

Procurement for LEADER grant aided Projects

Introduction

As LEADER grant aid comes from EU and Irish Public funds, the selection of a supplier must be fully transparent and represent value for money. Depending on the value and type of project, this may involve seeking quotations directly from suppliers, advertising the works in a newspaper, putting the project out to public tender on <http://www.e-tenders.ie> etc. This is known as the procurement process.

Following the correct procurement process is essential for any project seeking grant aid from LEADER. **We strongly advise that you speak to one of our Development Officers before commencing procurement / tendering.**

Terms of Reference / Specification

No matter what size or type the project is – the first thing which must be done is to draw up a detailed terms of reference listing exactly what services or products you require, how you want them delivered and how you will select the preferred supplier. This document will be used to seek quotations or tenders for the work. For complex projects or construction works, it is recommended to consult an engineer, architect or other relevant professional.

LEADER Operating Rules

The document below is an extract from the LEADER Operating rules giving full details of the requirements. It should be passed on to any professional (engineer, architect etc) who is dealing with your project.

Brief Glossary of terms

LAG – This stands for Local Action Group. In our case it is the Tipperary Local Community Development Committee who holds the LEADER contract.

IP - Implementing Partners – This refers to the organisations who manage the programme on behalf of the LCDC. In our case South Tipperary Development Clg is the implementing partner.

Evaluation Committee - an independent group with expertise across the areas of Business, Community and Environmental issues. This group assess each project in detail and make recommendations for grant aid approval to the LAG / LCDC.



15 Procurement

15.1 Overview

The requirements outlined in this Section relate to the procurement procedures to be followed in respect of LEADER project applications.

The LAG should have adequate expertise to ensure compliance with procurement requirements, including adequate training of staff in public procurement procedures. The LAG must advise the applicant of the consequences of failing to follow correct procurement procedures. The LAG must also advise each applicant to verify that procurement expertise sourced by them has the necessary skills and experience e.g. experience of running other public procurement competitions.

Administration and Animation

LAGs (including Implementing Partners) should follow National Procurement Guidelines, EU regulations and any subsequent amendments as advised by Departmental Circular in respect of LAG Administration and Animation spend.

15.2 Promoter Categories

There are two procurement categories which are applicable to project promoters;

Category 1.

Project promoters that may be awarded total funding of more than 50% of the project costs (from LEADER and/or other public sources), and LAGs/IPs regardless of the levels of support from LEADER, must follow the National Public Procurement Guidelines, as outlined in Section 15.4.

Category 2.

Project promoters that may be awarded total funding of 50% or less of the project costs (from LEADER and/or other public sources) may choose not to follow the National Procurement Guidelines outlined in Section 15.4; in that instance they must follow the LEADER Specific Procurement Guidelines outlined in Section 15.5.



15.3 Projects above the EU Thresholds

In the main, LEADER does not provide funding for activities above the EU thresholds. However, where such a project does arise, the LAG must agree the appropriate procurement requirements with the Department prior to any approval of funding so as to ensure adherence to EU public procurement requirements; contact email: OR1420@drcd.gov.ie

The current EU thresholds are €214,000 (exclusive of VAT) for Supplies & Services and Works-related Services and €5,350,00 (exclusive of VAT) for Works. These thresholds are revised every two years and LAGs should consult <http://simap.ted.europa.eu/web/simap/european-public-procurement> for the most recent thresholds. The current thresholds remain valid until 31st December 2021.

15.4 National Procurement Guidelines – Category 1

National Procurement Thresholds		
Contract Type	Amount (excl. VAT)	Procedure
Supplies & Services	Less than €5,000	Seek verbal quotations from one or more interested and competent suppliers/service providers - these can be sought verbally but responses must be obtained in writing. (Best Practice – Seek a minimum of 3 written quotes; a record of verbal requests must be placed on file).
	€5,000 - €25,000	Seek written quotations from a minimum of 3 suppliers on the basis of responses to written specifications.
	€25,000 - EU Threshold* (currently €214,000)	Publish Contract Notice on eTenders www.etenders.gov.ie – Open Procedure
Works Related Services	Less than €50,000	Seek written quotations from at least 5 firms on the basis of responses to written specifications, or follow the eTenders process – Open Procedure



	€50,000 – EU Threshold* (currently €214,000)	Publish Contract Notice on eTenders www.etenders.gov.ie – Open Procedure
Works	Less than €50,000	Seek written quotations from at least 5 firms on the basis of responses to written specifications, or follow the eTenders process – Open Procedure
	€50,000 – €250,000	Publish Contract Notice on eTenders www.etenders.gov.ie – Open Procedure
	€250,000 – EU Threshold* (currently €5,350,000)	Publish Contract Notice on eTenders www.etenders.gov.ie – Open or Restricted Procedure

* Where a project exceeds the EU threshold, the LAG must agree the appropriate procurement requirements with the Department as per Section 15.3.

