



An
Bord
Pleanála

AN BORD PLEANÁLA

Public Procurement Policy and Guidelines 2013

As amended by An Bord Pleanála on the 23rd October, 2014.

1. Introduction

(1) Public Procurement Policy

The policy of An Bord Pleanála is to provide best value for money when procuring goods and services for the Organisation. An Bord Pleanála will adhere to the principles of openness, transparency and accountability in conducting its procurement business and will undertake to fulfil its obligations under the relevant EU and National Directives, legislation and recommendations.

In accordance with Government Policy, An Bord Pleanála as a public body complies generally with the procedures for public procurement laid down in the Public Procurement Guidelines –published by the Department of Finance in 2004 and since updated in 2009 as “Public Procurement Guidelines 2010”.

It is a basic principle of public procurement is that there should be a competitive process. The type of process will depend on the value and nature of the requirement.

There is a legal obligation to engage in a competitive process for contracts above EU thresholds and award them in accordance with procedures set out in EU Public Procurement Directives and Government Procurement Agreement (GPA) of the World Trade Organisation, where relevant.

(2) Corporate Procurement Plan

The Procurement Policy of An Bord Pleanála forms part of its Strategic Planning and Annual Plan and Budgeting process. A Corporate Procurement Plan is produced on an annual basis and is approved by the Board of An Bord Pleanála.

(3) Framework Agreements

In accordance with Circular 06/12 Public Procurement (Framework Agreements) issued by the Department of Public Expenditure and Reform on 25th July 2012, An Bord Pleanála, as a public body is mandatorily required to utilise central contracts, put in place by the NPS (National Procurement Service), the OGP (Office of Government Procurement from May 2013), when procuring a range of commonly acquired goods and services. Appendix 1 of the 06/12 Circular identifies the categories that are initially to be subject to the mandate.

The Department of Finance Circulars 2/09 and 2/11, in respect of categories covered by IT and telecommunications frameworks agreements managed by the Department of Public Expenditure and Reform also apply to any ICT purchases by An Bord Pleanála.

The main principle of these circulars is that all ICT purchases (other than emergency purchases) must also get prior ICT control approval from the Department of Public Expenditure and Reform in addition to any necessary procurement procedures.

(4) Green Public Procurement

In accordance with the Government's action plan "Green Tenders: an Action Plan on Green Public Procurement (GPP)" An Bord Pleanála is committed to playing an exemplary role in green public procurement throughout its spending profile.

GPP is a process whereby An Bord Pleanála meets its procurement needs by seeking and choosing outcomes and solutions that have a reduced impact on the environment throughout their estimated economically useful life, as compared to alternative products and solutions.

It is An Bord Pleanála's policy to encourage the use of all types of environmentally friendly products – energy efficient, water conserving, recyclable and non-toxic.

(5) Scope of the Guidelines

For ease of reference, this document sets down the main procedures to be followed in An Bord Pleanála in relation to: -

1. Procurement (including acquisition of information and communications technology (ICT) and office equipment and for the provision of services that do not fall within the National Framework Agreements as outlined in (2) above), and
2. Disposal of assets.

2. General Issues

(1) Designated Officer

An Bord Pleanála has appointed a Designated Officer in matters relating to public procurement. The duty of this Officer is to ensure that all matters related to procurement of works, supplies and services and the disposal of property and equipment are in accordance with legal and administrative requirements. Ellen Morrin, Senior Administrative Officer is the Designated Officer for this purpose.

(2) Aggregate Costs

Where a series of related contracts are proposed in any period of 12 months, the aggregate costs of the contracts shall be reckoned in relation to thresholds referred to in these guidelines.

(3) Expertise and Probity

The Designated Officer should ensure that staff involved in purchasing or placing contracts are familiar with these Guidelines and with the EU and international rules that may apply and that they are aware of the legal and policy framework within which procurement must be conducted. To safeguard against improper or unethical practices, functions within the procurement cycle will be separated by ensuring that, for example, ordering and receiving goods and services are distinct from payment for goods and services.

