tenders**

The 2016 Regulations oblige contracting authorities to investigate tenders they consider abnormally low and to seek explanations from suppliers about the price or cost. In this context, acceptable explanations from tenderers could include:

- the economics of the manufacturing process or the construction method
- the technical solutions chosen
- any exceptionally favourable conditions available to the tenderer

SFI may reject the tender where the evidence supplied does not satisfactorily account for the low price. Rejection is mandatory in cases where SFI has established that the abnormally low price or costs proposed results from non-compliance with all applicable obligations in the fields of environmental, social and labour applying under national and EU law and relevant international conventions at the place where the works are carried out or the services provided. Where it is found that the low price is the result of State Aid, SFI may reject the tender if the supplier is unable to prove that the aid is compatible with EU State Aid rules.

#### **4.3.18 Tax Clearance**

It is a condition of a contract award that the successful tenderer(s) shall, for the term of such contract(s), comply with all EU and domestic tax laws. Prior to the award of a contract, the successful tenderer is required to supply its Tax Clearance Access Number and Tax Reference Number to facilitate online verification of its tax status by SFI. This is usually done as part of the Self Declaration process. By supplying these numbers the successful tenderer acknowledges and agrees that the contracting authority has the permission of the successful tenderer to verify its tax cleared position online.

In a two-phase tender competition, the tax clearance of those candidates should be verified prior to they are invited to tender stage, and this should be verified again before any award of contract is made.

In relation to payments under Public Sector contracts, SFI is required to verify the tax clearance of contractors prior to making payment.

#### **4.3.19 Evaluation**

Examination of tenders should be carried out by a team with the necessary competence.

- A minimum of two staff is required to evaluate quotes below €25k, where an Evaluation Committee is considered necessary..

- A minimum of three staff, one of whom should be independent i.e. from outside of the tendering department, is required to evaluate published tenders. A member of the Procurement Department may form part of the evaluation team. A Chair for the evaluation must be nominated.

All evaluation team members are required to sign both a Declaration of Confidentiality and a Conflict of Interest statement. See Appendix 2 and 3 for a copy of the relevant forms.

Transparency and objectivity is achieved using the weighted criteria, including price, which allows a comparative assessment of tenders under each criterion. All tenderers should be informed of the result of a tendering process without delay.

The team may include independent representation and external experts can be used in complex evaluations to provide advice or recommendations on the technical aspects of the tenders to the evaluation team. External experts should return to SFI all documentation, materials and notes received or made during the evaluation.

#### **4.3.20 Approval to make Award**

Prior to the issue of notification letters to the tenderers, 'The recommendation to appoint a consultant/company form' must be completed by the Procurement Liaison Officer or Finance Manager. This appointment recommendation must be approved and signed by the relevant Director prior to informing the preferred bidder.

On receipt of approval, in writing, notification letters can be prepared.

All notification letters issued for OJEU level contracts should be signed by the Procurement Liaison Officer or Finance Manager.

#### **4.3.21 Notification and Standstill Period**

As soon as possible after the award decision has been taken, SFI must inform all tenderers of the outcome using a "standstill letter" for above threshold procurements.

You will inform the preferred tenderer, in writing, that it has been identified as the most economically advantageous tenderer, subject to SFI being satisfied with the evidence provided by the preferred tenderer to support its completed Self declaration. SFI will notify the preferred tenderer of the standstill period applicable. They will be the 'tenderer designate' until after the standstill period.

The day after the contract decision notice has been issued the "standstill period" will begin. The standstill period is 14 days where the notice is sent electronically or 16 days where the letter is sent by post. The standstill period will not commence until all relevant letters have been despatched to all tenderers. This period is designed to ensure that the procedures which have been followed are open to review before the conclusion of a contract. The standstill process can be managed via eTenders.

**During the standstill period a contract cannot be concluded.**

Notifications to unsuccessful tenderers must include the following information to be a compliant standstill letter:

- the Award Criteria
- the name of the successful tenderer
- the score of the recipient
- the score of the successful tenderer
- details of the reason for the decision, including the characteristics and relative advantages of the successful tender for each of the award criterion
- confirmation of the date before which SFI will not enter into the contract or Framework Agreement (i.e., the date after the end of the standstill period)

It is not enough to state in a general way that the successful tenderer's response was superior to that of the unsuccessful tenderer; rather the letter should contain reference to specific matters, examples or facts which explain why the decision about relative advantage was made.

