

DESIGN TEAM PROCEDURES – PRACTICE NOTE 1 (Revision 2)

CHANGES TO STAGE 2b, STAGE 3 & STAGE 4 ARISING FROM AMENDMENTS TO THE PUBLIC WORKS CONTRACTS

1. Introduction

1.1 Changes to Public Works Contracts

- (a) A review of the Public Works Contracts commenced in December 2013. Following engagement between the Office of Government Procurement (Department of Public Expenditure and Reform) and industry stakeholders, in December 2014 the Government Contracts Committee for Construction, (GCCC), published its *Report on the Review of the Performance of the Public Works Contract*. The report proposed 4 interim measures to amend the Public Works Contracts (PWCs) “*In recognition of the changed market and to encourage more realistic pricing of public works projects...*” Three of the four measures are proceeding and implementation procedures have now been issued. The three changes are:
- (i) Reducing the level of risk currently being transferred by making the bill of quantities the primary reference document for tender purposes on employer-designed contracts.
 - (ii) Direct tendering of specialist works packages where specialist works make up a significant proportion of the overall project value or where they have a significant impact on the long term performance of the project.
 - (iii) The inclusion of informal dispute resolution methods to reduce the volume of disputes that are currently being referred to the formal procedures prescribed in the contract.
- (b) The implementation procedures have been published:
- (i) All Design Team appointments after 4th April 2016 must include the new arrangements in the scope of service for each Design Team member.
 - (ii) All projects where the deadline for receipt of tenders is after 8th January 2017 must be based on the new arrangements, i.e. the tender documents (Stage 2b documentation) must be based on the new arrangements.

1.2 Implications for Design Team Procedures

- (a) Based on guidance published by the Office of Government Procurement (OGP)/GCCC on the implications of the agreed amendments (i), (ii) and (iii) above, the DoES is amending the Design Team Procedures for Stage 2b, Stage 3 and Stage 4. The following adjustments to the Design Team Procedures are to be taken into account in the completion of Stage 2b and the preparation of the Works Requirements and also in the completion of Stages 3 and 4.

2. Stage 2b & Works Requirements

2.1 Projects using Public Works Contract PW-CF5, €0.5m - €5m in value (ex VAT)

2.1.1 Bill of Quantities as primary reference document for tender purposes

- (a) The DoES Design Team Procedures 2012 provide for retaining by the Client the risk of errors in quantities. The DoES will expect the Quantity Surveyor to prepare an accurate Bill of Quantities based on the Agreed Rules of Measurement, 4th Edition (ARM4), with no amendments other than those required for use with the PWCs as detailed in ARM4, Supplement 1, Issue 2, 2016.
- (b) This amendment to the PWC will therefore have no impact on Stage 2b or on the Works Requirements – the DoES will continue to expect the Design Team to provide comprehensive information to the Quantity Surveyor to enable preparation of an accurate Bill of Quantities. This is an existing requirement on all DoES funded school projects and the proposed change to the PWC does not alter this.
- (c) The Quantity Surveyor will be required to measure the building services installations in accordance with ARM4, Supplement 2 (Issue 1, April 2013), on all projects to which PW-CF5 applies.

2.1.2 Direct tendering of specialist works packages

- (a) For projects using PW-CF5, there will be no requirement for direct tendering of specialists as specialist works sub-contracts will rarely exceed 15% of the overall pre-tender cost estimate for the works. Specialist works sub-contracts will continue to be domestic for projects using PW-CF5, therefore there are no changes required to Stage 2b or to the Works Requirements. Where, due to particular circumstances, procurement of specialist works using direct tendering is proposed by the Design Team and agreed by the DoES the procedure below where PW-CF1 applies shall be followed.

2.1.3 Informal dispute resolution methods

- (a) The new Dispute Management Procedure does not apply to projects where PW-CF5 is used, therefore there are no changes required to Stage 2b or to the Works Requirements, or to Stages 3 and 4.

2.2 Projects using Public Works Contract PW-CF1, €5m - €10m in value (ex VAT)

2.2.1 Bill of Quantities as primary reference document for tender purposes

- (a) The DoES Design Team Procedures 2012 provide for retaining by the Client the risk of errors in quantities. The DoES will expect the Quantity Surveyor to prepare an accurate Bill of Quantities based on the Agreed Rules of Measurement, 4th Edition (ARM4), with no amendments other than those required for use with the PWCs as detailed in ARM4, Supplement 1, Issue 2, 2016.
- (b) This amendment to the PWC will therefore have no impact on Stage 2b or on the Works Requirements – the DoES will continue to expect the Design Team to provide comprehensive information to the Quantity Surveyor to enable preparation of an accurate Bill of Quantities. This is an existing requirement on all DoES funded school projects and the proposed change to the PWC does not alter this.

