



Llywodraeth Cymru  
Welsh Government

# Competitive Tendering and Public Procurement

## Technical Guidance Notes

European Maritime & Fisheries  
Fund 2014-2020

The Welsh Government Rural Communities-  
Rural Development Programme for Wales  
2014-2020



Cronfa Amaethyddol Ewrop ar  
gyfer Datblygu Gwledig  
Ewrop yn Buddsoddi mewn Ardaloedd Gwledig  
European Agricultural Fund for  
Rural Development  
Europe Investing in Rural Areas



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## **Section 1: Introduction**

### **1.1 Project Sponsor**

A Project Sponsor can be a private commercial enterprise, public sector, or third party sector.

The aim of this document is to provide guidance on the competitive tendering and public procurement procedures that need to be followed, when submitting an expression of interest, full application or claim for funding under the following European Programmes:

European Agricultural Fund for Rural Development (EAFRD)  
European Maritime and Fisheries Fund (EMFF)

### **1.2 Project Works**

A Project 'work' means the outcome of a building or civil engineering works taken as a whole which is sufficient in itself to fulfil an economic or technical function.

### **1.3 Procurement Directives**

Public procurement in the UK and the rest of the European Union (EU) is governed by a number of Directives and Regulations which are implemented in national legislation. The table at [Annex A](#) lists the relevant Directives and the UK Regulations which make them a legal requirement in the UK.

### **1.4 Public Procurement or Competitive Tendering**

The European Commission (EC) Procurement Directives apply to contracts that are financed or part financed by EU Funds. Full Public Procurement rules apply to all public bodies and commercial enterprises in the private sector who receive grant support of 50% or more of total project costs, exclusive of VAT.

**[See Section 4 for full guidance on Public Procurement.](#)**

If the public procurement rules do not apply to you, you will be required to follow the Competitive Tendering process.

**[See Section 2 for full guidance on Competitive Tendering.](#)**

### **1.5 Sell2Wales**

Sell2Wales is primarily for Public Sector buyers, however any Project Sponsor in receipt of an approval letter confirming funding under the European Programmes (EAFRD and EMFF) may also use Sell2Wales.

Full details about the services available and how to register on Sell2Wales can be found on their [website](http://www.sell2wales.gov.wales) (www.sell2wales.gov.wales)

## Section 2 - Competitive Tendering

2.1 There are three key aims of competitive tendering:

- To demonstrate fairness for suppliers to make a contribution to EU funded investment activities
- To improve the competitiveness of suppliers
- To demonstrate reasonable project costs

You must demonstrate you have used open and fair practices by using a competitive tendering exercise for all works, goods and services that are included in the project for which you intend to claim grant support.

The correct competitive tendering requirements must be undertaken and the time needed to do this must be factored into the project delivery plan.

The threshold for the value of the goods or services is determined by the **final invoice price** and not the initial values given in an estimate or quotation (exclusive of VAT).

For example, the quote is £4,990 but the invoiced amount is £5,020, then the competitive tendering requirement would be **at least 3 written quotes**

The following requirements **must be** followed according to the total value of the goods or services purchased **exclusive of VAT**.

| <b>Final Value to be purchased (exclusive of VAT)</b> | <b>Competitive Tendering Requirement</b> | <b>Notes</b>   |
|---|--|--|
| Less than £5,000 (final invoice price)                | One written quote                        | It is recommended to use suppliers that are registered on <a href="http://www.sell2wales.gov.wales">www.sell2wales.gov.wales</a> |
| £5,000 or more (final invoice price)                  | At least three written quotes            | It is recommended to use suppliers that are registered on <a href="http://www.sell2wales.gov.wales">www.sell2wales.gov.wales</a> |

### 2.2 Open Competition

You must put in place a process which assesses the merits of the quotes on an impartial basis: (business case, with a genuine pre-estimate of cost and need).

The contract description must be non-discriminatory; you cannot refer to a particular brand, qualification, certification, specific origin or trademark.

You must make it clear that equivalents will be equally valid. You must ensure there is no direct or indirect discrimination of bidders from other Member States.

All Information must be provided up front, including estimated value where possible, in the instructions to bidders / specification / advert / contract notice. You must make available the same information about the contract opportunity to all interested parties.

## 2.3 Suppliers

Evidence **must** be provided that demonstrates which suppliers were approached and asked to quote; this must include the date they were contacted and who in the company the enquiry was sent to.

The quotation documents **must** contain all the necessary information for the supplier to be identified including address, contact details and Company Registration Number (VAT Number if applicable).

The cost of an item procured from the supplier cannot be broken down into smaller amounts to avoid using the correct competitive tendering requirement.

An agreed contract or a submitted quotation cannot be split and individual items taken out of the contract or out of the quotation to be provided separately. This becomes a new purchase and the competitive tendering requirements **must** be applied again.

## 2.4. Conflict of Interest

Any perceived or actual conflicts of interest between you and the suppliers that are asked to provide quotes - for example getting quotes from related companies, **must be explained in the competitive tendering supporting documentation. Where conflicts potentially exist mitigating action must be taken and documented.**

## 2.5 Quotes

A minimum of three quotes will be required when a purchase is £5,000 or more. Only one quote is required when the purchase is under £5,000.

There may be rare occurrences where you are unable to obtain three quotes, such as highly specialised works/services. If you believe there are less than 3 suppliers available you should contact [RPW Online](#) before entering into any agreement to seek advice for a lower number of quotes.

If the work is not specialised but you are struggling to find suppliers who are willing to provide quotes you should retain detailed evidence of who you have requested quotes from, and when.

