



DTP Practice Note 7 – Open Tendering for Construction Contracts

1st Edition, March 2011

1. INTRODUCTION	2
1.1 APPLICATION	2
1.2 DESIGN TEAM PROCEDURES	2
1.3 PREPARATION OF TENDER DOCUMENTS	2
1.4 ELECTRONIC ISSUE OF TENDER DOCUMENTS.....	2
2. OPEN TENDER PROCESS - WORKS > €500,000 (INCL. VAT).....	2
2.1 MINIMUM STANDARDS FOR PARTICIPATION	2
2.2 PUBLIC ADVERTISEMENT	2
2.3 TENDER ACTION	3
2.4 TENDER EVALUATION	3
2.5 VALIDATING THE PREFERRED BIDDER'S EVIDENCE OF SUITABILITY	4
2.6 TENDER EVALUATION (CONTINUED)	4
APPENDIX A – ETENDERS CONTRACT NOTICE - NATIONAL.....	5
APPENDIX B – TEMPLATE LETTER TO CONTRACTOR.....	7

1. INTRODUCTION

1.1 Application

- (a) This procedure applies to Capital Works projects funded in part or in total by the Department of Education & Skills as follows:
- (b) For projects with a Construction value of greater than €500,000 (including VAT) but less than €2,500,000 (including VAT) without particular complexity (i.e. H&S Category 2) and using the [Public Works Contract for Minor Building and Civil Engineering Works designed by the Employer](#), the Open Procedure set out in this document should be used (unless the prior agreement of the Department of Education and Skills [DoES] to use a different procedure has been obtained)
- (c) For projects with a Construction value equal to or greater than €2,500,000 (including VAT) Contracting Authorities may use either the Open or Restricted Procedure. In general principle the Restricted Procedure should be used for larger and more complex projects. For smaller straight forward projects where the cost of Tendering will not be an undue burden on contractors the Open procedure (as set out in this document) can be used.
- (d) For projects with a Construction value of less than €500,000 (including VAT) refer to [TGD-007 - Design Team Procedures for Small Works, 3rd Edition, March 2011](#)

1.2 Design Team Procedures

- (a) For major capital projects this document should be read in conjunction with the [Design Team Procedures 2007](#) including any subsequent amendments or [DTP Practice notes](#).
- (b) **For Summer Works, Emergency Works and other devolved projects less than €500,000 (including VAT) refer to [TGD-007 - Design Team Procedures for Small Works, 3rd Edition, March 2011](#)**
- (c) In all cases the onus and responsibility rests with the Design Team to ensure that the project is fully designed and detailed before going to tender and that all the information necessary to complete the construction is included in the Tender Documents.

1.3 Preparation of Tender Documents

- (a) Consultants should follow the procedures and guidance in [DTP Practice Note 2 -Tender Documents](#) and in [DTP Practice Note 3 - Revised Stage 2b](#) except in relation to the pre-qualification of Consultants.
- (b) The Instructions to Tender [ITTW 2 - Instruction to Tender for Works, Open Procedure](#) available at www.constructionprocurement.gov.ie should be used, completed using the guidance in [DTP Practice Note 2 -Tender documents](#).

1.4 Electronic Issue of Tender Documents

- (a) The electronic issue of Tender Documents is permitted subject to the procedure set out in [Practice Note 6, March 2011 – Electronic Issue of Tender Documents](#).

2. Open Tender Process - Works > €500,000 (incl. VAT)

2.1 Minimum Standards for Participation

- (a) Under the Open Procedure, all interested parties are permitted to submit tenders. This does not however mean that there are no minimum standards for participation.
- (b) For a tender to be deemed a valid tender, the tenderer must meet the minimum standards for participation published in the [advertisement/Contract Notice](#) and the [Conditions for Award](#) set out in the Tender Documents.
- (c) These minimum standards must be reasonable and should not exceed the requirements set out in the Qualification Questionnaire [DoES – QW2 – Works Contractor Open Procedure](#) available at www.education.ie under School Planning/Building > Technical Guidance

2.2 Public Advertisement

- (a) Once the Tender Documents are prepared (and ready to issue) **and authorisation to proceed to tender has been received in writing from the Planning and Building Unit**, an advertisement must be placed on eTenders.