- (c) The Quantity Surveyor will be required to measure the building services installations in accordance with ARM4, Supplement 2 (Issue 1, April 2013), on all projects to which PW-CF1 applies.

2.2.2 Direct tendering of specialist works packages

- (a) **Direct tendering (Reserved Specialist) for Mechanical Installations and Electrical Installations will not be a requirement on DoES projects under €10m excluding VAT.**
- (b) Where direct tendering of Reserved Specialists is required due to particular site conditions or restraints, and agreed in advance with the DoES, any additional Design Team services arising shall be quantified and agreed in accordance with Clause 11 of the Conditions of Engagement. The DoES to be notified of such additional Reserved Specialists no later than Stage 2a.
- (c) Where direct tendering of specialists is required by the Design Team as a result of design decisions, any additional Design Team services required shall be borne by the Design Team.

2.2.3 Informal dispute resolution methods

- (a) A Project Board will be established in accordance with OGP Guidance Note 3.1.1 (available at www.constructionprocurement.gov.ie). Members of the Design Team will not be a member of the Project Board.
- (b) Schedule Part 1A of the Contract requires the number of Project Board members to be nominated by each party to the contract (same number for each party). The Employer must select the number of members prior to issuing the Schedule at tender stage. **The number of Project Board members to be selected in Schedule Part 1a on DoES projects is "1 member from each Party".**
- (c) Schedule Part 3A of the Contract contains three form fields to be filled in by the Employer with details of their role within the Employer's organisation or relationship to the Employer's organisation. However, this information is not required until the Letter to Successful Tenderer is being issued, at which time the details are notified to the successful tenderer and inserted in Schedule Part 3A prior to issue of the Letter of Acceptance.
- (d) Schedule Part 3A of the Contract also contains three form fields to be filled in with details of the Contractor's proposed members of the Project Board and their role in the Contractor's organisation or relationship to the Contractor's organisation. The Contractor is not required to disclose these details at tender stage; however, the information must be confirmed to the Employer in response to the Letter to Successful Tenderer. The Employer will then insert the details into Schedule Part 3A prior to issue of the Letter of Acceptance.
- (e) In all cases, Project Board members to represent the Employer will be nominated by the Department of Education and Skills. Any agreement reached by the Project Board involving additional expenditure will be provisional and is subject to approval by the Department of Education and Skills (the Funding Authority).

2.3 Projects using PW-CF1, over €10m in value (ex VAT)

2.3.1 General

- (a) All of the provisions of Sections 2.2.1 and 2.2.3 above apply to this category of projects in addition the requirements of Sections 2.3.2 and 2.3.3 below.

2.3.2 Direct tendering of specialist works packages

- (a) Direct tendering (Reserved Specialist) for Mechanical Installations and Electrical Installations will apply on all new projects over €10m in value excluding VAT using PW-CF1 (i.e. projects where the Design Team is appointed after the issue of this Practice Note). (Lift Installations will continue to be treated as a domestic specialist sub-contract.) Appendix 1, herein, sets out the procedures to be followed in completing the Works Requirements for both the main contract works and reserved specialist works and this should be read in conjunction with OGP Guidance Note GN 2.3.3, available at www.constructionprocurement.gov.ie.
- (b) For existing projects where Design Teams are already appointed, fee proposals from Design Teams for introducing reserved specialists for mechanical and electrical installations will be required. Design Teams will be notified accordingly.
- (c) Where direct tendering of additional Reserved Specialists (other than those in (a) above) is required due to particular site conditions or restraints, and agreed in advance with the DoES, any additional Design Team services arising shall be quantified and agreed in accordance with Clause 11 of the Conditions of Engagement. The DoES to be notified of such additional Reserved Specialists no later than Stage 2a.
- (d) Where direct tendering of additional specialists is required by the Design Team as a result of design decisions, any additional Design Team services required shall be borne by the Design Team.

