



## 1.0 Guidance on Inflation Adjustment Mechanism – Standard Conditions of Engagement (COE1)

### 1.1 Introduction

This explanatory note provides guidance on the inflation adjustment mechanism in the Standard Conditions of Engagement for Technical Services Contract (COE1) from pre-tender stage to in-contract. This mechanism has also been introduced into the Standard Conditions of Engagement for Archaeological Services (COE2 and FTS10), for simplicity the note focusses on COE1.

Client Project Managers should familiarise themselves with the new sub clause within the Payments Clause (COE1 – Clause 9) and the associated Form of Tender and Schedule (FTS9) where new terms are defined. Client Project Managers should read the COE Fee Adjustment Factor Methodology document available [here](#).

Inflation Adjustment was introduced into the COE1 and COE2 contracts on the 30<sup>th</sup> September 2024. Due to the initial fixed period in the contract, Quarter 4 2026 is the earliest possible period when inflation adjustment payments will become a contractual entitlement where the new contract was used. The OGP will begin to publish the COE Fee Adjustment Factor (COE-FAF) in Q4 2026 and continue to do so annually with respect to each Relevant Quarter. In addition to publication of the COE-FAF, the OGP has created a tool to assist Clients in determining the appropriate COE-FAF values to use on their individual contracts.

Inflation Adjustment must be considered when planning your procurement, when preparing your tender documents, when undertaking tender assessment and during the Contract period as outlined below.

### 1.2 Procurement Planning COE1

When considering the number of consultancy procurement(s) required to progress through the CWMF project lifecycle it is worth noting that the length of the Contract period will influence the extent to which the Client may be exposed to adjustment for inflation.

#### 1.2.1 Lump Sum vs Percentage Fee

When considering how the fee is to be tendered, a lump sum fee has a definitive fixed period of two years from the date that is 10 days prior to the tender submission date to the First Adjustment Date which is the Base Date. In the case of contracts utilising the Percentage Fee

option the First Adjustment Date will vary depending on when the Percentage Fee is converted or applied – this may arise within the Base Date or after depending on when the project reaches the point where it is noted that the conversion or application will take place. Therefore the First Adjustment Date for a Percentage Fee is the later of the Base Date and the Percentage Fee Conversion Date or Application Date. A Percentage Fee is not available under COE2.

### **1.2.2 Tendered Time Charges v Calculated Hourly Rates**

Tendered Time Charges are eligible for inflation adjustment. Calculated Hourly Rates are not eligible for inflation adjustment because the salary figures used to calculate the hourly rates are current at the point at which the Client Change is instructed. Clients should be aware that the Instructions to Tenderers template that is used determines which option applies. ITTS1b and ITTS2b are used where Tendered Time Charges are required.

## **1.3 Populating Tender Documents**

### **1.3.1 Expected Overall Contract Duration**

The Total Performance Period is no longer a contractual term and thus has been removed from the Form of Tender and Schedule (FTS9). The Contracting Authority will continue to populate best available information on Stage Durations in the FTS9 as before.

Contracting Authorities should now include information about the anticipated total duration of the contract in the Scope of Consultancy Services Document provided with the tender. The total duration of the contract is made up of the stage periods and inter stage periods. This is provided to give those participating in the competition the best available information at the time of tender with reference to the overall duration of the contract.

The total duration of the contract is not relevant with respect to calculation of the new inflation adjustment mechanism as that is managed on an individual Stage/Sub-Stage basis.

### **1.3.2 Management Services (FTS9)**

In the Management Services section of FTS9, the Contracting Authority should either populate within the table provided relating to the Payments Clause or include a reference in the table indicating that Management Services will be detailed in the Consultant Scope of Services document. These services are included in Stage Services as relevant and in the Total Fee and Stage Fees.

PAYMENTS [9]		
Timing	Contents	Method

A sample description for the Management Services section of FTS9 in relation to Payments (Clause 9, 13 to 16) is given below.

**Timing**

The Consultant should indicate to the Client that it wishes to submit a draft invoice. Such requests should be in line with the Fee payment plan outlined in FTS9 or within a Fee payment plan document referred to in FTS9.

**Contents**

Draft Invoices must be accompanied by evidence indicating the start date and finish date of the individual service item and whether performed during fixed period or Indexation year 1,2,3 etc. i.e. (timeline of when services were undertaken regardless of when draft invoice is submitted), milestone, Stage or Sub-Stage as appropriate.

In the event a service item is completed over two or more Indexation Years, the split of Fee for the item across the Indexation Year periods must be provided with the Draft Invoice. The Client will provide information on Indexation Years. If they have not, the Consultant should seek information on Indexation Year periods specific to the Contract from the Client.

**Method**

On receipt of the Draft Invoice, the Client will assess whether the Service to which the Invoice relates have been performed, whether the service was performed within the scheduled stage, and whether a payment is due or not.

Once satisfied that the Service has been performed, the Client will advise the Consultant of the appropriate COE-FAF (where applicable) that the Consultant can apply to the Fee associated with the invoice. The Consultant can then proceed to submit the Invoice. Invoices submitted by the Consultant must include cumulative unadjusted Fee quantum and cumulative Inflation Adjustment payments.