Appendix 5 contains a set of Model Letters for use in relation to above EU threshold Open / Restricted Competitions.

#### **4.3.22 Procurement Checklist**

A copy of the completed and signed Procurement Checklist must be retained in the Request for Tender ("RFT") file. A sample checklist for assessing the necessary elements of a Procurement and Contract File is contained in Appendix 4.

Copies of all correspondence regarding the RFT process, queries from consultants and official letters must be retained in the RFT file.

Upon completion of the RFT process the Procurement Checklist must be completed and signed by the Finance Department to confirm that all procurement rules and guidelines have been complied with.

The RFT file and contents, one complete set of the tender submission and original packaging must be retained by the Finance Department, for a period of not less than 8 years, in a central file location. The file location will remain locked and any requests for an RFT file must be made through the Finance Department. All files must be signed in and out.

#### **4.3.22 Managing the Contract**

A contract should be actively and effectively managed and monitored by SFI contract owner. Active involvement in the management of the contract is essential to maximise value for money (VFM).

The following are standard steps that should be followed in managing a contract:

- have a programme of checking goods or services against the contract specification
- ensure that there are regular procedures for reporting and for identifying inadequacies/poor performance and appropriate remedial action maintain a record of supplier performance

- review the whole procurement process at the conclusion of the contract, not just the supplier's performance but also the effectiveness of the earlier stages. This review process can provide information for future procurements in respect of developing and specifying needs, supplier selection and contract management.

#### **4.3.23 Contract modification**

A substantial modification of the provisions of a public contract or Framework Agreement during its term will be considered a new award for the purposes of the 2016 Regulations and will require a new procurement procedure. Substantial modifications are those where the modification renders the contract or Framework Agreement materially different in character from the contract or Framework Agreement initially concluded. One or more of the following conditions must be met for a modification to be substantial:

- the modification introduces conditions which, had they been part of the initial procurement procedure, would have allowed for the admission of other candidates than those initially selected, allowed for the acceptance of a tender other than that originally accepted, or attracted additional participants in the procurement procedure
- the modification changes the economic balance of the contract or Framework Agreement in favour of the contractor in a manner which was not provided for in the initial contract or Framework Agreement
- the modification extends the scope of the contract or Framework Agreement considerably
- a new contractor replaces the one to which the contracting authority had initially awarded the contract in cases other than a review clause or universal or partial succession.

Where the proposed contract modification does not fall within the scope of any of the above please contact the Procurement Officer to discuss options.

#### **4.3.24 Verifiable Audit Trail**

Accurate written records (including computer records) are essential in demonstrating that proper ethical standards have been observed. Therefore, appropriate records should be maintained throughout the procurement process. eTenders provides a detailed audit trail of the procurement process from contract notice through to award notice and contract management.

### **4.4 Frameworks**

A Framework Agreement is an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity. They are in effect umbrella agreements with one or more suppliers or service providers that set out rules under which specific purchases ("call-off" contracts) can be made during the term of the Framework Agreement. The most appropriate use of a Framework Agreement is where a contracting authority has a repeated requirement for goods or services but the exact quantities are unknown.

The benefits arising from Framework Agreements include: administrative savings from reduced duplication of tendering; improved consistency; and enhanced service levels. See Section 2 for use of Government Frameworks.

The key features of Framework Agreements are:

- they can be placed by an individual contracting authority.
- they can be with a single supplier or multiple suppliers
- “mini competitions” may be held between Framework members as required or Framework clients can directly draw-down goods or services in accordance with the rules set out in the Framework Agreement
- the maximum duration is four years (unless in exceptional circumstances justified by the subject of the Framework Agreement)
- the terms and criteria for awarding contracts under a Framework Agreement must be published at the outset and must not change

The obligation to publish a Contract Notice in the OJEU extends only to the award of the Framework Agreement itself and does not apply to the award of specific contracts under the Framework. However, in line with DPER Circular 10/14, contracting authorities are required to publish all Contract Award Notices over €25,000 on the eTenders website on completion of the award. This is a separate step to publishing on the OJEU aimed at facilitating measurement of SME participation in public procurement.