2.3.3 Informal dispute resolution methods

- (a) In addition to the Project Board described at 2.2.3 above, a Standing Conciliator will be appointed by the parties, from the Starting Date until the Parties agree to terminate the Standing Conciliator's appointment.
- (b) In Schedule Part 1N of the Contract, the Employer shall confirm that a Standing Conciliator will be required for the project.
- (c) Schedule Part 3C of the Contract contains a form field to be filled in with details of the agreed Standing Conciliator who shall be jointly appointed by the Parties to the Contract prior to the Starting Date. This form field is not filled in until agreement is reached on the appointment of the Standing Conciliator.
- (d) Schedule Part 1N of the Contract contains an additional form field, to be filled in prior to the issue of tender documents to tenderers, with the name of the person or body to appoint the Standing Conciliator where the Parties cannot agree. Where the Parties cannot agree, the person or body so named will appoint the Standing Conciliator.
- (e) A reserved sum shall be included in the Pricing Document by the Employer to cover the Contractor's share (nominally 50%) of the fee for the Standing Conciliator. Once the successful main contract tenderer is identified, agreement shall be reached on the appointment of the Standing Conciliator, prior to the issue of the Letter of Acceptance. At this point the Contractor's share of the actual fee agreed with the Standing Conciliator is inserted in place of the reserved sum and the Contract Sum calculated accordingly. The Standing Conciliator's fee includes:

- (i) The fee for establishing and maintaining a standing knowledge of the project progression and the relationship between the parties;
- (ii) The fee for attending and/or chairing Project Board meetings (this will be agreed by the parties prior to the award of the contract);
- (iii) Any other duties agreed by the Parties and charged by the Standing Conciliator in performing his/her duties.

The Standing Conciliator's fee does not include for conciliating a dispute under Clause 13.2 of the Contract. The fee for acting as a conciliator for a particular dispute referred under sub-clause 13.2 shall be shared between the parties in the manner set out in the conditions (see sub-clause 13.2).

- (f) For more information in relation to the role of the Standing Conciliator see OGP Guidance Note 3.1.1 (available at www.constructionprocurement.gov.ie).

3. Procurement of Contractors & Reserved Specialists

3.1 Projects using Public Works Contract PW-CF5

3.1.1 Main Contractors

- (a) Use DoES – QW1 Suitability Assessment Questionnaire and Declaration – for use with Public Works Contract - CF5 and CF1 without Reserved Specialists.

3.1.2 Reserved Specialists

- (a) Not applicable.

3.2 Projects using Public Works Contract PW-CF1

3.2.1 Main Contractors

- (a) Use DoES – QW1 Suitability Assessment Questionnaire and Declaration – for use with Public Works Contract - CF1 with Reserved Specialists, or
- (b) Use DoES – QW1 Suitability Assessment Questionnaire and Declaration – for use with Public Works Contract - CF5 and CF1 without Reserved Specialists (where applicable).

3.2.2 Reserved Specialists (where applicable)

- (a) Use DoES – QW4 Suitability Assessment Questionnaire and Declaration – Reserved Specialists – for use with Public Works Contract – CF1.

4. Stage 3 – Tender Action

4.1 Projects using Public Works Contract PW-CF5

4.1.1 General

- (a) No change to procedures as detailed in Design Team Procedures 2012, Stage 3 – Tender Action.