**1.4 Tender Assessment**

**1.4.1 Tender Submission Date**

The Tender Submission Date is now a contractually significant date on all COE1 and COE2 contracts. If they are not already in receipt of it, this date must be provided to the Client Project Manager for the particular contract by the Procurement Section of the Client organisation. It would be good practice to have individual COE1/COE2 Contracts tender date on the contract file and a central record of Tender Submission Dates on all COE1/COE2 contracts for reference.

#### **1.4.2 Length of Tender Assessment**

The period between the tender submission and contract award is within the fixed fee period. Tender assessment should proceed without any avoidable delays. If the period between tender submission and award is 12 months then the Consultant's fee is only fixed for a further 12 months.

#### **1.4.3 Letter of Acceptance (Countersigned by Consultant)**

The Client must have received the countersigned Letter of Acceptance from the Consultant in advance of any instruction to commence Stage/Sub-Stage services.

#### **1.4.4 Contract Execution**

The Contract should be executed promptly after the countersigned Letter of Acceptance is received.

### **1.5 In Contract**

#### **1.5.1 Indexation Years**

The Client Project Manager should use OGP tool to ascertain the Base Date which is the First Adjustment Date for those contracts tendered as Lump Sum and in relation to Tendered Time Charges.

The Base Date is the minimum Fixed Period on contracts tendered as a Percentage Fee. The Client must input the contract specific Percentage Fee Conversion to lump sum or Percentage Fee Application Date (percentage fee application is only to be used in exceptional circumstances) into the OGP tool. It is the later of these dates that determines the First Adjustment Date.

The OGP Tool will determine the indexation periods from the First Adjustment Date. The Client should supply the indexation periods to the Consultant to facilitate tracking of when services are completed with reference to Indexation Years.

#### **1.5.2 Stage Instructions Stage Instructions**

The Client Project Manager gives Stage/Sub-Stage instruction to commence in writing and note the date within OGP tool and expected completion date per schedule/contract programme.

### **1.5.3 Programme/ Progress**

As would be usual the Client Project Manager should continue to assess progress against programme. It would be usual for Consultant Services to include updating the Project Programme, providing monthly progress reports etc. The Client monitors delays to any element of the Service caused by Consultant breach.

### **1.5.4 Client Changes**

If Client Changes arise on Lump Sum or by conversion to Lump Sum in case of Percentage Fee and Tendered Time Charges have been chosen at tender, the Fee quantum for Change is worked up based on the Tendered Time Charges. The inflation adjustment is determined in a similar manner to the scheduled/converted lump sum as it applies with respect to when the services arising from the Change instruction are performed.

### **1.5.5 Access Draft Invoices**

The Client Project Manager on COE1 Contract should:

1. Assess whether the service has been performed satisfactorily. If not - revert to Consultant.
2. If the Service has been performed satisfactorily, consider whether the performance period indicated by the Consultant is in keeping with actual project progress (with respect to Programme, Progress Reports etc.).
  - a. If no - revert to Consultant.
  - b. If yes - check if the service was performed during period scheduled by checking Stage/Sub-Stage/ Milestone commencement date and expected completion date. This information can be stored in OGP Excel Tool. If yes go to Step 3.
  - c. If delay is due to a breach by the Consultant, determine whether the delay caused the service or part of the service to be performed in a subsequent indexation period. If no - go to Step 3.
  - d. If yes - go to Step 3 but compare COE-FAF when the service was performed versus when it should have been performed and choose the lower.
3. Use OGP tool to determine whether service was undertaken during fixed period or if not which is the applicable COE-FAF(s).

4. Advise Consultant that they can proceed to submit invoice and what (if any) COE-FAF applies to the Invoice. The COE-FAF is applied to the fee to arrive at inflation adjusted fee. Invoice information should be as per Management Services requirements i.e. unadjusted fee paid to date and inflation adjustment to date information should be provided with invoice information.

## **1.6 Invoice Processing – Finance/Administrative Staff**

It would be assumed that in all cases Client Project Managers should be approving invoice expenditure. Invoices should not be passed to administrative staff for processing until the above steps have been undertaken.

Administrative staff can use OGP Tool to cross check that correct COE-FAF has been applied within the invoice submitted but would not be able to assess draft invoices unless they were directly involved in the contract with respect to progress and performance tracking.

## **1.7 Cost Reporting, Budgeting and Forecasting**

### **1.7.1 Cost Reporting**

With reference to the ICMS Cost templates. ICMS Reference group 2.13 Construction related consultants and Supervision (including related risk allowances, taxes and levies) and specifically 2.13.010 Consultants' fees and reimbursable category is the cost holding category for expenditure associated with inflation adjustment in the COE1 Contracts associated with a construction project.

### **1.7.2 Budgeting for Following Year**

The COE-FAF published by the OGP for Relevant Quarter 4 with respect to the indexation year on each contract should be applied to the fee expected to be expended in the following year to arrive at the inflation adjusted fee expenditure for budgeting purposes. This reflects the expectation that a portion of the services undertaken in the current year may be invoiced in the subsequent year.

### **1.7.3 Budgeting Multi-Annual Basis**

Contracting Authorities can utilise COE-FAF historical movements and trusted forecasting tools relating to inflation indices e.g. European Central Bank, Irish Central Bank to arrive at suitable forecasting values for COE FAF for multi-annual budgeting where that is required.

**[END]**