- (b) A template [eTenders Contract Notice](#) (for projects below EU threshold using the Open Procedure) is appended at [Appendix A](#). This template should be used as the basis for the eTenders Contract Notice published.
- (c) The appropriate Qualification Questionnaire is [DoES – QW2 – Works Contractor Open Procedure](#) together with supplements [DoES - QW1_Supplement_3.4.1](#) and [DoES - QW1_Supplement_3.4.2](#). available at www.education.ie > School Planning/Building > Technical Guidance > Tender Documents.
- (d) These are Department of Education and Skills specific versions of the equivalent Department of Finance documents. **The reference to these documents in the eTenders Contract Notice should not be changed.**
- (e) [QW2 – Works Contractor Open Procedure](#), [QW1_Supplement_3.4.1](#) and [QW1_Supplement_3.4.2](#) The available from www.constructionprocurement.gov.ie **must not be used** as the Department of Education and Skills specific requirements are not included in these documents.
- (f) In addition there are a number of Declaration forms referred to in the above DoES documents. These Declaration forms are available either at www.education.ie or www.constructionprocurement.gov.ie. Again the reference to these documents in the eTenders Contract Notice should not be changed.

2.3 Tender Action

- (a) The procedures set out in [Design Team Procedures 2007](#) and any associated [Practice Notes](#) must be followed (except where they refer exclusively to the Restricted Procedure).
- (b) An adequate period of time must be allowed to tenderers for compiling and submitting their tenders. The minimum period to be allowed is 20 working days. For more complex projects a greater period of time should be allowed.
- (c) Tender submissions must be in writing (not by email)

2.4 Tender Evaluation

- (a) Tenders received on or before the due date and time should all be opened together after the closing date for receipt of tenders, in the presence of the Design Team Leader and/or the Quantity Surveyor. All details must be recorded, checked and signed by all present.
- (b) A signed copy of [DoES – QW2 – Works Contractor Open Procedure](#) (with the appropriate details filled in) together with supplements [DoES - QW1_Supplement_3.4.1](#) and [DoES - QW1_Supplement_3.4.2](#) and signed copies of all relevant Declarations must be submitted.
- (c) The Contracting Authority and/or the Design Team must not examine the questionnaire and attachments or seek to verify any information therein at this point. As long as the questionnaire has been signed and submitted, the Tender should not be rejected for any reason at this point.
- (d) The forms of Tender should be examined and listed in order of lowest to highest comparative cost of tender. If a Form of Tender is not signed correctly or if the Tender price is not stated clearly that tender should be excluded from further consideration. The lowest qualifying tender is the apparently successful tenderer or preferred bidder.
- (e) At this point the Questionnaire and attachments should be examined to check that the right form was used and that the questionnaire and all relevant declarations have been signed by an authorised person.
- (f) If the tenderer has not submitted a correctly signed copy of [DoES – QW2 – Works Contractor Open Procedure](#) (with the appropriate details filled in) that tenderer may be excluded and the tenderer with the next lowest comparative cost of Tender deemed to be the preferred bidder and his/her documentation checked as above.
- (g) The Preferred bidder's pricing document should now be opened and any arithmetical errors, low rates or un-priced items noted.
- (h) If the Preferred Bidder's Pricing Document has not been submitted or is blank that tender should be excluded under Clause 7 of the ITTW – Non-Compliant Tenders. To do otherwise is to allow competitive advantage to that tenderer.
- (i) As set out in [Design Team Procedures 2007](#) and any associated [Practice Notes](#), if arithmetical errors are found in the tender computation, the tenderer shall be given the opportunity to stand over his tender notwithstanding the errors or to withdraw his tender. He should be asked to confirm his decision in writing. In general a tenderer should not be afforded the opportunity of correcting his tender.
- (j) Any low rates or un-priced items should also be brought to the tenderer's attention. Should the tenderer stand by his tender notwithstanding apparent pricing errors he should confirm so in writing.