4.2 Projects using Public Works Contract PW-CF1

4.2.1 Direct tendering of specialist works packages (where applicable) – Main Contract tender evaluation

- (a) Throughout the tender process for Reserved Specialists and the Main Contractor, all information issued, either in response to a query raised by a tenderer or directly by the Contracting Authority as supplementary information, should be sent simultaneously to both main contract and reserved specialist tenderers regardless of the nature of the information. This is to ensure that all tenderers can assess the impact that the information may have on their tender submission.
- (b) Any Reserved Sums provided are for main contract tender evaluation purposes and each will be substituted with the tender sums of the relevant Reserved Specialist tenderer prior to the award of the main contract. As a result, both the figure for the Reserved Sum and the item for main contractor's profit are subject to adjustment. The main contractor's tender sum is therefore termed a notional tender sum until the adjustments for reserved specialist tenders is completed.
- (c) The notional tender sum of each main contract tenderer will go forward to the evaluation process identified in the Instructions to Tenderers and will be used to identify the successful main contract tenderer.
- (d) The amounts tendered for general attendance, special attendance or management shall not be less than zero and no adjustment to the amounts for these items will be made when the actual amounts for the Reserved Specialists become available. The lump sums tendered by the main contractor for these items shall be incorporated in the Contract Sum.
- (e) Any adjustment item that a tenderer may (legitimately) apply to their final total in a Pricing Document does not apply to Employer controlled sums such as Reserved Sums, Contract Sums for Novated Specialists, nor to any associated amounts as referred to above.
- (f) The Comparative Cost of Tender is carried out on each tenderer's notional tender sum before ranking the tenderers in accordance with the award criteria for the award of the contract.
- (g) When the first ranked tenderer is identified their Pricing Document is then checked for errors in line with the Instruction to Tenderers. An outline programme is required to be submitted by all main contract tenderers. The programme submitted by the successful main contractor is checked to establish whether it has taken proper account of the specialist works packages. (The Works Proposals will require tenderers to prepare an outline programme¹ in compliance with the Form of Tender and Schedule, part 1G, which must identify the named Specialist works. Where a programme is found not to comply, the tender may be judged as a qualified (or conditioned) tender. In order for such a tender to

¹ It is important to note that the outline programme to be sought at tender stage is not intended to meet the requirements set out in clause 4.9. The Contractor, once appointed, will be required to prepare a detailed programme in accordance with the Contract taking into account the Named Specialists works.

be considered the qualification (i.e. the non-compliant programme) must be removed or the tender withdrawn.)

[Note: Previously on DoES projects the default insertion in Schedule Part 1B (Works Proposals) was "None". This is now changed to "Outline Programme identifying Reserved Specialist Works. No other Works Proposals permitted".]

- (h) The first ranked tenderer's agreement to stand over their tender is sought. Once the agreement is confirmed, the letters to the successful and unsuccessful main contract tenderers are then issued to the main contract tenderers.
- (i) The conditions precedent to the award of the contract to the successful tenderer are set out in the Instruction to Tenderers. These must be listed in the appropriate letter to successful tenderer and must be met prior to the issue of the Letter of Acceptance which forms the contract.
- (j) Once the successful main contractor has been identified and the notification letters sent out to all tenderers, the identity of the successful tenderer for the main contract and their programme must be provided to the Reserved Specialist works candidates.

4.2.2 Direct tendering of specialist works packages (where applicable) – Reserved Specialist tender evaluation

- (a) The Reserved Specialist tenders are evaluated by the Building Services engineer.
- (b) The Reserved Specialist tenders are ranked on the basis of the award criteria for the contract (MEAT, i.e. Comparative Cost of Tender).
- (c) The Pricing Document of the first ranked Reserved Specialist tenderer is checked for errors in line with the Instruction to Tenderers.
- (d) In the event of an error or errors in the first ranked Reserved Specialist tender agreement to stand over their tender is sought. Once the agreement is confirmed, the letters to the successful and unsuccessful Reserved Specialist tenderers are then issued by the Contracting Authority.
- (e) A copy of the Form of Tender and Schedule of the successful tenderer for the Reserved Specialist works is retained for use in accordance with the determination of the value of a Compensation Event under sub-clause 10.6.4.
- (f) The conditions precedent to the award of the contract to the successful tenderer are set out in the Instruction to Tenderers. These must be listed in the appropriate letter to successful tenderer and must be met prior to the issue of the Letter of Acceptance.
- (g) The Letter of Acceptance for Reserved Specialists is issued by the Contractor which then forms the contract (see 4.2.3 below).