Contracts awarded under a Framework Agreement may have a completion date after the end of the Framework. It is important, however, that any “overhang” should not act to distort the market.

Although it is possible to use any one of the main competitive procedures to put in place a framework agreement, in practice the Open and Restricted Procedures are more commonly used. This is because the Frameworks are generally more suited to the procurement of straightforward commodity and non-complex purchases. Framework Agreements may also be used for procurements under the EU thresholds.

In awarding a contract under an established Framework Agreement (a “call-off”) there are in general two main options:

#### **OPTION 1: DIRECT DRAW DOWN**

Awards can be made directly, without re-opening a competition amongst framework members, on the basis of an objective procedure set out in the Framework Agreement. For example, you may opt to use a cascade approach for call-off where a contract is always offered first to the first ranked tenderer at the framework award stage and, if this party is not in a position to perform the contract to the second ranked party and so on. Alternatively, the award of contracts may rotate between framework members in a pre-determined order. Care needs to be taken to ensure that whatever method is used is set out in the Framework Agreement and that it is transparent and objective.

#### **OPTION 2: MINI-COMPETITION**

This is where awards are made based on a further competition, inviting all framework members on the framework to participate (a mini-competition). The contracting authority may use the second option of a mini-competition where not all terms governing supply are laid down in the Framework Agreement. This process allows the terms referred to in the specification to be more precisely formulated. This is still subject to the principle that the parties may under no circumstances make substantial amendments to the terms laid down in the Framework Agreement. The call-off contract Award Criteria and the weightings (or weighting

ranges) must be clearly stated in the documents sent to framework members in relation to a mini-competition. The mini-competition phase can be fully managed on the eTenders system. All of the framework members on the framework capable of performing the contract must be invited to participate in a mini-competition on this basis. Contracting authorities must fix a time limit for submission of tenders which is sufficiently long enough to allow tenders for a call-off contract to be submitted. Tenders must be submitted in writing and shall not be opened until the timeframe for reply stipulated in the supplemental request for tenders has expired. The contracting authority shall award the call-off contract to the best tender on the basis of the Award Criteria specified in the procurement documents for the Framework Agreement.

## 5. Types of Procedures

### 5.1 Summary of Procedures

There are six award procedures that contracting authorities may utilise when awarding contracts under the 2016 Regulations as follows:-

Standard Procedures	Procedures available with justification
<ul style="list-style-type: none"> <li>• Open</li> <li>• Restricted</li> </ul>	<ul style="list-style-type: none"> <li>• Competitive Procedure with Negotiation</li> <li>• Competitive Dialogue</li> <li>• Innovation Partnership</li> <li>• Negotiated Procedure without a Call for Competition</li> </ul>

Whatever procedure is used care should be taken to ensure that project specifications are as open and generic as possible to avoid favouring any one solution or any one party.

The most commonly used procedure is the **Open Procedure**. The advantage of the Open Procedure is that it invites an unlimited amount of offers and, therefore, unlimited competition (unlike other procedures there is no maximum number of participants). Its main disadvantage is the potential administrative burden of having to examine many tender documents. Accordingly, this procedure may not be appropriate for complex procurements.

The **Restricted Procedure** tends to be used where there is a need to pre-qualify suppliers where there is evidence that the number of potential suppliers is very large or where you may want to limit the number of people who will have access to certain confidential and/or sensitive information. The procedure can be used to reduce the number of candidates (and the paperwork) to be examined. The disadvantage of the procedure is that it takes longer and is sometimes more complicated to run.