(4) Casual Purchases

Purchasing profiles should be examined to minimise casual or “once-off” purchases. Sections with recurring or ongoing requirements should analyse their medium to long-term needs. Appropriate contracting arrangements should be put in place for efficient and cost effective delivery of recurring supplies and services.

(5) Pilot Projects

Where a procurement process involves a pilot stage, the pilot should be conducted in a manner that allows and encourages the identification of a range of acceptable solutions or options. Care must be taken to avoid the development of relationships

with a particular party or parties which could hinder a fair and open process or limit competition.

(6) Sole Suppliers

Where it is necessary to deal with a sole supplier, service provider or contractor, arrangements which provide best value for money should be negotiated. Care should be taken when faced with a supplier, service provider or contractor with an exclusive right to provide a particular supply or service in a designated territory. Open-ended arrangements with these exclusive distributors should be avoided where possible. Irish and EU competition law does not prevent an exclusive supplier from providing supplies to customers outside of its designated territory where the exclusive supplier has been requested to do so by that customer.

Better value for money can be achieved by seeking tenders from other suppliers, service providers or contractors outside the region in which there is an exclusive distributor. It may be appropriate to advertise in the Official Journal of the European Union (OJEU) or otherwise seek non-national suppliers in such cases.

If An Bord Pleanála is refused supplies on the basis that there is an exclusive supplier supplying goods in the contracting authority's area, the matter should be brought to the attention of the Competition Authority: telephone (01) 804 5400.

(7) Conflicts of Interest

Staff should be aware of potential conflicts of interest in the tendering process and should take appropriate action to avoid them. Care should be taken to ensure that project specifications and criteria should be open and generic as possible in order to avoid favouring any one solution or any one party.

(8) Statutory Provisions

Before awarding a contract, An Bord Pleanála should ensure that tenderers have regard to statutory provisions relating to minimum pay, legally binding industrial or sectoral agreements and relevant health and safety issues. An appropriate reference to the need for compliance with such provisions should be included in tender documents.

(9) Collusive Tendering

Staff should watch for anti-competitive practices such as collusive tendering. Any evidence of suspected collusion in tendering should be brought to the attention of the Competition Authority: telephone (01) 804 5400.

(10) Criminal Convictions

In line with the revised procurement Directives, candidates or tenderers who have been convicted of involvement in organised crime, fraud, corruption or money laundering must be excluded from performing a public contract.

(11) Value-Added Tax (VAT)

Tenderers should be invited to express tender prices exclusive of VAT. VAT law provides for equal treatment in the supply of goods and services; therefore, no competitive advantage or disadvantage should arise from the correct application of VAT rules.

An Bord Pleanála is required to pay VAT on goods and services procured and, generally speaking, cannot recover VAT paid. In the case of goods and services invoiced from within Ireland, VAT is charged to An Bord Pleanála and remitted to the Revenue Commissioners by the supplier of the goods or services. However, procuring or likely to procure, in a twelve-month period, goods above a certain value (€41,000 from 1 January 2002) from other EU Member States, it is required to register and pay VAT to the Revenue Commissioners (Collector General) in respect of those procurements.

VAT must be paid by An Bord Pleanála for all scheduled services (including the most commonly procured services) invoiced VAT free from abroad, i.e. there is no minimum threshold. If An Bord Pleanála is required to register for VAT because it receives scheduled services from abroad, all goods which it receives, irrespective of the level of such acquisitions, are liable to Irish VAT. VAT, calculated at the rate applying in Ireland, must be paid to the Revenue Commissioners by the Board where it receives such goods or services.

The foregoing is a brief summary of the VAT rules which apply when procuring supplies and services and the information is not exhaustive. Further information is available in “Value Added Tax Information Leaflet No 11/01” issued by the Revenue Commissioners, which is published on their website www.revenue.ie or can be obtained by contacting VAT Administration, Stamping Building, Dublin Castle, Dublin 2: telephone (01) 647 5000.