Key Issues

Project promoters are advised, where necessary, to obtain legal or specialist advice and to pay particular attention to the following tendering requirements:

- a) Projects involving construction works must adhere to the requirements of the Capital Works Management Framework (CWMF) which is published under the Construction Procurement Reform website. The CWMF is a suite of template tender and contract documents for the procurement of public works and works-related service contracts.
- b) Promoters should consider the nature, scale and complexity of the particular project and consult with the guidance material published under the CWMF before determining which procurement and contracting strategy to follow.
- c) Project promoters are advised to use the following suite of documents as being most suited to LEADER funded works projects;
 - Works Declaration LEADER (WDL)
 - Tender & Schedule for Works FTS6
 - Instruction to Tenderers (ITT W4 or ITT W5)
 - Short Public Works Contract (PW-CF6)
- d) Promoters may use alternative documents from the CWMF, however the Short Public Works Contract (PW-CF6) should be suitable for the majority of LEADER works projects given the nature of these investments. Where using the PW-CF6, the winning tender must be selected solely on the basis of the lowest price tendered. For more technically complex works projects, and where the promoter wishes to select on the basis of MEAT, the promoters are advised to use PW-CF5 (Minor works form of contract).

- e) For Works above €50,000, it is recommended, but not mandatory, that project promoters use the prequalification document circulated by the Department (Works Declaration LEADER (WDL)).
- f) Promoters should be aware of the National Health and Safety requirements that apply for Works – these are referred to in the pre-qualification document (WDL).
- g) For Works-Related Services, the winning tender must be identified on the basis of Most Economically Advantageous Tender (MEAT).
- h) For Supplies and Services Contracts, project promoters may award contracts on the basis of either lowest price tendered or MEAT.
- i) The correct Common Procurement Vocabulary (CPV) code must be assigned.
- j) A minimum of 21 calendar days must be allowed for responses following the publication date of the advertising notice.
- k) Email responses to requests for quotations are acceptable where accompanied by clearly identifiable date and source information.
- l) Where a tender amount is considered to be abnormally low in relation to the pre-tender estimate or with respect to the extent of works, services or supply required, written evidence should be sought from the tendering contractors to demonstrate that the price is sustainable.
- m) Post-tender negotiations are not permitted i.e. any dialogue that could be construed as "post tender negotiation" on price or that might result in significant changes to the published tender request.
- n) For tenders obtained through eTenders, Framework Agreements and Newspaper Advertisements, successful and unsuccessful tenderer(s) must be notified in writing of the result of the tender process; these notification letters must be placed on file. It is also recommended that, where feasible, all other unsuccessful suppliers/service providers & contractors who submit tenders/quotations are notified in writing of the outcome of the competition.

The above requirements outline the procurement procedures to be followed; however in addition, the LAG must satisfy itself in relation to the reasonableness of costs submitted for each project. In this regard, the following must be adhered to;

Reasonableness of Costs

All projects should be assessed for reasonableness of costs. In the main, a comparison of the tenders/quotations received provides assurances as to the level of cost incurred. However, where the procurement process results in less than 3 responses/tenders being obtained, either through advertising on eTenders or seeking direct quotations, the Evaluation Committee and the LAG must demonstrate the additional steps taken to ensure that the project costs are reasonable. As an example, the LAG/Evaluation

Committee could consider the costs based on its existing knowledge and a comparison of the costs of similar projects/activity in the same geographical region.

In addition, for all direct invitation procedures where less than 3 quotations are obtained, it is advisable to review the list of firms/suppliers from whom quotations were sought. This provides extra assurance that the project promoter had legitimate grounds for expecting a response e.g. for construction works, check that the project promoter has contacted contractors that operate in the geographic area concerned.

15.5 LEADER Procurement Requirements – Category 2

Specific LEADER procurement rules apply in respect of project promoters who are in receipt of 50% or less total public funding for a project and are not required to follow the National Procurement guidelines outlined in Section 15.4. These promoters must comply with the procedures outlined in the table below.

LEADER Specific Tendering Thresholds		
Contract Type	Amount (ex VAT)	Procedure
Supplies & Services	Less than €10,000	Seek verbal quotations from one or more interested and competent suppliers/service providers - these can be sought verbally but responses must be obtained in writing. (Best Practice – Seek a minimum of 3 written quotes; a record of verbal requests must be placed on file).
	€10,000 - €50,000	Seek written quotations from at least 3 suppliers on the basis of responses to written specifications.
	Above €50,000	Seek written quotations from at least 5 suppliers on the basis of responses to written specifications and place notice on local or National Newspaper. Alternatively publish Contract Notice on eTenders.
Works & Works Related Services	Less than €10,000	Seek written quotations from at least 2 firms (these can be sought verbally but responses must be obtained in writing).