The **Competitive Dialogue Procedure and the Competitive Procedure with Negotiation** may only be used for works, goods and services contracts where one or more of the following circumstances apply:

- your needs cannot be met without adaption of readily available solutions
- the contract includes design or innovative solutions
- the technical specifications cannot be established with sufficient precision

- a contract cannot be awarded without prior negotiation because of specific circumstances related to the nature, the complexity or the legal and financial make-up or because of risks attached to the works, goods or services
- in response to an Open or Restricted Procedure where only irregular or unacceptable tenders were submitted

These procedures tend to be used in the case of complex high-value projects where the above conditions are met. They are not intended to be used for off-the-shelf goods and services which are available from many different suppliers on the market. In relation to the difference between the two procedures, the Competitive Dialogue Procedure provides for some clarification and optimisation after the final call for tenders making it much better for highly complex outcome based procurement. It offers a more structured procedure than the Competitive Procedure with Negotiation. However, it offers less scope for negotiating once SFI has identified a solution/solutions for meeting its needs. The Competitive Dialogue procedure can also be very expensive to run both in cash and resource terms.

The **Innovation Partnership** is a new procedure aimed at allowing the development of innovative goods, services or works and the subsequent purchase provided that it corresponds to the performance levels and maximum costs agreed between the contracting authority and the participants.

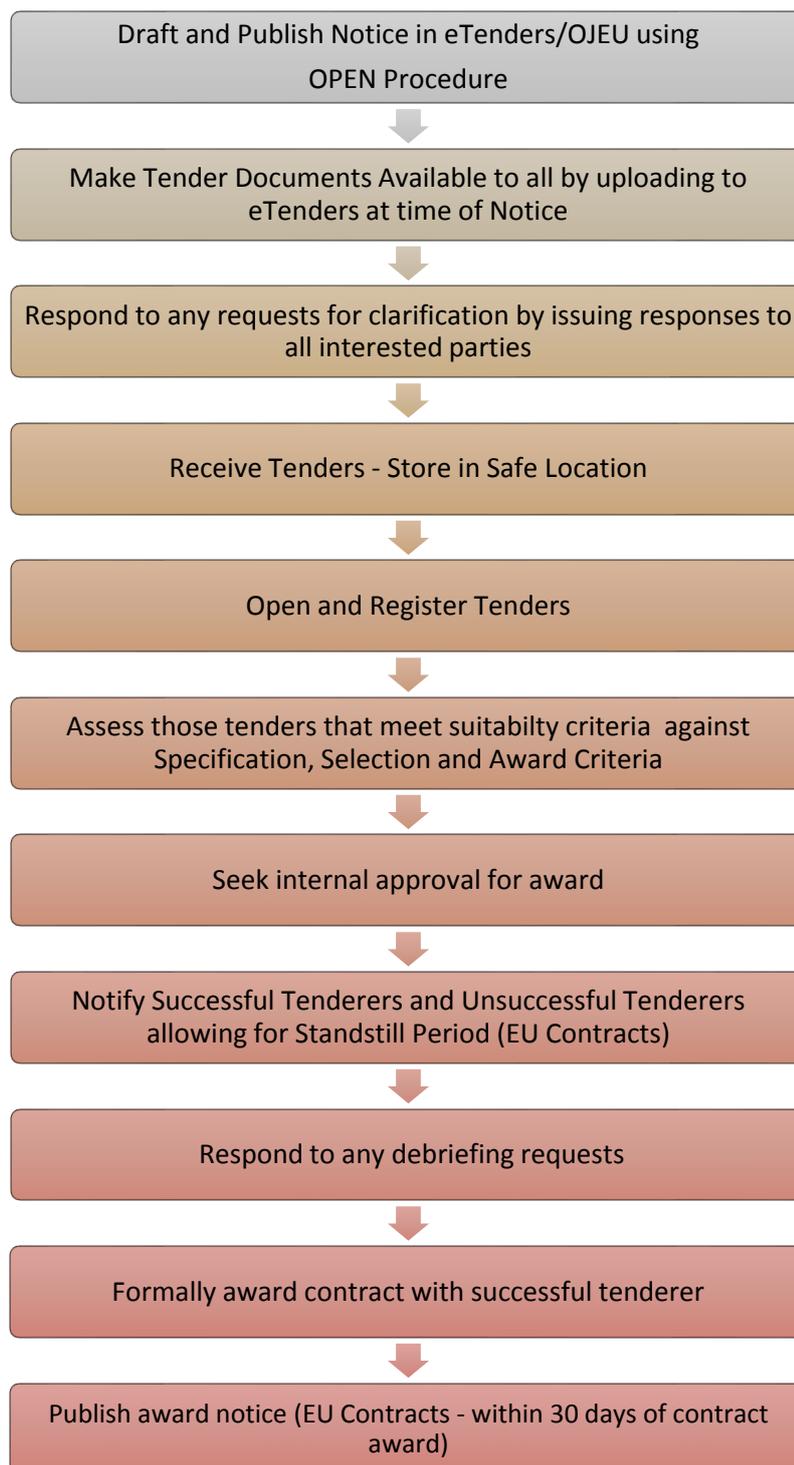
The **Negotiated Procedure without Prior Publication** can only be used in very limited and narrowly defined circumstances, e.g. where no tenders or no suitable tenders or no requests to participate or no suitable requests to participate have been submitted in response to an Open or Restricted Procedure, or where for technical or artistic reasons, or the protection of exclusive rights, the contract can only be carried out by a particular supplier. The burden of proof is on the contracting authority to justify using this procedure.

