

DEPARTMENT OF FINANCE

NATIONAL PUBLIC PROCUREMENT POLICY UNIT

**TEMPLATE PUBLIC WORKS INVITATION TO TENDER DOCUMENT
FOR RESTRICTED PROCEDURE COMPETITIONS**

Explanatory Note

This template invitation to tender is a guide to be used for public works procured under the restricted procedure using one of the 5 forms of construction contract for public works. There is a separate template for open procedure competitions.

Italic text shaded in green, like this, is not to be included in the IFT when issued for a competition. Text with yellow shading, like this, is given as examples, and may need to be changed or deleted altogether.

The documents to be issued are:

- The invitation letter*
- The IFT completed and amended as required*
- Completed Works Requirements (Volume A)*
- Form of Tender and Schedule, with part 1 of the Schedule completed (Volume B)*
- Unpriced Pricing Document (Volume C)*
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Other documents that may be required are

- Any novated design documents (volume D)*
- Any other information listed in Appendix 3 to this IFT*

Since all the text on this page is shaded green, this whole page should be removed from the issued IFT document

INVITATION TO TENDER

Address to each Candidate in the exact legal name in which it was selected. If Candidate is a joint venture or other grouping, use exact legal name of each member.

To **[Candidate]**

Re **[Title of Contract]**

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You are invited to submit a Tender for the above Contract complying with the enclosed Instructions for Tendering.

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on behalf of **[Employer]**

INSTRUCTIONS FOR TENDERING

Particulars

These are the Particulars referred to in this IFT. They are part of this IFT

Tender for	TITLE OF CONTRACT		
comprising:	General description of the Works		
At	Location of the works		
For	NAME OF EMPLOYER		
using: [IFT section 1.3]	Form of Conditions:	e.g. Public Works Contract for [Building/Civil Engineering/Minor Building and Civil Engineering] Works Designed by the [Employer/Contractor]	
Tender Date [IFT section 5.1]	Latest Date and time for Submission of Tenders	16:00h	dd-mm-yyyy
Timetable: [IFT section 2.5]	Not applicable <i>(If applicable e.g. timetable for technical consultation process)</i>		
Tender submissions (in writing) must be sent to:			
To: [IFT section 5.1]	Contact name:	Contact name	
	Address:	Address	
Delivery by: [IFT section 5.1]	Hand or registered prepaid post. Tenderers should obtain a signed receipt acknowledging delivery. <i>(Provision can be added for email or fax delivery.)</i>		
Substantial Completion [IFT section 5.8]	Date for Substantial Completion or minimum and maximum dates for Substantial Completion – number of days starting on the Contract Date	As Schedule 1 <i>(or, as tendered, with any minimum and maximum stated here)</i>	
Employer's contact details [IFT section 2.1]	Contact name:	Insert details	
	Address:		
	Phone:	Fax:	
	Email:		

Particulars (continued)

Supplemental Information and Queries [IFT sections 2.2, 2.3]	Latest date for queries	14 days before latest time for receipt of Tender
	Date after which Employer will not normally issue supplemental information or responses to queries	8 days before latest time for receipt of Tender
Employer's contact details for queries [IFT section 2.3]	Contact name:	As above
	Address:	As above
	Phone:	Fax:
	Email:	
Copies: [IFT section 5.2]	Number of Paper Copies of Tender:	one
	Number and type of Electronic Copies of Tender:	Not applicable
	Details of how tenders are to be packed and marked:	
Format of Tender Submissions: [IFT section 5.1]	<p>Candidates should submit each tender in a sealed envelope or box (or a series of separate sealed envelopes or boxes), each containing one or more separate bound folders for each of:</p> <ul style="list-style-type: none"> • completed volume B • completed volume C • Works Proposals • Additional information specified in Appendix 2 to this IFT <p>Each envelope or box should be clearly marked with the name of the Candidate, the name of the Contract, and the content, and, if more than one copy is required, the copy number: for example "Tender of ABC Limited for [contract title], Volume C, Pricing Document, copy 1, master". If more than one Tender is permitted or required, each envelope or box must also be marked with the unique identifier required under section 6.4.</p>	
Language [IFT section 5.3]	English	
Tender validity period [IFT section 10.1]	As stated in Form of Tender in volume B (Employer must insert number of days in Form of Tender)	
Mandatory Options [IFT section 6.2]	Are mandatory options required?	No (Amend to yes if required)
Variants [IFT section 6.3]	Are variant tenders permitted?	No (Amend to yes if required)
	If variant tenders are permitted, is a standard tender also required?	Not applicable (Amend to yes or no if required)
Number of Tenders [IFT section 6.4]	Maximum number of Tenders per Candidate	One (Amend if required e.g. for D&B or Variants)
H&S Co-ordinator [IFT section 4.1]	If Candidate is to supply a health and safety co-ordinator for the Candidate's design, the latest date for the appointment to be accepted.	Not applicable (If required insert date, which should be soon after the invitation is issued, and before Candidates will start tender design.)
Agreement [IFT Section 10.5]	To be executed under seal (if permitted, add: 'or hand')	

Important Note

The Employer is making these documents available to Candidates for the contract identified in the Particulars, for tendering purposes only. These documents must not be used for any other purpose.