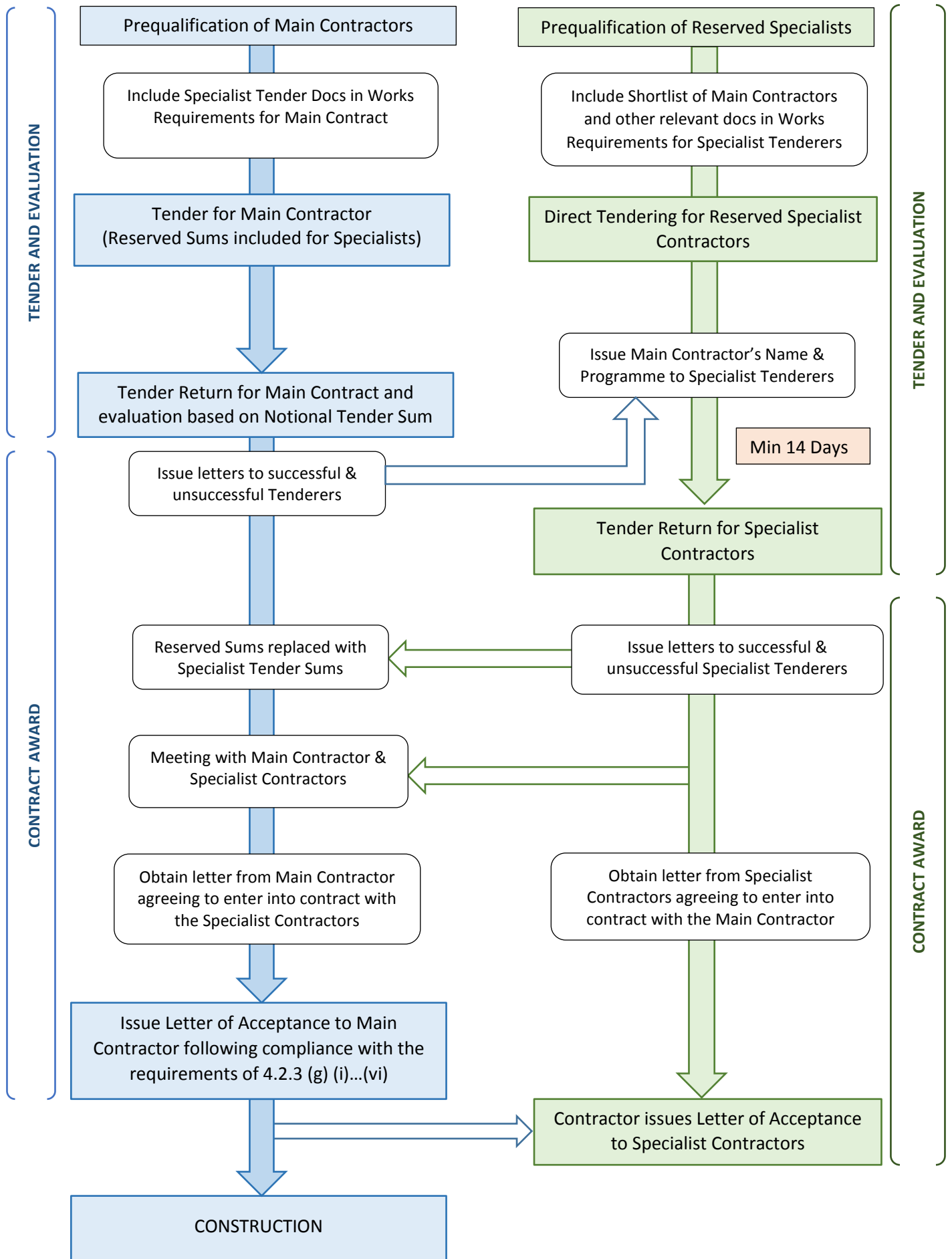
4.2.3 Contract Award

- (a) The letters to the successful and unsuccessful main contract tenderers will be sent in advance of those to the tenderers for the Reserved Specialist works.
- (b) Prior to the award of the main contract and after the successful tenderers for the Reserved Specialists' works categories are identified, the Contracting Authority will replace each of the Reserved Sums in the Pricing Document with the tender sum for the relevant Reserved Specialist category. The tendered percentage for profit will be applied to the relevant Reserved Specialist category to arrive at the Contract Sum.
- (c) Once the successful tenderers for the Reserved Specialist works are identified and notified the contracting authority will write to the successful main contract tenderer inviting them

and the successful Reserved Specialist tenderers to a pre-contract meeting chaired by the contracting authority. The purpose of the meeting is to confirm the following:

- (i) The Starting Date (as defined in sub-clause 1.1) and the Date(s) for Substantial Completion as set out in the Form of Tender and Schedule, Part 1G to the main contract;
 - (ii) Agreement by the successful tenderers for the Reserved Specialist works to the programme prepared by the successful main contract tenderer as part of their Works Proposals (providing it accords with the Form of Tender and Schedule Part 1G);
 - (iii) That the sums tendered for the main contract and each of the Reserved Specialist works categories have been adjusted in accordance with the mechanism set out in the ITT;
 - (iv) That the conditions of contract governing the main contract and the Reserved Specialist works may not be amended;
 - (v) Any other project specific issues that the contracting authority may wish to confirm.
- (d) The minutes of the meeting will record any clarifications agreed at the meeting and will be appended as a contract document to each of the successful tenderers' contracts.
- (e) Following this a letter will be sought from the successful main contract tenderer confirming their willingness to enter a contract with each of the successful tenderers for the Reserved Specialist works. A corresponding letter will be obtained from each of the successful tenderers for the Reserved Specialist works confirming their acceptance of the main contract programme and their willingness to enter a contract with the successful main contract tenderer.
- (f) There is only a single award of contract undertaken by the Contracting Authority. The Reserved Specialists are subcontractors who are to be appointed by the main contractor under sub-clause 5.4.3(ii) of the Conditions of Contract.
- (g) The main contract may be awarded to the successful tenderer for the main contract once the six steps below are completed in the order set out before the Employer issues the Letter of Acceptance which forms the Contract:
- (i) Completion of any regulatory Standstill period to the main contract and Reserved Specialist contracts that may apply; and
 - (ii) The successful tenderer for the main contract has met the preconditions to award; and
 - (iii) Letters are received by the Employer from all those named Specialists listed in the Form of Tender and Schedule stating that they are willing to enter a contract with the successful main contract tenderer; and
 - (iv) A letter is received by the Employer from the successful main contract tenderer stating that it is willing to contract with those named Specialists listed in the Form of Tender and Schedule; and
 - (v) The selected Reserved Specialists are named and listed in part 3B of the Form of Tender and Schedule; and
 - (vi) The percentage figure for profit included in the Pricing Document by the successful tenderer for the main contract for each category of named Specialist work shall be transferred to part 3B of the Form of Tender and Schedule.
- (h) Where any of the steps set out above cannot be completed the Contracting Authority shall not issue the Letter of Acceptance until the issues preventing their completion have been addressed. Guidance from the DoES Planning and Building Unit may be obtained where necessary.

- (i) Once the contracting authority has sent the Letter of Acceptance the Contract is formed. Under sub-clause 5.4.3 (ii), the Contractor is required to appoint any Reserved Specialists prior to the Starting Date.
- (j) The Contractor must provide copies of the signed form of sub-contract (un-amended from the form provided in the Reserved Specialist tender) before the Starting Date.
- (k) See explanatory Flow Chart on the following page.



5. Stage 4 – Construction

5.1 Projects using Public Works Contract PW-CF5

5.1.1 General

- (a) No change to procedures as detailed in Design Team Procedures 2012, Stage 4 – Construction.

5.2 Projects using Public Works Contract PW-CF1

5.2.1 Direct tendering of specialist works packages (where applicable)

- (a) The Employer, when issuing the certificate for payment referred to in sub-clause 11.1.3, will detail the amounts for Reserved Specialist works that have been included in the certificate and these will be copied to the relevant Reserved Specialists. The information to be provided is set out in Model Form MF 1.20.
- (b) A Change Order may be issued during the course of the Works that increases (or decreases) the Contract Sum. Should this Change Order impact on a Reserved Specialist's works, the percentage figure tendered by the Contractor for profit on the Reserved Specialist's works (and listed in part 3B of the Form of Tender and Schedule) will be applied to calculate the adjustment to the Contract Sum. (Sub-clause 10.6).
- (c) In the circumstances where sub-clause 10.6.4 is used to determine the value of additional or substituted work which includes Reserved Specialist Works, the determined value shall be based on the tendered hourly rates, the tendered percentage addition for costs of materials and the tendered percentage addition/deduction for costs of plant as tendered by the respective Reserved Specialist.
- (d) In the circumstances where clause 10.7 is used to determine delay costs, the amount that may be added to the Contract Sum (where sub-clause 10.7.1 (1) applies) shall also include any amounts due for delays to named Specialists' Works to the extent that their Works are delayed by a Compensation Event under the Contract between the Employer and Contractor. The rates used to calculate the delay costs due for named Specialists' Works shall be those tendered by the respective named Specialists.

5.2.2 Informal Dispute Resolution procedures

- (a) For projects where the Design Team was appointed before the issue of this Practice Note (unless specific requirements were included in the scope of services), any additional time input arising from the operation of the Project Board shall be quantified, agreed with the Client/DoES and charged at the tendered hourly rates.