2.5 Validating the preferred bidder's evidence of suitability

- (a) The preferred bidder should now be asked (in writing) to provide (within 7 days) the information required in [DoES – QW2 – Works Contractor Open Procedure](#) and associated supplements. Refer to Appendix B for template letter/email to Contractor
- (b) When the evidence of compliance with [DoES – QW2 – Works Contractor Open Procedure](#) and associated supplements has been received, both the information in the original submission and included in response to the above letter should be examined and verified to confirm that the tenderer meets the minimum standard required.
 - (i) The preferred bidder should not be excluded on a technicality (Before excluding the preferred bidder clarification should be sought for such non-compliance items).
 - (ii) However substantive non-compliance items (e.g. complete failure to demonstrate H&S competence or no track record of projects of a similar size and complexity) are a basis for exclusion and are not matters of clarification).
 - (iii) If clarification is sought on any item and the issue is not resolved by return the preferred bidder should not be given a further chance.

2.6 Tender Evaluation (continued)

- (a) If the preferred bidder is deemed to be non-compliant, that tenderer should be excluded and the next lowest tenderer should be deemed to be the preferred bidder. The process from 2.4(e) to 2.5(b)(iii) should be repeated until a qualifying preferred bidder is established.
- (b) **Except where a tender is withdrawn or deemed to be non-qualifying (as above) the Design Team must not pass over the lowest or any tender, (due to any other reasons apart from compliance with the Conditions for Participation) without prior consultation and agreement with the Planning and Building Unit.**
- (c) The Design Team is now ready to prepare the Tender Report (as at clause 5.4 of the [Design Team Procedures 2007](#))
- (d) From this point on the procedure for the appointment of the Contractor is the same at the [Design Team Procedures 2007](#) and any associated [Practice Notes](#).

ARCHIVED

Appendix A – eTenders Contract Notice - National

CONTRACT NOTICE – NATIONAL

Notice Type: WORKS

1 Authority Details

1.1 Authority Name and Address

Official Name: XXXXXXXX		
Postal Address: XXXXXXXX,		
Town: XXXX	Postal Code:	Country: IE
For the attention of: XXXXXXXX		Telephone: XXXXXXXX
E-Mail: XXXXXXXXXXXX@XXXXX.XX		Fax: n/a
Internet Address (URL):		

1.2 Address from which documentation may be obtained

As in 1.1 (If different from above enter details)

1.3 Completed documents must be returned to:

As in 1.1 (If different from above enter details)

2 Contract Details

2.1 Title

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

2.2 Description of the goods or services required

Main Contractor for the construction of a circa XXXm2 extension and refurbishment of XXXXXXXXX school including ancillary works. There are no named specialists.

NOTE: To register your interest in this notice and obtain any additional information please visit the eTenders Web Site at http://www.etenders.gov.ie/Search/Search_Switch.aspx?ID=223652.

2.3 Notice Coding and Classification

a) Commodity Codes

Code	Description
------	-------------

4	Building
---	----------

b) Delivery Location/Area

Code	Location
------	----------

XXX	... County
-----	------------

2.4 Total quantity or scope of tender

Description of works involved e.g. XXXXXXXXm2 approx extension and XXXXXm2 approx refurbishment including ancillary works.

3 Conditions for Participation

3.1 Minimum standards and qualification required

Contractors must complete Qualification Questionnaire DoES – QW2 – Works Contractor Open Procedure and submit it (including associated supplements and signed Declarations) with the Tender Documents. QW2 – Works Contractor Open Procedure and associated supplements and Declarations are available at www.education.ie under School Planning/Building > Technical Guidance > Tender Documents. The minimum standards are as set out in the above questionnaire and this Contract Notice.

Average Turnover over 3 years must be greater than 1 x tendered sum

4 Administrative Information

4.1 Type of Procedure

Single stage - Any candidate may submit a tender.