The Employer makes no representation, warranty, or undertaking in or in connection with these documents. The Employer has not authorised anyone to make any representation in connection with these documents on its behalf, and Candidates should not rely on any representation purportedly made on the Employer's behalf in connection with them. Neither the Employer nor its officers, employees, or advisers will have any liability in connection with these documents. Candidates must make their own assessment of the adequacy, accuracy, and completeness of these documents.

The Employer reserves the right not to proceed with the procurement process or any part of it and may terminate the process or any part of it at any time, with or without procuring the Works in another way. If this happens, neither the Employer nor its officers, employees, or advisers will be liable to any Candidate or other person. The Employer also reserves the right to change any part of these documents, including the procedures and time limits described in them. The Employer does not bind itself to accept any outcome of the process described in these documents and is not obliged to enter into a contract for the Works with anyone.

Neither the Employer nor its officers, employees, or advisers have any responsibility for Candidates' expenses or losses in connection with this competition. There will be no contract between any Candidate and the Employer concerning the subject of these documents (except for the Candidate's irrevocable offer to be bound by its Tender for the period stated) unless and until the Contract has been entered by issue of a Letter of Acceptance. This IFT will not be part of any Contract.

These documents are being made available to the Candidates on the terms stated in this IFT. They are not being distributed to the public, and have not been filed, registered, or approved in any jurisdiction. Possession or use of these documents contrary to any law is prohibited. Candidates must inform themselves of and observe all laws concerning the possession and use of these documents.

Candidates must treat these documents, their Tenders, and their participation in this competition as confidential. Candidates must not disclose any information about this competition to anyone other than as required for tendering purposes, or as required by law.

The Employer is entitled to disclose information about this competition, including the identity of the Candidates, to any person. If a Candidate considers that information in its Tender is commercially sensitive or confidential, this should be clearly stated and clear and substantive reasons should be given. The Employer will have regard to such a statement in considering a request for access to the information under the Freedom of Information Acts 1997 to 2003, but is not bound by the Candidate's view.

If a Candidate, or its personnel involved in this competition, or its management, or its proposed consultants or subcontractors (including Specialists), have or have had any other interest in or involvement in relation to the Works (including any involvement with the Employer or any involvement with another Candidate's Tender), the Candidate must disclose this to the Employer as soon as it becomes apparent to the Candidate. The Employer will decide on the appropriate course of action.

It will be a condition of the award of the Contract that the Candidate must comply with the terms of Department of Finance Circular 43/2006: Tax Clearance Procedures: Public Sector Contracts, or any replacement. (See section 10.3.)

Candidates may obtain information regarding their obligations concerning

- taxation from the Revenue Commissioners (www.revenue.ie)
- environmental protection from the Environmental Protection Agency (www.epa.ie)
- employment protection and working conditions from the National Employment Rights Authority (www.employmentrights.ie)

1. Introduction

- 1.1. This procedure The Employer has sent a contract notice for the Works to the Office for Official Publications of the EC for publication in the Official Journal of the European Union *(delete if inapplicable)*. The Candidates have submitted prequalification submissions. These documents are being sent to all the Candidates.
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- 1.2. These documents The documents being sent to Candidates are:

Documents to be included in the Contract

- Volume A: Works Requirements
- Volume B: Form of Tender and Schedule
- Volume C: Pricing Document
- *Add "Volume D: Novated Design Documents" if these are required by the Works Requirements. This would only be included when there is a design team or other specialist being novated to the contractor*

Documents not to be included in the Contract

- the invitation letter
- this IFT
- the information referred to in Appendix 3 to this IFT
- any other information issued to Candidates not stated to amend the Contract documents.

Further information may be issued as described in this IFT.

- 1.3. The Contract If the Employer enters a Contract for the Works, it will do so by issuing a Letter of Acceptance. The Contractor and the Employer will subsequently execute an Agreement. The Contract, if formed, will consist of:

- the Agreement
- the Letter of Acceptance to be issued by the Employer and any post-tender clarifications listed in it
- the form of Conditions identified in the Particulars,
- the Works Requirements (Volume A)
- Form of Tender and Schedule (Volume B)
- the completed Pricing Document (Volume C)
- *Add "Novated Design Documents (Volume D)" if these are required by the Works Requirements*
- Works Proposals to be submitted with the Tender (where required)

None of the following will form part of any Contract:

- the invitation letter
- this IFT
- the information referred to in Appendix 3 to this IFT
- any other information issued to Candidates not stated to amend the Contract documents
- additional information to be submitted with Tenders, as specified in Appendix 2 to this IFT
- any other information submitted with Tenders and not called for in this IFT.

2. Communications

2.1. **Contact** All communications between a Candidate and the Employer concerning this competition must be in writing (which includes email), and must be between the Candidate's contact person notified to the Employer in the Candidate's prequalification submission for this competition and the Employer's contact person identified in the Particulars, or any changed contact details notified by the Employer or the Candidate. The Employer will notify each Candidate of any changes to its contact details. Each Candidate must notify the Employer of any changes to its contact details.