(12) Professional Services Withholding Tax

Professional Services Withholding Tax (PSWT) must be deducted at the standard rate from payments by the Board for professional services. Comprehensive information on PSWT is available in a booklet “A Revenue Guide to Professional Services Withholding Tax (PSWT) for Accountable Persons and Specified Persons” which is published on website www.revenue.ie or can be obtained from the Revenue Commissioners: telephone (01) 878 0100.

(13) Tax Clearance Certificates

Tax clearance of contractors as outlined in Department of Finance ‘*Circular 22.95 Tax Clearance Procedures – Public Sector Contracts*’ or any revised version which will be available on www.revenue.ie must be adhered to by the Board.

Tenderers should contact their local Revenue District or Larger Cases Division, as appropriate. Full contact details can be obtained, and for most cases an online application for Tax Clearance Certificates can currently be made, under ‘What’s New’ on www.revenue.ie

Non resident tenderers should contact the Collector General, Sarsfield House, Limerick: telephone (061) 310 310 or 1890 203 070

3. Procurement Procedures

Competitive Process at National and EU threshold values

An Bord Pleanála's contracts are primarily for Supplies and Services

National	Contract Value	Action
	Less than €5,000 Supplies and Services	Verbal quotes from one or more competitive suppliers. Record of quote to be maintained for audit purposes
	€5,000 - €25,000 Supplies and Services	Response to specifications sent by fax or email to at least three suppliers or service providers.
	€25,000 to EU Threshold Supplies and Services	Open tendering with advertisement on e-tenders website.
EU	€200,000 for Services €400,000 for Utilities	Tender with advertisement on both e-tenders and OJEU website. Full compliance with relevant EU directives.

National Guidelines and EU Thresholds are periodically revised. For up to date national procurement Guidelines information go to www.procurement.ie. Full and up to date EU thresholds and Directives can be checked on the EU Public Procurement website www.simap.europa.eu.

Appendices 1 and 2 are a guide to procurement procedures and current procurement thresholds as published by the National Procurement Service (NPS) in 2012.

Small and Medium Enterprises

In August 2010, the Department of Finance issued Circular 10/10: “Facilitating Participation of SME’s in Public Procurement” in relation to improving Small and Medium Enterprises (SME’s) participation in the Public Procurement Process.

This document sets out measures that contracting authorities are required to take to promote SME involvement in a manner that is consistent with the principles and rules of the existing public procurement regulatory regime. The guidance also highlights practices that are to be avoided because they can unjustifiably hinder small businesses in competing for public contracts.

Key features of the document are that:

- Contract for supplies and general services with an estimated value of €25,000 or more are now to be advertised on the www.etender.gov.ie website, and
- New arrangements are being introduced whereby advertised contracts below a certain threshold must be awarded on an Open Tendering basis i.e. without pre-qualification of tenderers. The threshold is €125,000 in the case of advertised contracts for Supplies and Services.

For more information see Circular 10/10 and Guidance on measures to facilitate participation of SME’s in public procurement available on-line at ww.etenders.gov.ie.

4. Principles and Exclusions

It is a basic principle of Government and, therefore, An Bord Pleanála procurement policy that competitive tendering should always be used for the procurement of works/services the cost of which will exceed the minimum figure (see thresholds in section 3 above) unless exceptional circumstances apply. In cases where it is proposed not to have competitive tendering, the approval of the Board must be obtained.

These requirements as laid out above do not apply to:

1. A situation of extreme urgency, where, for example, due to failure of an ICT component or a systems crash, parts require to be replaced immediately to restore the ICT System. Where this arises and the cost of the purchase is greater than the figure of €25,000 as referred to, a report should be sent to the Chief Officer within a week outlining the nature of the situation, the emergency action taken and the costs involved.
2. The engagement of consultants under section 120(2) or 124 of the Planning and Development Act so long as the Board considers that it is not in the public interest to tender for such services and/or the engagement of the consultants concerned is made in a non-discriminatory manner,
3. The engagement of solicitors or barristers for the purpose of giving legal advice in relation to the general operations of An Bord Pleanála or acting as a standing legal agent for An Bord Pleanála in respect of its on-going involvement in respect of applications for judicial review involving Court/legal representation.