	€10,000 - €100,000	Seek written quotations from at least 3 firms on the basis of responses to written specifications.
	Above €100,000	Seek written quotations from at least 5 firms on the basis of responses to written specifications and place notice in local or National Newspaper. Alternatively, publish Contract Notice on eTenders. <i>It is recommended that tenderers should complete pre-qualification document – Works Declaration LEADER (WDL) – as circulated by the Department.</i>

Key Issues

- a) For all contracts, the winning tender may be selected on the basis of the lowest price tendered or the Most Economically Advantageous Tender (MEAT); however the following is advised:
 - Works Contracts - project promoters should select the winning tender on the basis of the lowest price tendered.
 - Works-Related Services Contracts - project promoters should select the winning tender on the basis of MEAT.
- b) It is recommended that tender respondents should be afforded a reasonable period of time to submit their responses (e.g. 21 calendar days); the time period should reflect the nature and complexity of the proposed project.
- c) Where a notice is required to be placed in a local or national newspaper, it should refer to the essential details of the contract together with relevant contact details for further information regarding requirements.
- d) Email responses are acceptable where accompanied by clearly identifiable date and source information.
- e) Promoters should be aware of the National Health and Safety requirements that apply for Works projects – these are referred to in the pre-qualification document (WDL).
- f) For tenders obtained through eTenders, Framework Agreements and Newspaper Advertisements, successful and unsuccessful tenderer(s) must be notified in writing of the result of the tender process; these notification letters must be placed on file. It is also recommended that, where feasible, all other unsuccessful suppliers/service providers & contractors who submit tenders/quotations are notified in writing of the outcome of the competition.

The above requirements outline the procurement procedures to be followed; however in addition, the LAG must satisfy itself in relation to the reasonableness of costs submitted for each project. In this regard, the following must be adhered to;

Reasonableness of Costs

All projects should be assessed for reasonableness of costs. In the main, a comparison of the tenders/quotations received provides assurances as to the level of cost incurred. However, where the procurement process results in less than 3 responses/tenders being obtained, either through advertising on eTenders or seeking direct quotations, the Evaluation Committee and the LAG must demonstrate the additional steps taken to ensure that the project costs are reasonable. As an example, the LAG/Evaluation Committee could consider the costs based on its existing knowledge and a comparison of the costs of similar projects/activity in the same geographical region.

In addition, for all direct invitation procedures where less than 3 quotations are obtained, it is advisable to review the list of firms/suppliers from whom quotations were sought. This provides extra assurance that the project promoter had legitimate grounds for expecting a response e.g. for construction works, check that the project promoter has contacted contractors that operate in the geographic area concerned.

15.6 Audit requirements and sanctions

The LAG must ensure that the project file contains all of the relevant documentary evidence to clearly demonstrate compliance with the relevant tendering and public procurement requirements.

All quotations must be dated by the tenderer and accompanied by a verifiable audit trail (e.g. email, postage details) to allow independent verification (hand delivered quotations should be endorsed stating the date of receipt by the beneficiary or his/her representative).

All project files must contain a Tender Report for all actions, including direct quotations. This report should include (as appropriate) the following -

- i. Request for tender,
- ii. Evidence of publication of tender notice and seeking tenders where required,
- iii. Responses to those tender requests,
- iv. Tender scoring sheets used,

- v. Notification of intention to award,
- vi. Copies of letters notifying unsuccessful tenders of the result of the tender process,
- vii. Copy of letter notifying the successful tender.

Where a proposed project is advertised on e-Tenders (or the OJEU), the project file must contain a printout from the e-Tenders website which incorporates the various actions and activities during the competition period. All of the tender documents submitted must be retained by the LAG to allow for subsequent audit or inspection.

Failure to follow correct procurement procedures will result in all or elements of the project being disallowed. A penalty will be applied using the methodology outlined in the European Commission Guidelines on applying corrections for public procurement irregularities. Such disallowances may result in the repayment of previous phased grant payments.

http://ec.europa.eu/regional_policy/sources/docoffic/cocof/2013/cocof_13_9527_annexe_en.pdf

Public Procurement Information and Contacts

Public procurement guidelines for supplies and general services are available on the OGP website www.ogp.gov.ie. Guidance on works and works-related services are available on the Construction Procurement Reform website. LAGs should also consult *Circular 10/14: Initiatives to assist SMEs in Public Procurement*: http://www.procurement.ie/sites/default/files/circular_10-14_0.pdf

LAGs or project promoters that require assistance in relation to public procurement should contact the Office of Government Procurement at:

<http://www.procurement.ie/contact-us>

Tel: 076 100 8000

OGP Support (Supplies and General Services) E-mail: support@ogp.gov.ie

Construction (Works and Works-related Services) E-mail: construction@per.gov.ie