2.2. **Supplemental information** The Employer may issue supplemental information to all Candidates. Supplemental information may amend any of the information in these documents, including by deleting and adding to it, and by extending time limits. Supplemental information will only become part of the Contract if it is stated to amend the Contract documents.

The Employer will not normally issue supplemental information later than the date stated in the Particulars.

2.3. **Queries** Candidates may ask queries in writing by email using the contact details stated in the Particulars. Queries must be raised as soon as possible, and should be raised in any event no later than when stated in the Particulars. The Employer has no obligation to respond to queries. If the Employer responds to a query, it will send the response to each Candidate, unless the Candidate has clearly designated the query as confidential. If the Candidate has designated the query as confidential, and the Employer decides that the response should be sent to all Candidates, the Employer will so notify the Candidate asking the query, who will have the option of withdrawing the query or having any response sent to all Candidates. The Employer may still issue any information it considers appropriate to all Candidates following withdrawal of the query.

Responses to queries will not be part of the Contract, unless they state that they are amending the Contract documents.

If a Candidate becomes aware of any ambiguity, discrepancy, error, or omission in or between these documents, it must immediately notify the Employer, even after the time for submitting queries has expired.

2.4. **Prequalification** A Candidate wishing to change any of the information in its prequalification submission for this competition must do so by written request to the Employer. The Employer may decide, in its discretion, whether to accept or reject the change.

2.5. **Other** **Not applicable**

If there is to be a technical consultation process (usually for design and construct contracts), an information day for Candidates, special arrangements for site visits or investigation, or the like these can be added here.

3. Candidates

- 3.1. **Name** Each Candidate must sign the Form of Tender using the Candidate's full correct legal name. This must be the name in which the Candidate pre-qualified, and was invited to tender.
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- 3.2. **Parent company** If a Candidate has relied on the capacity or qualifications of a parent company in its prequalification submission for this competition the Candidate must state in the Schedule, Part 2B submitted in its Tender that the parent company will supply a parent company guarantee in the form in the Works Requirements, and must include with the Tender an undertaking of the parent company to give that guarantee, as set out in Appendix 2 to this IFT.
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- 3.3. **Joint ventures** If a Candidate is one or more human or legal persons (such as a partnership, joint venture or consortium), each of them must sign the Form of Tender. (See also 5.10 below).
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- 3.4. **Mandatory Exclusion** Although invited to tender, a Candidate shall be excluded if, to the Employer's knowledge at the time of the award decision, it has been convicted of an offence involving
- participation in a prescribed criminal organisation or
 - corruption or
 - fraud or
 - money laundering.
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- 3.5. **Discretionary Exclusion** Although invited to tender, a Candidate may be excluded if, at the time of the award decision, it
- is subject to a bankruptcy or insolvency procedure or process of a kind specified in Regulation 53, paragraph (5) of the European Communities (Award of Public Authorities' Contracts) Regulations 2006 or
 - has been found guilty of professional misconduct by a competent authority that is authorised by law to hear and determine allegations of professional misconduct against persons that include the Candidate or
 - has committed grave professional misconduct provable by means that the Employer can demonstrate or
 - has not fulfilled an obligation to pay a social security contribution as required by a law of Ireland or the country or territory where the Candidate ordinarily resides or carries on business or
 - has not fulfilled an obligation to pay a tax or levy imposed by or under a law of Ireland or the country or territory where the Candidate ordinarily resides or carries on business or
 - has provided a statement or information to the Employer or another contracting authority knowing it to be false or misleading, or has failed to provide to the Employer or another such authority a statement or information that is reasonably required by the Employer or other authority for the purpose of awarding the public contract concerned.

4. **Tender Design** (if applicable)

- 4.1. **Health and safety co-ordinator** This section 4.1 applies if the Particulars (under H&S Co-ordinator) state a date by which each Candidate is to have a health and safety co-ordinator for design appointed for the Candidate's pre-contract design.

The Employer has appointed a project supervisor for the design process. Each Candidate must supply a competent health and safety co-ordinator for the Candidate's pre-contract design, to be appointed at the Candidate's expense by the project supervisor for the design process. Each Candidate must ensure that its health and safety co-ordinator accepts the appointment before any design by or for the Candidate starts, and in any event on or before the date stated in the Particulars.

The appointment must be in the form in Appendix 4 to this IFT, or another form agreed between the parties to the appointment. Clause 9 of the form of appointment in Appendix 4 states the insurances that the health and safety co-ordinator must have.

If a health and safety co-ordinator for pre-contract design is named in the Candidate's prequalification submission for this competition, the Candidate must ensure that the person so named, or an alternative person acceptable to the project supervisor for the design process, accepts the appointment. If none is named in the Candidate's prequalification submission, the Candidate's health and safety co-ordinator must be acceptable to the project supervisor for the design process.

The Candidate must ensure that, within 10 days after the final date for submission of Tenders, the Candidate's health and safety co-ordinator for pre-contract design submits to the project supervisor for the design process appointed by the Employer a report demonstrating that the health and safety-coordinator has complied with its obligations under its appointment.