4.2 Reference number attributed to the notice by the contracting authority

N/a

4.3 Time Limits

a) Time-limit for receipt of completed tenders

23-12-2011 Time 17:00

b) Time-limit for obtaining documentation 16-12-2011

4.4 Dispatch of invitations to tender to selected candidates

N/a

4.5 Language or languages in which tenders or requests to participate can be drawn up

EN

4.6 Tender Submission Postbox

5 Other Information

5.1 Additional Information

This is an open tender contract notice. There is no limit on the number of tenderers. The contract will be the Public Works Contract for Minor Building and Civil Engineering Works Designed by the Employer

The signed questionnaires and declarations will not be validated prior to opening the tenders. Tenderers are required (on written request) to provide the evidence in support of the questionnaire and their declarations within a period of 7 calendar days. If a firm cannot or does not provide all of the required evidence, within the above time period their tender will be deemed to be invalid and will be excluded from further consideration. The Contract is intended to be awarded to a single main contractor. If a group of contractors apply as a group or joint venture and are successful, either a lead contractor must be nominated who will be responsible for providing the service or a Joint Venture must be formed with whom the Awarding Authority will sign the contract.

There are no Contractor or Employer named specialists. All sub-contractors are domestic. The successful applicant will be appointed Works Contractor and Project Supervisor for the Construction Stage (PSCS) on the project in accordance with the Safety, Health and Welfare at Work (Construction) Regulations.

The Project categorisation for assessment of H&S competence as Works Contractor and PSCS is Type 2 - Intermediate

The Areas of work involving Particular Risks known to Contracting Authority at this time are: [none if not otherwise stated]

Expressions of Interest or tender competitions have been or are being conducted separately for: [list any other concurrent Contracts on site (None if not otherwise stated)]

It is a condition precedent to the award of the Contract that the successful Tenderer will provide:

1. A current tax clearance certificate or in the case of a non-resident Contractor a statement of suitability on tax grounds from the Revenue Commissioners of Ireland.

2. Evidence showing that they are in compliance with the registered employment agreement (Construction Industry Pensions Assurance and Sick Pay).

The Department of Education & Science is subject to the requirements of the Freedom of Information Act, 1997. If a candidate considers that any of the information supplied in response to this notice is either commercially sensitive or confidential, this should be highlighted and reasons for its sensitivity given. The relevant material will, in response to a request under the Act, be examined in the light of exemptions provided for in the Act.

(ET Ref:223652)

5.2 Additional Documentation

5.3 Publication date of this notice

27-04-2011

SF 51a

Appendix B – Template Letter to Contractor

REQUEST TO PROVIDE SUPPORTING EVIDENCE OF SUITABILITY

[Date]

To [Name and address of tenderer]

Re: Building Construction Contract for [Title of Project e.g. Replacement Roof to Block A, XXX school]

Subject to Contract/Contract Denied

A Dhaoine Uaisle

I refer to your tender dated [] for the above contract in the amount of € [] ex VAT.

I write to inform you that we require the following evidence in accordance with the completed and signed suitability questionnaire **DoES – QW2 – Works Contractor Open Procedure** (and attached declarations) submitted by you as part of the Tender requirements for the above project **within the required time period of 7 days** from the date of this letter/email.

Please be advised that if you cannot or do not provide all of the required evidence, within the above time period your tender will be deemed to be invalid and will be excluded from further consideration.

DoES – QW2 – Works Contractor Open Procedure

3.1 QW2 Appendix A - Applicant's Personal Situation Declaration

3.3a Evidence in the form of a letter from your Auditor stating the certified turnover for Building Construction Works for the 3 previous financial years

The average annual turnover for the last 3 years must be greater than the price tendered by you for the project. If for any valid reason this evidence cannot be provided then alternative evidence considered appropriate by the Contracting Authority may be provided. Such evidence must demonstrate that the firm has an average turnover over the last 3 years of not less than the required amount. (For example, where audited accounts are not available for the current year, the auditor's statement of estimated turnover for that year plus audited turnover for the previous years may be accepted, or if a firm has been in existence for 2 years only that the total audited turnover divided by 3 meets the standard required)

3.4a Curriculum Vitae [CVs] including references for all projects listed and the dates any qualifications were obtained for (i) the Contracts Manager, and (ii) the Health and Safety Manager (who may be the same person)

The required standard for each individual is evidence of competency to fulfil the assigned role. Such competency may be demonstrated by examples of previous experience (in that role) of work of a similar nature and size satisfactorily completed, and training/ qualifications appropriate to that function. Where in the combined judgement of the Contracting Authority [C.A.] and the references quoted (or otherwise checked by the C.A.) a project was not satisfactorily completed the relevant time period may be excluded from the total experience claimed.