It should be borne in mind that the reason for choosing a particular procurement process must be included in the procurement report, required to be produced under Regulation 84 of the 2016 Regulations. In addition, all contract award procedures should include a verifiable audit trail and where a competitive process was not deemed appropriate, this should be clearly recorded.

**Where a staff member wishes to use a procedure other than the Open or Restricted Procedure they must first consult with the Finance Department.**

A more detailed description of the Open and Restricted procedures is set out below.

## 5.2 The Open Procedure



**Note:** If using Self-Declaration seek evidence before making the award

The Open Procedure is a single stage procedure where a Contract Notice and Request for Tender document (RFT) is placed in the OJEU (via eTenders). The Contract Notice will clearly state that the contract is being carried out using the Open Procedure. All interested parties may submit tenders.

It is important that the Selection Criteria and Award Criteria are made clear in the Contract Notice and the RFT so that all potential tenderers can understand how the procurement process will be run and how they will be evaluated. Only tenderers who are not disqualified on Exclusion Grounds and meet the Selection Criteria are evaluated against the Awards Criteria set out in the RFT.

The closing date for the receipt of tenders is generally no less than 35 days from the day after the date of dispatch of the Contract Notice to OJEU. Reductions in timescales are available in the following limited circumstances:

- if a Prior Information Notice (PIN) was issued within the relevant timeframe,
- where a state of urgency duly substantiated by the staff member and approved by their Department Manager renders the time limit impractical or
- where public bodies will accept a tender response electronically.

*Please consult the Finance Department if your requirement is urgent – i.e. only became aware of the requirement and there is an immediate need to have a solution in place.*

SFI may seek clarifications in relation to tenders submitted by tenderers.

### 5.3 The Restricted Procedure



The Restricted Procedure is a two-stage procedure, a pre-qualification stage open to all interested parties who wish to submit an expression of interest, and an award stage where candidates shortlisted at the pre-qualification stage are invited to submit tenders and are assessed against Award Criteria set out in the Request for Tender (RFT).

The first stage requires interested suppliers to submit an Expression of Interest (EOI) and to self-declare that they have met the economic and financial selection criteria. They must submit responses to the technical criteria, which should be evaluated by relevant evaluation team. Interested suppliers must also declare that they are not subject to any of the Exclusion Grounds (set out in Regulation 57 of the 2016 Regulations) and can meet the relevant Selection Criteria set for the competition. Once the Contract Notice is published, suppliers have a minimum of 30 days to submit an EOI and ESPD and if shortlisted a further 30 days for submission of tenders.

The purpose of the Selection Criteria is to assess the capability of each candidate to carry out the required services or provide the required goods. The Contract Notice must state the number of candidates that will be invited to tender e.g. the top five. If this is not done, all candidates who meet the Selection Criteria must be invited to submit tenders. A minimum of five candidates should be invited to tender (provided there is at least this number who meet the Selection Criteria). Unsuccessful candidates should be advised of the reasons they have not been selected. Records should be kept of this notification in accordance with the rules on record keeping and retention of records under Regulation 84 of the 2016 Regulations. If candidates have not been advised at the end of the Selection Stage that they were unsuccessful, then this must be disclosed to them at the Standstill Stage, before the contract is concluded. Candidates who are shortlisted may be asked to provide evidence and supporting documents that they meet Selection Criteria and are not subject to any Exclusion Grounds as set out in their self-declaration prior to being invited to tender.