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- 4.2. **Resources** If the Candidate does any design for the competition, or if any design is done for the Candidate for the competition, the Candidate must allocate resources to enable the designer to comply with regulation 15 of the Safety, Health and Welfare at Work (Construction) Regulations 2006. This must include any resources described in the Candidate's prequalification submission for the competition.

5. Requirements for Tenders

5.1. Delivery Tenders must be received at the place stated in the Particulars, at or before the latest time stated in the Particulars (or a later date and time advised by the Employer to Candidates) in the manner described in the Particulars. Time is taken as standard time according to the Standard Time Act 1968 as amended by the Standard Time (Amendment) Act 1971 and any subsequent amendment or re-enactment.

Tenders received late will not be considered.

All Tenders received on time will be opened promptly after receipt.

5.2. Format Tenders will consist of:

- the completed Form of Tender and Schedule (Volume B)
- the completed Pricing Document (Volume C)
- Works Proposals containing the information specified in Appendix 1 to the IFT
- additional information specified in Appendix 2 to the IFT

The originals of Volumes B and C must be returned completed in ink.

Alter this for volume C (Pricing Document) if print-outs or electronic copies are allowed or required.

If Volumes B or C have been amended by supplemental information, Candidates must use the most recently issued versions. If replacement pages are issued as supplemental information, Candidates must insert the most recently issued pages in place of the replaced pages.

Tenders must include the number and type of paper and electronic copies stated in the Particulars, and must be packed and marked as stated in the Particulars.

5.3. Language Tenders and all information included with them must be in the language stated in the Particulars. Any original document in another language must include an accurate translation into the language stated in the Particulars. Queries and other communications must be in the same language.

5.4. Qualification Tenders must not be qualified. They must not be accompanied by a cover letter or any other information not included in Volume B or Volume C or specified in these documents.

5.5. Prequalification Tenders must be consistent with the Candidate's prequalification submission for this competition.

5.6. Pricing

Unless otherwise stated, all sums given in Tenders must be in euro, to two decimal places.

Candidates must not insert additional items in the Pricing Document, except where permitted to do so by the Pricing Document, or make any alterations to the Pricing Document.

Amounts must be included wherever required in the Form of Tender, the Schedule, Part 2, and the Pricing Document. Blank spaces, the terms “nil” or “included”, or dashes or the like must not be used. Where zero is a permitted entry, it must be stated as “0.00”.

Candidates must not use abnormally high or low rates or prices. This prohibition includes using strategies that might allow the Candidate to benefit disproportionately from clauses 10.6.4 or 10.7 of the Conditions or, if it would be a compensation event under the Contract, a difference between the Contract value of the Works according to the quantities and descriptions in the Bill of Quantities and the Contract value of the Works described in the Works Requirements.

Each amount in the Pricing Document except an item described as an “adjustment item” must cover the full inclusive value (excluding value-added tax) of the relevant work, and, where applicable, a fair allocation of the tendered Contract Sum.

All items and quantities in any Bill of Quantities must be priced. Candidates must not use negative rates or prices, or omit rates, or use zero rates, in any Bill of Quantities.

Some or all of this may be included if there is a Bill of Quantities

If a Bill of Quantities includes an item described as an “adjustment item”, the amount inserted must not exceed _____% of the tendered Contract Sum.

Insert % if this restriction is include. Exclude this if Compensation Event 17 is marked “No” in part 1K of the Schedule, unless there is another item where the quantities risk can be priced

If a Bill of Quantities includes method-related charges, the total amount of method-related charges must not exceed _____% of the tendered Contract Sum.

Insert % if this restriction is included

Delete any of the above that is not applicable

If any tender does not comply with this section 5.6, the Employer may proceed according to sections 7 or 8.

5.7. Value-Added Tax

The Contract Sum offered in the Form of Tender, and the amounts in the Schedule, Part 2 and the Pricing Document exclude value-added tax, unless otherwise stated in this IFT or the Pricing Document.

If the Pricing Document includes a schedule of items that are not construction operations subject to Relevant Contracts Tax (and therefore to reverse-charge VAT) and, in Employer’s opinion, the categorisation of an item, the VAT rate stated, or the value stated, are not correct, the Employer may invoke section 8.2.

The Pricing Document should include such a schedule

5.8. Date for Substantial Completion

The Particulars state whether the Date for Substantial Completion of the Works (and any Sections) is stated in Schedule, Part 1 or is to be tendered. If the Date for Substantial Completion of the Works (or Sections) is to be tendered, the tendered dates must be between any earliest and latest dates stated in the Particulars.

5.9. Specialists

Candidates must name in their Works Proposals any Specialists called for in Appendix 1 to this IFT. Works Proposals must also include any details about Specialists called for in Appendix 1 to this IFT.

If a Candidate has named Specialists in its pre-qualification submission for this competition, the Candidate must name those same Specialists (having met the suitability standard) in Works Proposals.

5.10. **Project Supervisor** The Contractor or its nominee will be appointed as project supervisor for the construction stage (or for both the design process and construction stage) under the Safety, Health and Welfare at Work (Construction) Regulations 2006, if so stated in the Works Requirements.

If the Candidate has named a proposed project supervisor for the construction stage (or for the design process and the construction stage) in its prequalification submission for this competition, the Candidate must name in Works Proposals the project supervisor(s) so named.