(i) Contracts Manager

Where a Contracts manager has no qualifications or formal training, he/she must have at least 6 years Building Construction experience including at least 3 years in a management role. Where the Contracts Manager has appropriate formal training/qualifications relevant to the role of Contracts Manager (In the judgement of the Contracting Authority), the level of experience can be reduced to 4 years of which at least 2 years must be in a management role.

(ii) Health and Safety Manager

The Health and Safety Manager (who may be the same person as the Contracts Manager and/or foreman) must have at least 6 years Building Construction experience + must have either a Degree/diploma or other equivalent H&S training or must have at least 2 years acting in the capacity of Health and Safety Manager (in conjunction with other management duties) on building construction projects.

3.4b Curriculum Vitae [CVs] including references for all projects listed and the dates any qualifications were obtained for (i) the Foreman [or equivalent site manager], (ii) the Site Safety Officer, and (iii) the PSCS

The required standard for each individual is evidence of competency to fulfil the assigned role. Such competency may be demonstrated by examples of previous experience (in that role) of work of a similar nature and size satisfactorily completed, and training/ qualifications appropriate to that function.

Where in the combined judgement of the Contracting Authority [C.A.] and the references quoted (or otherwise checked by the C.A.) a project was not satisfactorily completed, the relevant time period may be excluded from the total experience claimed.

(i) Foreman (Site manager)

Where a Foreman has no qualifications or formal training, he/she must have at least 6 years experience in the Building Trade including at least 2 years as a Foreman (Site Manager). Where the Foreman has appropriate formal training/qualifications relevant to the role (In the judgement of the Contracting Authority), the level of experience can be reduced to 4 years of which at least 2 years must be as a Foreman (Site Manager).

(i) Site Safety Officer

The Site Safety Officer (who may be the same person as the foreman or PSCS) must have at least 4 years experience in the Building Trade + must have either a Degree/diploma or other equivalent H&S training (minimum 4 hours externally accredited CPD) **or** must have at least 2 years acting in the capacity of Site Safety Officer (in conjunction with other duties) on building construction projects.

(i) PSCS

The PSCS (who may be the same person as the foreman or Site Safety Officer) must have at least 4 years Building Construction experience including at least 1 completed project (of a similar size and nature) acting in the capacity of PSCS (where the role of PSCS was satisfactorily completed) **and** must have formal externally accredited training in Health and Safety (relevant to the role of PSCS) within the last 5 years.

Where the role of PSCS was not satisfactorily completed on a project, the Contracting Authority may exclude that person and if an alternative suitably qualified person is not immediately available, may also exclude the tenderer from further consideration.

3.4c Not applicable (Declaration B2 submitted with questionnaire)

3.4d Evidence of adequate measures for ensuring Quality both in the administration of a project and in the delivery of a high standard of Construction.

The minimum standard required is:

(i) Evidence of effective Quality Control procedures for the administration of a project (Both external "Quality Assured" and internal procedures are acceptable), and

(ii) Measures used by the applicant for ensuring a high standard of building construction quality in accordance with the Tender documents.

A "Quality Assured" administrative procedure without measures for ensuring a high standard of building construction is not adequate.

3.4e Evidence of the number of staff employed by the firm or otherwise available to the firm for the roles of Contracts Manager, Health and Safety Manager, Foreman, Site Safety Officer and PSCS and evidence that the firm has sufficient staff (as above) to carry out the project

The minimum requirement is sufficient staff (considered in conjunction with Turnover and current workload) to carry out this project. A Contractor may, where appropriate and for a particular contract, rely on the capacities of other entities, regardless of the legal nature of the links which it has with them. It must in that case prove to the contracting authority that it will have at its disposal the resources necessary for the execution of the contract, for example, by producing an undertaking by those entities to place the necessary resources at the disposal of the Contractor e.g. an agreement (subject to the award of the Contract) with a foreman of suitable qualifications and experience.