- (b) **Projects with anticipated Contract Sum < €10 million**

A Project Board will be established (see OGP Guidance Note 3.1.1, available at www.constructionprocurement.gov.ie, for information on the establishment and operation of a Project Board). Neither the Architect, acting as Employer's Representative under the contract, nor any other member of the Design Team will be a member of the Project Board.

However, the Architect/ER and the Quantity Surveyor should allow for:

- (i) Attending a Project Board meeting at least every 60 days for the duration of the construction stage and following up on any actions as required.

All members of the Design Team are required (as part of normal service) to:

- (i) Provide information and supporting documentation in relation to items in dispute.

(c) **Projects with anticipated Contract Sum > €10 million**

A Project Board will be established and a Standing Conciliator will be appointed (see OGP Guidance Note 3.1.1, available at www.constructionprocurement.gov.ie for information on the establishment and operation of a Project Board and on the appointment of a Standing Conciliator). Neither the Architect, acting as Employer's Representative under the contract, nor any other member of the Design Team will be a member of the Project Board or can act as Standing Conciliator.

However, the Architect/ER and the Quantity Surveyor should allow for:

- (i) Attending a Project Board meeting at least every 60 days for the duration of the construction stage and following up on any actions as required.

All members of the Design Team are required (as part of normal service) to:

- (i) Provide information and supporting documentation in relation to items in dispute.

The Architect/ER is required to and should allow for:

- (i) Ensuring that the Standing Conciliator is issued with a complete set of Contract Documents upon appointment of the Standing Conciliator.
- (ii) Co-operating with the Standing Conciliator and facilitating him/her with regard to site visits that may be necessary in order to gain an understanding of issues arising in relation to disputes.
- (iii) Including the Standing Conciliator in all correspondence surrounding Clauses 4.9, 4.10 and 4.15 of the Contract.

APPENDIX 1

Reserved Specialists (where applicable) – Implications for Works Requirements

1. General

- 1.1 Co-ordination between the Architect, the Building Services Engineer and the Quantity Surveyor is required in relation to the preparation by the Building Services Engineer of the separate Specialist works packages (including general preliminaries applicable to these works, co-ordination with main contractor's works and inclusion of measured quantities, prepared by the Quantity Surveyor in accordance with ARM4, Supplement 2).
- 1.2 Co-ordination between the Architect, the Building Services Engineer and the Quantity Surveyor is required in relation to advertising and short-listing of Specialists for the Specialist works packages (including cross checking contract notices, Suitability Assessment Questionnaires, etc.). The suitability assessment process for the Specialists, and the tendering of Specialist works packages, will be carried out by the Building Services Engineer.
- 1.3 The Quantity Surveyor, in consultation with the Building Services Engineer, shall estimate the Reserved Sums for inclusion in the Pricing Document sufficient to cover the specialist works packages.
- 1.4 The Quantity Surveyor, in consultation with the Building Services Engineer, shall measure the building services installations in accordance with ARM4, Supplement 2.
- 1.5 The Building Services Engineer shall provide all necessary information to the Quantity Surveyor to enable measurement of the building services installations.
- 1.6 The Quantity Surveyor, in consultation with the Architect and the Building Services Engineer, shall prepare collateral warranties for Specialist works categories, using Model Form MF 1.12, for inclusion in the Works Requirements.
- 1.7 The Building Services Engineer, in consultation with the Quantity Surveyor and the Architect shall complete the Schedule to the Form of Contract for Specialist works packages using the CIF 'NN' Subcontract Form.

2. Works requirements (Main Contract)

- 2.1 The final Suitability Assessment Questionnaire (SAQ) for the named Specialists, which is published as part of the Expressions of Interest stage or issued to tenderers, must be included in the Works Requirements for the main contract. This has a twofold purpose:
 - (a) To provide those tendering for the main contract an indication of the standards expected of the Specialists under consideration for the award of the Specialist works contract; and
 - (b) To facilitate the reappointment of a named Specialist in the event of a default of the type specified in sub-clause 5.4.5 of the public works contract.
- 2.2 The shortlisted candidates for each of the Reserved Specialists works categories must be provided as Background Information.
- 2.3 The Works Requirements for each of the named Specialist works categories should be provided in the main contract Works Requirements and labelled as such.
- 2.4 The Pricing Documents (unpriced) for each of the named Specialist works categories should be provided in the main contract Pricing Document and labelled as such. It must be clearly stated that the named Specialists' Pricing Documents are not to be completed by main contract tenderers.