If the Candidate has not named a nominee in its prequalification submission for appointment as project supervisor for the construction stage (or for the design process and the construction stage, if required by the Works Requirements) the Candidate will be taken to offer to act in the role itself, and the Contract, if awarded to the Candidate, will require the Candidate to accept the role. In this case, the Candidate must be a competent individual or body corporate.

5.11. **Other**

Not applicable

If there are minimum requirements, they are stated here. Usually, there will be no minimum requirements at tender stage in a restrictive procedure – they will have been part of selection. Any minimum requirements must be stated in the OJEU contract notice.

6. Number of Tenders, Mandatory Options and Variants

- 6.1. **Terminology** An **option** is a Tender required under section 6.2 below.
- A **variant tender** is a Tender complying with section 6.3 below and identified as a variant tender.
- A **standard tender** is a Tender that is not a variant tender.
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- 6.2. **Mandatory options** If the Particulars state that any mandatory options are required, the Candidate must submit a separate Tender for each of the following options
- None**
- Give details of any required options, otherwise leave as "none"*
- If the Employer requires mandatory options to be tendered, the form of Tender must be modified, or a separate Form of Tender provided for each option.*
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- 6.3. **Variant tenders** If the Particulars state that any variant tenders are permitted, a variant tender must comply with these minimum requirements:
- Not applicable**
- If applicable, give minimum requirements. The Employer may wish to include consultation about variants in section 2.5, or other measures to satisfy itself about the legal and physical possibility of variants. Variants may only be permitted when so stated in the OJEU contract notice.*
- If so stated in the Particulars, variant tenders may only be submitted by a Candidate who also submits a standard tender. If not so stated, variant tenders may be submitted without submitting a standard tender.
- Unless otherwise stated in the Particulars, variant tenders are not permitted.
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- 6.4. **Number of tenders and marking** The maximum number of Tenders that a candidate may submit is stated in the Particulars. If more than one Tender per Candidate is permitted, each Tender must be submitted separately and must, except as otherwise permitted or required by this section 6, be complete, without referring to the contents of any other Tender. Each Tender must have a unique identifier, which must be stated on each envelope or box containing the parts of the Tender. The identifier must state whether the Tender is a standard, alternative, or variant tender. and if there are options, must identify the option.
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7. Non-Compliant Tenders

If a Candidate fails to comply in any way with this IFT the Employer may (but is not obliged to) disqualify the Candidate concerned and reject any Tender concerned, and without prejudice to this right, the Employer may (but is not obliged to) seek clarification or further information (that does not materially alter a Tender) from the Candidate or take any other step permitted by law, including the principles of equal treatment, non-discrimination, transparency and proportionality.

8. Corrections, unbalanced and abnormal tenders and rates

8.1. Errors

The Employer may, without any responsibility for this, examine the Pricing Document for errors in addition or extension.

If there is an error in extension, the rate will be adjusted, so that the extension remains the same.

If there is an error in addition, the amounts added (and the rates making them up) will be adjusted pro rata to the error, so that the total remains the same. This will apply if the total of the tendered rates and prices, with value-added tax added, does not add up to the tendered Contract Sum.

The Employer will decide which amounts and rates are to be adjusted.

Instead of adjusting the amounts added the Employer may in its discretion adjust an item described in the Pricing Document as an "adjustment item".

No adjustment made under this section 8.1 will affect the tendered Contract Sum or the Comparative Cost of the Tender.

8.2. Unbalanced Tenders

If, in the Employer's opinion, the tendered rates or prices in the Pricing Document (after adjustment under section 8.1 above) do not reflect a fair allocation of the tendered Contract Sum, or section 5.7 applies, the Employer may (but is not obliged to) do either or both of the following:

- require the Candidate to provide a breakdown of any tendered amounts, to show that they reflect a fair allocation of the tendered Contract Sum and
- invite the Candidate to adjust rates or prices tendered in the Pricing Document, but without adjusting the tendered Contract Sum or having any effect on the Comparative Cost of the Tender.

The Employer will pay particular attention to pricing that could result in the Candidate, if successful, being paid too much of the Contract Sum disproportionately early in comparison with the amount of work done.

If, having considered the information provided (both in the tender and in response to a requirement under this section 8.2), the Employer is of the view that the Candidate's tendered rates or prices in the Pricing Document do not reflect a fair allocation of the tendered Contract Sum, the Employer may reject the tender.

8.3. Abnormally low tenders, abnormally high or low rates or prices

If, in the Employer's opinion, the tendered Contract Sum is abnormally low or any tendered amounts (including the rates tendered in the Schedule, part 2) are abnormally low or abnormally high, the Employer may require the Candidate to provide details of the constituent elements of the tendered Contract Sum or the tendered amounts. This may include (without limitation) the information listed in Regulation 69(1) of the European Communities (Award of Public Authorities' Contracts) Regulations 2006. If, having considered the information provided, the Employer is of the view that either the Contract Sum is abnormally low or any tendered amounts are abnormally low or abnormally high, the Employer may reject the Tender.