In the second stage shortlisted candidates are invited to submit tenders and are assessed against the Award Criteria set out in the Request for Tender (RFT) document, i.e. most economically advantageous tender (MEAT).

It is important to bear in mind when using this or any of the other two stage procedures that you must offer unrestricted and full direct access to the procurement documents (RFT and draft contract) from the date of publication of the Contract Notice or the date on which an invitation to confirm interest is sent.

## Appendix 1 – Procurement Timelines

### a. Below Threshold between €25,000 and €221,000

There are no prescribed time limits in relation to below threshold procedures. However, sufficient time must be permitted for preparation and submission of tenders to allow for genuine competition and SMEs to participate in the tender process. As a general rule it is recommended that a minimum of **21 days** be allowed for receipt of tenders where a more formal tendering process is used.

### b. Above Threshold EU Rules i.e. over €221,000

For contracts above the EU thresholds, minimum time-limits are set down for the different stages of the particular contract award procedure chosen in the 2016 Regulations. The time limits in the 2016 Regulations are minimum time limits and contracting authorities should take into account the complexity of the tender and the volume of information that the tenderers are required to submit when setting any time limits.

The minimum time limits are set out below

	Standard time	If Electronic tender permitted	If Urgent *	Where PIN published ^
<b>Open Procedure</b>				
Minimum time limit for receipt of tenders	35 days	30 Days	15 Days	15 Days
<b>Restricted Procedure</b>				
Minimum time limit for requests to participate	30 days	n/a	15 days	30 days
Minimum time limit for receipt of tenders	30 days	25 days	10 days	10 days

\*This shorter time limit is allowed where a state of urgency duly substantiated by the contracting authorities renders the minimum impracticable

^This shorter tendering time limit is allowed where contracting authorities have published a prior information notice which was not itself used as a means of calling for competition, provided that all of the following conditions are fulfilled:

## Appendix 2 – Declaration of Confidentiality Form

To be completed by the Evaluation Team Members

<b>Name:</b>		<b>Role</b>
<b>Tel:</b>		<b>E mail</b>
<b>Procurement Project</b>		

**Tender Evaluation Group Declaration - this declaration must be read and signed by the members of the Procurement Evaluation Group and returned to the Procurement Lead.**

The main responsibilities of procurement evaluation group members are to:

1. Understand and respect the different roles and responsibilities within a Procurement Evaluation team.
2. Represent their discipline or area and provide formal two-way communication & feedback (subject to confidentiality).
3. Provide a brief summary/overview outlining what goods or services are required, where the goods or services are required and determine the optimal duration of the contract. The summary must make the scope of the contract clear.
4. Assist in the specification of a statement of requirements in sufficient detail so as to facilitate the determination of the optimum proposal.
5. Assist with setting the selection and award criteria and (if appropriate), award sub-criteria.
6. Contribute to the determination as to whether a contract should be broken into lots.
7. Assist with the design and appropriate pricing schedule to be used in the tender.
8. Assist with the preparation of questions that tenderers will be required to clearly and unambiguously answer with their tender submission, by way of mandatory information required. These questions should be designed to confirm compliance with the specifications or should otherwise be linked to award criteria. The responses to such questions should assist in the evaluation process.
9. Assist with the evaluation of responses against advertised criteria only.
10. Contribute to the agreement and recommendation of preferred tenderer and proposal.
11. Promote the decision of the Procurement Evaluation Group and assist in the implementation where appropriate.
12. Participate in tenderer debriefings when required.
13. Act in a professional, confidential and ethical manner at all times.
14. Maintain appropriate records of actions and decisions.
15. Direct all interactions with external parties regarding the tender to the Procurement Lead.
16. Conduct the tender process in full accordance with the Procurement Regulations and fundamental principles.
17. Participate in any internal or external process audit carried out in relation to a tender process.
18. Develop Key Performance Indicators (as may be necessary) for incorporation into the contract.