5. Evaluation and Approval of Contracts

The evaluation and award process will be demonstrably objective and transparent and based solely on the criteria published in the Request for Tender (RFT) documents. This will be achieved by the formation of a Tender Assessment Group - made up of at least two people at management level or above with an external expert included where appropriate - who will assess the documents by using the scoring system outlined in Appendix 4 which indicates a comparative assessment of tender under each criterion.

The outcome of the tender process must be approved by the relevant Senior Administrative Officer (SAO), Assistant Director of Planning (ADP), Chief Officer (CO) or the Board in accordance with the levels set out in Appendix 3.

Once the contract has been awarded the successful supplier or service provider will sign a contract for goods or services as appropriate. The formats of the contracts are based on the templates for 1) Goods Contracts and 2) Services Contracts available on the NPS website www.procurement.ie.

6. Extensions of Contracts

Contracts which are renewed on a regular/periodic basis e.g. maintenance, cleaning, consultants etc. are subject to the provisions of this notice. However, in the interests of continuity and efficiency, these contracts may be awarded for periods of up to three years with an option to extend the contract for another year subject to the appropriate approval:

Contracts	Approval
€0 to €25,000	SAO/ADP
€25,001 to €50,000	CO
> €50,001	Board

Requests for such tenders must state this clearly at the time of tendering. Price increases may be permitted but the agreed mechanism for such increases, (e.g. annual inflation rate) must be stated in the tender and incorporated in the contract at the time of signing the contract.

7. Tendering Procedures

The Department of Finance document “Public Procurement Checklist” as designed by the National Public Procurement Policy Unit (NPPPU) covers the steps in a normal procurement cycle from identifying and specifying a need to awarding a contract.

Before starting any procurement process it must be established that the purchase is essential to An Bord Pleanála, therefore, pre-tendering approval is required to be obtained from the Chief Officer for amounts up to €50,000 and from the Board for amounts over €50,001.

An Bord Pleanála uses this checklist as a basis for its procedures for tendering for a contract. The document is available on the NPS website www.procurement.ie.

A sample of An Board Pleanála’s “Score Sheet for evaluation of tenders – for the delivery and management of a service” is at Appendix 4 below (See also Appendix III of the Public Procurement Guidelines- Competitive Process available on www.procurement.ie).

8. Cost Overruns

All projects should be carefully monitored to ensure that the works or services are carried out within specification, time and costs limits. In this regard, An Bord Pleanála will appoint a project officer, where appropriate, to oversee the project. Where a cost overrun is foreseen or has occurred, the Chief Officer should be informed as soon as possible. All care should be taken to avoid cost overruns.

9. Disposal of Assets

For the purpose of An Bord Pleanála's accounting system, non-consumable items purchased to a value of €1,000 or more are treated as capital assets and entered into an Assets Register. These items are included in our Balance Sheet.

Where An Bord Pleanála decides to dispose of an asset, appropriate adjustments must be made to our Assets Register and Balance Sheet and a record should be maintained for the purposes of audit compliance. See Appendix 5 for the appropriate form for completion when disposing of an Asset.

Section 18 of the Code of Practice for the Governance of State Bodies provides governance for the Disposal of State Assets and Access to Assets by Third Parties. This section states that any asset with "an anticipated value at or above €150,000 should be disposed of either by auction or competitive tendering process, other than in exceptional circumstances (such as a sale to a charitable body). The method used should be both transparent and likely to achieve a fair market-related price"

The Code of Practice further outlines the procedures to be followed which An Bord Pleanála will comply with should this situation ever arise.

10. Contracts Register

The Designated Officer will open and maintain a register of all tenders for public procurement. He/she will make a report to the Management Committee of all contracts signed which have been entered onto the electronic Register.