No adjustment made under this section 8 will affect the tendered Contract Sum or the Comparative Cost of the Tender.

Employers should exercise with caution the rights reserved by this section 8. In most cases, it is expected that Candidates will be the best judges of their own costs.

9. Assessment of Tenders

- 9.1. **Award Criteria** The award criterion is the most economically advantageous Tender meeting the specified minimum criteria (if any).

The assessment of the most economically advantageous Tender will be made on the basis of the following criteria, with the following weightings:

- lowest Comparative Cost of Tender assessed as described in section 9.5

Add any other criteria, such as quality of design or construction proposals (discussed below, and also sub-criteria). If criteria are weighted, weightings, or appropriate maximum spread, must be given.

Options, variant tenders, and base tenders will be assessed according to these criteria.

- 9.2. **Clarification** The Employer may seek clarification or further information or both from one or more Candidates. The Employer may meet with one or more Candidates for these purposes. The Employer will confirm to the Candidate concerned in written minutes any clarification arising from a meeting, and the Candidate will be required to confirm or correct the minutes in writing. See also section 10.4.
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- 9.3. **Compliance** The Employer may assess whether any of the grounds for exclusion in section 3.4 or 3.5 above apply. The Employer may assess whether Candidates continue to meet the criteria on which they were selected for invitation to tender.

The Employer will assess Tenders for compliance with this IFT, including provision of all the information and documentation required, and the matters covered in section 8 above.

Following the assessments under this section 9.3, the Employer may proceed according to sections 7.

- 9.4. **Review** A Candidate who disputes a decision of the Employer about whether a Tender complies with this IFT must in the first instance raise the matter with the Employer within 7 days of the matter coming to its attention. Failing resolution of the matter, the Candidate may, within 7 days after receiving the Employer's response, request the Employer in writing to refer the matter to _____ (the **Sanctioning Authority**) for review and recommendation. Within 7 days of receiving the Candidate's request, the Employer should submit to the Sanctioning Authority a statement giving reasons for the initial decision together with a copy of the Candidate's written request. A copy of the Employer's statement should also be forwarded at the same time to the Candidate. The Candidate may then make a further written submission to the Sanctioning Authority within 7 days. Any review or recommendation by the Sanctioning Authority will not be binding on the Employer or the Candidate, and will not affect their rights or obligations.

This or similar text can be used if the sanctioning department or agency has a mechanism for reviewing decisions on tender compliance. If so, the name and contact details of the Sanctioning Authority need to be included.

9. Assessment of Tenders (continued)

- 9.5. **Comparative Cost** For the purpose of assessing the Comparative Cost of Tenders only, the Employer will assume that there will be Compensation Events involving payment of the amounts stated in Appendix 5 to this IFT.

The Employer will assess the Comparative Cost of each Tender using the template in Appendix 5 to this IFT.

- 9.6. **Other criteria** *The manner of assessing other criteria, such as the quality of design or construction proposals, can be included here. Also, it must be explained how the overall assessment will be made after the assessment of each criterion has been made.*
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- 9.7. **Change in circumstances** If, as a result of a change in circumstances or otherwise, any information given by a Candidate to the Employer, in a Tender or otherwise, including in a prequalification questionnaire, was (when submitted) or has become (by reference to the facts as they then stand) untrue, incomplete or misleading, the Candidate must so inform the Employer as soon as it becomes aware of this. If appropriate, the Candidate may make a request under section 2.4 to change information in its prequalification submission.

If it comes to the Employer's attention that

- there has been a change in circumstances concerning a Candidate that could affect the Employer's assessment of that Candidate's Tender or the Employer's decision to invite the Candidate to submit a Tender or
 - information submitted by a Candidate was (when submitted) or has become (by reference to the facts as they then stand) untrue, incomplete or misleading
- the Employer may (but is not required to) revise its assessment of the Candidate's Tender or prequalification on the basis of the information then available to the Employer.

10. Award Process

- 10.1. **Tender validity period** The Employer may accept a Tender any time within the time stated in the Particulars.
-
- 10.2. **Notification** As soon as practicable after reaching the award decision, the Employer will inform all Candidates of the decision. The notification to the Candidate to whom the Employer has decided to make an award may be in the form of letter of intent included in the Works Requirements as Model Form 4, and the notification to the other Candidate may be in the form included as Model Form 3. This notification will not form the Contract, or any contract or other obligation. The Contract will be formed only by issue of the Letter of Acceptance.
- The Employer will not issue the Letter of Acceptance earlier than 14 days after notifying all Candidates of the award decision.
-
- 10.3. **Letter of intent** The Employer may issue to the Candidate who submitted the apparent most economically advantageous Tender a letter of intent requiring that Candidate to submit to the Employer any or all of the following:
- the performance bond required under the Contract
 - evidence of the insurances required by the Contract
 - a Tax Clearance Certificate or C2 certificate or a statement of suitability from the Revenue Commissioners
 - any required appointment as project supervisor for the construction stage or the design process and the construction stage
- Others may be added**
- If the Candidate to whom such a letter of intent is addressed does not submit the documents as required within the time allowed, the Employer may
- proceed according to the process in section 10.2 above to initiate award to the Candidate who submitted the next most economically advantageous Tender or
 - allow the Candidate to whom the letter of intent was addressed additional time to provide the documents or
 - issue the Letter of Acceptance to the Candidate to whom the letter of intent was addressed (even though the documents have not yet been provided).
-
- 10.4. **Letter of Acceptance** The Employer may issue the Letter of Acceptance at any time during the Tender validity period referred to in section 10.1 above.
- Any written clarifications of a Tender (including minutes of a meeting clarifying the Tender, see section 9.2), will be referred to in any Letter of Acceptance of the clarified Tender, and will be included in the Contract.
-
- 10.5. **Agreement** Following issue of the Letter of Acceptance, the Employer will inform the Contractor of the arrangements for the execution of the Agreement. The Contractor will be required to execute the Agreement under seal unless the Particulars say that the Contract may be executed under hand.
-
- 10.6. **Award Notice** The Employer will, after award, send an award notice to the Office for Official Publications of the EC, if so required by law.