DoES – QW2 – Supplement 3.4.1 H&S Competence of Contractor (in addition to the above)

3.4.1a An Organisation chart showing the company structure and indicating the duty holders responsible for Health and Safety

The minimum requirement is evidence of an adequate organisation structure for Health and Safety

3.4.1d Evidence supporting Declaration C3

I.e a safety statement in the format stated in C3, or (where not submitted with questionnaire) evidence of current third party certification (e.g. Safe-T-Cert, or OHSAS 18001, or approved equivalent)

3.4.1f Evidence of adequate access (online or offline) to appropriate levels of Codes of Practice, Regulatory and Statutory guidance

DoES – QW2 – Supplement 3.4.2 H&S Competence PSCS (in addition to the above)

3.4.2a If the PSCS is an external company providing the service for the tenderer, an Organisation chart showing that company's structure and indicating their duty holders responsible for Health and Safety.

In addition the person (for that firm) to manage this project (who may also be the PSCS) must have either a Degree/diploma or other equivalent H&S training (minimum 4 hours externally accredited CPD) in addition to 3 years experience as Health and Safety Manager on satisfactorily completed building construction projects.

3.4.2b (PSCS requirements as 3.4b)

3.4.2c Details [Using Declaration B3] of 3 building construction projects similar in nature and complexity on which the tenderer fulfilled the role of PSCS completed satisfactorily (if not already provided).

Where the PSCS is an external company providing the service for the tenderer, the 3 examples must be for the firm in question. The Contracting Authority may also seek details of other projects on which the tenderer (or firm providing the service) fulfilled the role of PSCS and take those projects into account. All 3 projects must have been

completed (i.e. at Substantial completion) within the last 5 years. The Contract value of each project must be no less than half the Tender sum and no greater than €10.0m. Projects of a similar nature are defined as in 3.4c
Where enforcement actions, legal proceedings, accidents, fatalities or incidents have been recorded for any of those projects, evidence that adequate measures have been put in place by the tenderer (or firm providing the service) to address any deficiencies in their Health and Safety procedures including the inter-relationship between the PSCS and the tenderer, how the role of PSCS is implemented, and a procedure for taking corrective measures for all stages.

Where in the combined judgement of the Contracting Authority [C.A.] and the references quoted (or otherwise checked by the C.A.) a project was not satisfactorily completed and an alternative suitable project is not immediately identified, the Contracting Authority may exclude the tenderer from further consideration.

3.4.2d Evidence supporting Declaration C3

As for 3.4.1d above i.e a safety statement in the format stated in C3, or (where not submitted with questionnaire) evidence of current third party certification (e.g. Safe-T-Cert, or OHSAS 18001, or approved equivalent)

3.4.2e Evidence of the number of staff employed by the firm or otherwise available to the firm for the role of PSCS

as 3.4(e)

3.4.2f Evidence of adequate access (online or offline) to appropriate levels of Codes of Practice, Regulatory and Statutory guidance

As 3.4.1f above

Please note also that prior to appointment the successful tenderer will be required to provide a Current C2/Tax clearance certificate, evidence of adequate Public Liability Insurance in the amount of €6.5m, Employer's Liability Insurance in the amount of €13.0m, and a Bond all in accordance with the tender requirements. This information is not required at this time

I remind you that if any of the above listed items is not provided within 7 days of the date of this letter/email, we may proceed to award the contract to another tenderer.

This is **not** a letter of acceptance or a Letter of Intent and does **not** imply that your firm is under consideration for the above project. It is merely a request that information in accordance with the tender requirements be provided. **The Employer has not accepted your tender.**

Please make contact as soon as possible with the undersigned to confirm that the above information will be provided and to make arrangements for the delivery of that information.

Is mise, le meas

Signed: _____

[On behalf of the Employer]