During the course of a tender process, members of a Procurement Evaluation team are expected to observe **confidentiality** in relation to commercial information from prospective suppliers. Information relating to the examination, evaluation and comparison of tenders and recommendations concerning the award of a contract will not be disclosed to tenderers or other persons not officially concerned with such process.

It is incumbent on any member of the group to declare and “conflict of interest” which might compromise and individual’s impartiality, or be reasonably be perceived as doing so, in the award of a contract. Any such “conflict of interest” should be notified immediately to the Procurement Lead of the Procurement Evaluation Group.

Any effort by a tenderer to unduly influence the process of examination, clarification, evaluation and comparison of tenders and in decisions concerning the award of a contract, must at the earliest opportunity be reported to the Procurement Lead. In accordance with **Section 38 of the Ethics in Public Office Act 1995** any money, gift or other consideration from a person holding or seeking to obtain a contract will be deemed to have been paid or given corruptly unless the contrary is proved.

I acknowledge the confidentiality and commercial sensitivity of the tender submissions and that I will take all due precautions to ensure their security and confidentiality while in my possession and control. I further undertake to maintain strict confidentiality with regard to the tender evaluation process and not to discuss the deliberations of the tender evaluation team with unauthorised third parties at any time.

**I have read, understand and agree to adhere to the above declaration.**

<b>Signature</b>	
<b>Title</b>	
<b>Date</b>	

### Appendix 3 – Conflict of Interest Form

<b>Tender Title</b>	
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This form should be completed by any person who is part of the evaluation process for tender. There is no requirement for the interests of close relatives of members to be declared, but where a potential conflict of interest exists, this should be brought to the attention of the Procurement Lead.

**Please enter details in the relevant sections below; If no conflict exists, please write “none” rather than leave blank**

1. You will declare a conflict if you or your family members have any ownership, part-ownership or directorship (including non-executive directorships) held in private companies or PLCs entering this tender process.

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2. You will declare a conflict if you or your family members have any majority or controlling shareholdings in organisations entering this tender process.

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3. You will declare a conflict if you or family members have received any benefits, gifts or hospitality from organisations entering this tender process.

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I declare that the interest(s) stated are those which I consider to be relevant and material to this procurement project. I further declare that in the event of such an actual or potential conflict coming to light at any time during the tender evaluation process I shall immediately notify the Procurement Lead of such actual or potential conflict. I acknowledge that the Procurement Lead may take such decision as they consider appropriate in that event, including discontinuing my involvement in the tender evaluation process.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Upon completion this form should be scanned and emailed to the Procurement Liaison Officer:

## Appendix 4 - Checklist for Procurement and Contract File

SFI Finance Department is responsible for ensuring that all documentation is completed for each tender process. Not all documents will be required depending type of procurement process.

Document	Completed or N/A
• Regulation 84 report (OJEU only) / Procurement report signed by the relevant Director	
• A request to engage external support or buy goods with reasons justifying decision	
• A business case or cost benefit analysis where applicable	
• All documentation that issues to the market including PIN, contract notice and RFT	
• All clarifications sent to tenderers/candidates	
• The report of the opening of the tenders	
• A qualification report and list of candidates meeting the Selection Criteria	
• The evaluation report signed by all team members	
• Appointment recommendation approved by authorised approver.	
• Copies of all notification letters (together with proof of delivery / read receipts if issued by email)	
• The winning tender (or quotation)	
• Unsuccessful tenders should be archived together with a copy of the RFT, the contract notice and the evaluation report	
• For Framework Agreements, all correspondence, including orders, relating to individual contracts/drawdowns - one file should be opened for the Framework Agreement and individual project files set up for each call-off contract established under the Framework	
• Copy of signed contract sent to the successful tenderer	

Finance Department	
Signed by	
Date	

## APPENDIX 5 – Model Forms and Letters

The Model Letters and Forms are located on the SFI S drive: [S:\SFI\Finance & Operations\Procurement\SFI Templates Contracts \\_RFT Model Letters docs](S:\SFI\Finance & Operations\Procurement\SFI Templates Contracts _RFT Model Letters docs)