Glossary of terms used in this IFT

Terms defined in the Conditions of the Contract identified in the Particulars have the same meaning in this IFT. References to clauses are to clauses or sub-clauses of those Conditions. Unless otherwise indicated, references to sections and Appendices are to sections of and Appendices to this IFT.

Candidate	a person (or group of persons) that has been invited to submit a Tender
Comparative Cost	a tendered Contract Sum adjusted, for tender assessment purposes only, according to section 9.5 above
Contract	the contract that may be awarded by the Employer for the Works at the end of the competition
this competition	the award process for which this IFT is issued
these documents	this IFT and the invitation letter and other documents issued with it and any additional information issued by the Employer to Candidates in connection with the competition
this IFT	<ul style="list-style-type: none">• this volume, including the Important Note at the start, Particulars and Appendices• other information or instructions issued by the Employer to Candidates in connection with the competition not stated to amend the Contract documents
Tender	a tender for the Contract, including the completed Form of Tender, completed Schedule and completed Pricing Document

Appendix 1 To IFT

[IFT sections 5.2, 5.9]

Works Proposals to be Submitted With Tender

Works
Proposals

Specify here the Works Proposals that are required. In a design and construct contract, Works Proposals will include required tender design proposals.

Details of the Contractor's initial management arrangements for performing its Contract responsibilities, including systems, methods, planning and other preparations for providing personnel and resources, programming, recording, consultation, co-ordination and co-operation, and for flexibility, as referred to in the Contract.

Other specific matters that can be called for include details of the Candidate's

- *project supervisor(s) different from the Candidate (clause 2.4)*
- *representative and supervisor (clause 4.2.3)*
- *programme (clause 4.9)*
- *Specialists (clause 5.4.2)*
- *methods*
- *designs*

The list of Works Proposals here should match the list in the Schedule, part 1B.

Appendix 2 to IFT

[IFT sections 1.3, 3.3, 5.2]

Additional Information to be Submitted with Tender

Additional
Information

Specify here information that Candidates are to submit that will not become part of the Contract. In restricted procedures, this should not duplicate information that has already been assessed at the selection stage. It may include technical information that the Employer requires only for tender assessment, and does not want to be included in the Contract. The items below will be included when a bond or parent company guarantee is required. If a bid bond is required (which would not usually be the case), this would also be listed here.

- An undertaking of the surety in the form of Annex I to this Appendix to provide the performance bond required by the Schedule, part 1E, if the Contract is awarded to the Candidate. The surety must either
 - be authorised by the Irish Financial Regulator to carry on non-life insurance business under the European Communities (Non-Life Insurance) Framework Regulations 1994 or
 - hold an authorisation from a competent financial regulatory authority in another EU member state and have notified the Irish Financial Regulator of its intention to passport into Ireland on either a freedom of services or freedom of establishment basis under the European Communities (Non-Life Insurance) Framework Regulations 1994
- If the Schedule, Part 2B includes a commitment to provide a parent company guarantor, an undertaking of the parent company named in the Schedule, Part 2B in the form of Annex II to this Appendix

Annex I to Appendix 2 to IFT

On Surety's letterhead

To *(Name and address of candidate)*

Re *(Contract name)*

A Dhaoine Uaisle

We confirm that we have bond facilities in place which would enable us to act as sureties on your behalf in relation to the above contract, the amount of the bond to be not more than €_____ as required by the contract.

Therefore, subject to a satisfactory application, we expect that a bond can be issued within 4 weeks of the receipt by us of the relevant application, subject to our normal terms and conditions.

We understand that you will be giving a copy of this letter to _____(name of Employer).

We look forward to receiving an application from you if your tender is successful.

Is sinne, le meas

Annex II to Appendix 2 to IFT

On parent company's letterhead

To *(Name and address of Employer)*

Re *(Contract name)*

A Dhaoine Uaisle

We refer to the tender of our subsidiary _____ *[name of Candidate]* for the above contract.

We confirm that, if the above contract is awarded to the above-named Candidate, we will execute and deliver to you the parent company guarantee required by the contract.