- 2.5 The tender documents for the Reserved Specialists competition must be issued to the main contract tenderers at the same time as to the Reserved Specialist works candidates.
- 2.6 A copy of the 'NN' sub-contract form issued by the Construction Industry Federation with the accompanying Appendix (*FTS13*) completed as appropriate for each of the Reserved Specialist works categories should be included in the main contract Works Requirements.
- 2.7 Reserved Sums for each of the named Specialist works categories are to be provided in the Pricing Document and part 1F(iii) of the Form of Tender and Schedule.
- 2.8 To take account of the Reserved Specialists' works, the Pricing Document for the main contract works must include items to allow for the pricing of the following:
 - (a) General attendances that the Contractor is to provide to each named Specialist. This shall be listed as an item for each of the Specialists and priced as a lump sum for each.
 - (b) Special attendances, with the extent of each special attendance required for each named Specialist being separately listed as priceable items and a lump sum priced for each.
 - (c) A single priceable item for management, to incorporate the Contractor's management, risk acceptance and indirect overhead costs associated with each of the named Specialists to be engaged for the Works, which will be listed as an item for each of the Specialists and priced as a lump sum for each
 - (d) An item for main contractor's profit required for each of the named Reserved Specialist's Sums, rated as a percentage of each named Specialist's Sum. The percentage for profit is required on any Reserved Sum provided by the Contracting Authority for each Reserved Specialists' works category. These percentages are applied by a main contract candidate to the named Specialists' Sums to create lump sum items for profit on named Specialist works. The tendered percentage for the main contractor's profit on each named Specialist Sum will not be less than zero and this must be stated.

3. Works Requirements (Reserved Specialists)

- 3.1 With the exception of the measurement of quantities for building services by the Quantity Surveyor (in accordance with ARM4, Supplement 2), the Works Requirements for the Reserved Specialist sub-contracts (mechanical and electrical installations) shall be prepared by the Building Services Engineer.
- 3.2 The following information should be provided to Reserved Specialist tenderers in addition to the information that would normally be required for tender purposes:
 - (a) The shortlisted candidates for the main contract tender must be provided as Background Information under Appendix 3 to the Instructions to Tenderers (ITTW 8) to each of the candidates for the named Specialist works categories.
 - (b) A copy of the Construction Industry Federation 'NN' sub-contract form with the accompanying schedule completed to suit the relevant Reserved Specialist works category.
 - (c) A copy of the completed Schedule, Part 1 appropriate to the form of Public Works Contract to be awarded to the successful tenderer for the main contract.
 - (d) A copy of the collateral warranty (model form MF 1.12) completed as necessary by the Contracting Authority
 - (e) Tendering Specialists must be provided with sufficient information so as to understand the scale and extent of the main contract works and any constraints that may apply to the Works whether statutory, legal or physical. Statutory constraints include planning conditions; restrictions on working hours; traffic; environmental constraints such as noise, waste, dust and light pollution. Legal constraints include any agreements with adjoining land or property owners such as rights of way, shared access, etc., wayleaves for services. Physical constraints include adjoining structures, boundaries for the works, access routes any planned building works in the vicinity, etc.

- (f) The extent of general and special attendances (as defined in the Agreed Rules of Measurement) which will be provided to the Reserved Specialist at no cost to the Specialist must be clearly stated. The attention of tenderers should be drawn to the fact that any attendances not so identified must be provided at their expense.
 - (g) An item to cover the cost of the premium for the performance bond required under sub-clause 1(i) of the Construction Industry Federation 'NN' sub-contract form.
- 3.3 Two pieces of information are to be provided to all of the Reserved Specialist Candidates as a clarification during the tender process:
- (a) The Form of Tender shall be reissued to include the name of the successful tenderer for the main contract as soon as this has been established, and
 - (b) A copy of the programme prepared by the successful tenderer for the main contract.
- 3.4 The deadline for receipt of Reserved Specialist tenderers must be a minimum of 14 calendar days after the Form of Tender and Schedule (including the identity of the successful tenderer for the main contract) and the programme provided by the successful tenderer have been issued to the Reserved Specialist candidates. This is to allow sufficient time at the end of the tender stage for the Reserved Specialist tenderers to incorporate the implications of the main contract programme into their tenders.