Appendix 1 – National Procurement Thresholds

Procurement Thresholds

Contract notices below the EU threshold for publication on eTenders or by direct invitation.

Amount	Type of Contract	Procedure
€0 - €24,999	Supplies or Services Contracts	Verbal quotes from competitive suppliers
€0 - €49,999	Works & Works Related Services	Quick Quote (direct invitation, not published on eTenders) See www.constructionprocurement.gov.ie See D/PER Capital Works Management Framework GN 2.3 Section 3.2
€25,000 - €125,000 €50,000 - €250,000	Supplies or Services Contracts Works & Works Related Services	Open Procedure Non-OJEU (See Dept. of Finance Circular 10/10) See Capital Works Management Framework GN 2.3 Section 1.2
€125,001 – EU Threshold €250,000 – EU Threshold	Works, Supplies or Services Contracts Works & Works Related Services	Any Non-OJEU Procedure but usually Open or Restricted See Capital Works Management Framework GN 2.3 Section 1.2
Above EU Thresholds	Works, Supplies or Services Contracts	Any OJEU Procedure but usually Open or Restricted

Appendix 2 – EU and GPA Procurement Thresholds

Thresholds (exclusive of VAT) above which advertising of contracts in the Official Journal of the EU are obligatory with effect from 1st January 2012.

Revised public procurement Directives simplify the threshold provisions by abolishing the two tier system that existed under the former Directives and the Government Procurement Agreement (GPA) of the World Trade Organisation and by rounding the threshold values.

The main OJEU advertising thresholds with effect from 1 January 2012 are as follows:

Works		
Contract notice	€5,000,000	Threshold applies to Government Departments and Offices, Local and Regional Authorities and public bodies
Supplies and Services		
Contract notice	€130,000	Threshold applies to Government Departments and Offices
Contract notice	€200,000	Threshold applies to Local and Regional Authorities and public bodies outside the Utilities sector
Utilities		
Works Contracts/Prior Indicative Notice	€5,000,000	For entities in Utilities sector covered by GPA
Supplies and Services	€400,000	For entities in Utilities sector covered by GPA

National Guidelines and EU thresholds are periodically revised.

For up to date national procurement guidelines information go to the National Procurement Service website www.procurement.ie.

Appendix 3 – Approval of Contracts

	€0- €25,000	€25,001 - €50,000	>€50,000
Lowest tender accepted	SAO/ADP	CO	CO
Lowest tender not accepted	CO	CO	Board

Appendix 4 – Sample Score Sheet for evaluation of tenders – for the delivery and management of a service

Award criteria	Quality of proposal for providing service detailed at xxxx of RFT.	Management & service structure proposed	Expertise and skills of personnel assigned to this project	Timeframe for delivery	Proposed cost of providing service	Total marks awarded
Total marks Available	70	30	30	20	50	200
Company A	60	24	22	12	30	148
Company B	62	30	27	15	42	176
Company C	49	11	12	15	25	112
Company D	55	22	25	14	40	156
Company E	60	25	16	15	40	156

Appendix 5 - Fixed Assets Disposal Form

Fixed Asset Number: _____

Asset Type: IT Hardware/Office Equipment (Delete as appropriate)

Asset Description: _____ + _____

(i.e. Hard drive, Monitor etc)

Serial Number: _____

Asset Location: _____

Date of Purchase: _____

Purchase Value: _____

Current Value: _____

Reason for Disposal: _____

Profit on Disposal: _____

Method of Disposal: Destroyed Sold Recycled

REQUEST FOR DISPOSAL OF THE ABOVE ITEM:

SIGNED: _____ Date: _____

DISPOSAL OF ITEM AUTHORISED:

SIGNED: _____ Date: _____

Director of Corporate Affairs/ Chief Officer/ Board Member

FOR FINANCE USE ONLY – SEO OR HIGHER:

Disposal Entered on Register: _____ Date: _____