Is sinne, le meas

Appendix 3 to IFT

[IFT sections 1.2, 1.3]

Information Pack

Information
Pack

The Information Pack is information that the Employer wishes to give to Candidates for information, but not include in the Contract. It should include the preliminary safety and health plan (which must be issued to Candidates if the winner is to be PSCS), and may include copies of statutory consents such as an environmental impact statement. It might also include site information that the Employer does not want to become part of the Works Requirements.

Appendix 4 to IFT

[IFT section 4.1]

[For use when the Candidate is doing pre-contract design, and the Particulars (under H&S Co-ordinator) state a date by which each Candidate is to have a health and safety co-ordinator for design appointed for the Candidate's pre-contract design.]

Form of Appointment of Health and Safety Co-ordinator for Pre-contract Design

THIS DEED is made on

BETWEEN

1.
whose registered office is at (the **Project Supervisor**)
 2.
whose registered office is at (the **Health and Safety Co-ordinator**)
- and
3.
whose registered office is at (the **Candidate**)

BACKGROUND

The Candidate has been invited to submit a tender to **insert name of Employer** (the **Employer**) for **insert name of Contract** (the **Project**).

The Employer has appointed the Project Supervisor as project supervisor for the design process for the Project, under regulation 6(1)(a) of the Safety, Health and Welfare at Work (Construction) Regulations 2006 (the **Regulations**, which includes amendments and replacements).

The Tender needs to do design for its tender for the Project. The Candidate has nominated the Health and Safety Co-ordinator for appointment by the Project Supervisor as health and safety co-ordinator for the design process.

This Deed is for the Project Supervisor to appoint the Health and Safety Co-ordinator as health and safety co-ordinator for the design process for the Candidate's tender design.

IT IS AGREED AS FOLLOWS:

1. The Candidate is liable for all the Health and Safety Co-ordinator's fees and expenses for its duties under this Deed. The Project Supervisor has no liability to the Health and Safety Co-ordinator or the Candidate under or in connection with this Deed.
2. In this Deed, **Tender Design** means any design for the Project done by or for the Candidate before the Employer enters a contract with the Candidate or someone else for the execution of the Project.
3. The Project Supervisor appoints the Health and Safety Co-ordinator as health and safety co-ordinator for the design process for the Tender Design under regulation 11(2) of the Regulations. The Health and Safety Co-ordinator's duties are to assist the Project Supervisor by performing for the Tender Design all of the duties of a project supervisor for the design process under the Regulation 11(1) of the Regulations and to report to the Project Supervisor according to paragraphs 6 and 7 below.
4. The Health and Safety Co-ordinator's appointment starts on the date of this Deed and continues for as long as Tender Design is done, but ends if and when
 - the Employer enters a contract for the Project with the Candidate or someone else or
 - the Project Supervisor terminates the appointment.

5. The Health and Safety Co-ordinator accepts the appointment.
6. Within 10 days after the final date for submission of tenders for the Project, the Health and Safety Co-ordinator must submit to the Project Supervisor a report demonstrating that the health and Safety-coordinator has complied with its obligations under this Appointment.
7. The Health and Safety Co-ordinator must give the Project Supervisor any information, documents, and access the Project Supervisor requires for doing the Project Supervisor's duties under the regulations.
8. The Health and Safety Co-ordinator represents and warrants to the Project Supervisor that the Health and Safety Co-ordinator is and will continue to be a competent person to do its duties under this Deed and has allocated and will allocate sufficient resources to enable itself to do those duties. **Competent person** is construed according to section 2 of the Safety, Health and Welfare at Work Act 2005, and any amendment or replacement.
9. The Health and Safety Co-ordinator must keep in place, from the date of this Deed until at least six years after the appointment ends, professional indemnity, public liability and employer's liability insurance with a limit of at least € [REDACTED] for each and every claim. The insurance must include cover for death or injury resulting from the Health and Safety Co-ordinator's performance or non-performance of its duties under this Deed.
10. This Deed is governed by and construed according to Irish law. The parties submit to the jurisdiction of the Irish courts in relation to all matters concerning it.

Given under the Project Supervisor's common seal

Given under the Health and Safety Co-ordinator's common seal

Given under the Candidate's common seal

Appendix 5 to IFT

Template to be Used by Employer to Calculate Comparative Cost of Tender

For Information Purposes Only
Candidates are not to complete this table

	€
Contract Sum	
Tendered Contract Sum (Form of Tender)	
Tendered Compensation Events Charges	
..... hours craftsperson x tendered rate (Schedule, part 2D)	
..... hours general operative x tendered rate (Schedule, part 2D)	
..... hours apprentice x tendered rate (Schedule, part 2D)	
€..... materials x % adjustment (Schedule, part 2D)	
€..... plant x % adjustment (Schedule, part 2D)	
..... Site Working Days' delay x tendered rate (Schedule, part 2D)	
Total	

Other elements may be added to this calculation, for example, if the Date for Completion is to be tendered, and considered in the evaluation:

- number of days from the Contract Date to the Date for Completion of the Works (Schedule, part 2D, in excess of the minimum in the Particulars, multiplied by the daily rate of €.....

Tendered periods for completion of Sections may also be taken into account

Other adjustments may be considered, for example, specific adjustments for design proposals that may affect whole-life costs