While you are only required to submit 3 quotes, it is expected you approach more than 3 suppliers if you are unsuccessful in obtaining quotes.

## 2.6 Selection Process

Quotations received must be considered fairly and the reason(s) why a particular supplier was chosen must be recorded in writing.

We would expect you to select the cheapest quote. If, in exceptional circumstances, you do not use the cheapest of the three competitive quotes you **must** provide a written explanation setting out the rational and reasons why the selected supplier has been chosen. Welsh Government may cap the grant to the value of the lowest quote.

## 2.7 Documentation

You **must** document all competitive tendering using the Welsh Government Competitive Tendering Register & Record.

A Competitive Tendering Register & Record can be found on the Welsh Government website.

## Section 3 - Corrections and Sanctions

**You are responsible for ensuring the competitive tendering process is followed correctly, fully documented and the documentation is available upon request.**

**There is a significant risk the grant could be recovered in full or in part if the competitive tendering process is not followed correctly and supporting documentation is not retained.**

### 3.1 Administrative Checks

Evidence of the competitive tendering processes may be requested at application appraisal and/or claim processing stage.

Additionally, as part of the claim process, an administrative site visit (in situ check) will be completed to check all the purchased works, goods and services have been delivered to the appropriate technical specification and competitive tendering requirements been met.

### 3.2 On-The-Spot-Controls

As required by EC regulation, a sample of projects will be selected for an additional on-the-spot control (Inspection).

Inspections are completed by Rural Inspectorate Wales, and will be similar to administrative site visits (in situ checks)

Your project may also be selected for inspection/audit by Wales Audit office, the EC or the European Court of Auditors.

## Section 4 - Public Procurement

[The EU Public Procurement Directive 2014/24/EU](#) and the [Public Contracts Regulations 2015](#) that implement them in the UK set out the law on public procurement. The purpose is to open the public procurement market and to ensure the free movement of goods and services within the EU.

Public sector bodies that are covered by the EC Procurement Directives are required to follow their own organisational procurement rules and procedures. The basic rules are outlined below, but you can find the full rules on the [EC website](#).



#### 4.1 Below Official Journal of the European Union (OJEU) threshold

Where the value of the proposed procurement does not exceed the current [Official Journal of the European Union](#) (OJEU) thresholds, you do not need to follow the detailed procedures set out in the [Procurement Directives](#).

See table for details below the OJEU thresholds.

| Procurement Value* | Requirement          | Notes  |
|--------------------|----------------------|--|
| £0 - £4,999        | One written quote    | It is recommended to use suppliers that are registered on <a href="http://www.sell2wales.gov.wales">www.sell2wales.gov.wales</a> |
| £5,000 – £24,999   | Three written quotes | It is recommended to use suppliers that are registered on <a href="http://www.sell2wales.gov.wales">www.sell2wales.gov.wales</a> |

**\*Please note these figures are exclusive of VAT\***

#### 4.2 Above Official Journal of the European Union (OJEU) threshold

Where the value of the proposed procurement exceeds the current [Official Journal of the European Union](#) (OJEU) thresholds, you need to follow the detailed procedures set out in the [Procurement Directives](#).

See table for details above the OJEU thresholds

\*

| Procurement Value*                         | Requirement               | Notes   |
|--|---------------------------|---|
| £25,000 - £106,046<br>(Goods and Services) | Full and open competition | Requirements may be published through <a href="http://www.sell2wales.gov.wales">www.sell2wales.gov.wales</a><br>Quotes may be sought by direct reference to suppliers |
| £25,000 - £4,104,393<br>(Works)            | Full and open competition | Requirements may be published through <a href="http://www.sell2wales.gov.wales">www.sell2wales.gov.wales</a><br>Quotes may be sought by direct reference to suppliers |
| £106,047 and above<br>(Goods and Services) | Full and open competition | Publish requirement throughout Europe via <a href="http://www.sell2wales.gov.wales">www.sell2wales.gov.wales</a>  |
| £4,104,394 and above<br>(Works)            | Full and open competition | Publish requirement throughout Europe via <a href="http://www.sell2wales.gov.wales">www.sell2wales.gov.wales</a>  |

**\*Goods and Services refers to anything you buy except for a [Project Work](#)\***

**\*Please note these figures are exclusive of VAT\***

As a Project Sponsor, it is a legal requirement to advertise your tender opportunities. Please go to the [Sell2Wales](#) website and follow the published guidance (**only available once registered**) to add notices.

1. The Contract Notice should be published electronically via [Sell2Wales](#).
2. The closing date for receipt of bids must be no earlier than 45 days from the day after the date of despatch of the contract notice to OJEU (a longer time limit must be allowed if the Contract Notice has not been published electronically).
3. Invitation to Tender (ITT) documents must be issued to all companies that respond to the contract notice.
4. The ITT must be issued within 6 days of receipt of a request for the documentation.
5. If you have published a Prior Information Notice (PIN) in accordance with Regulation 11 of the Public Contracts Notice 2006, then the closing date for receipt of bids may be reduced to 36 days (or 22 days in exceptionally justified cases).
6. Shortened time limits may be applied if ITT documents are made available electronically.



## Annex A: Procurement Directives

All applicable UK legislation related to procurement can be found on the [Welsh Government website](#)

| European Legislation  | UK Implementation  |
|---|--|
| <p><b>Public Contracts Directive 2014/24/EU</b></p> <p>Procedures for the award of public works contracts, public supply contracts and public service contracts</p>   | <p><b>Statutory Instrument 2015 No. 102</b></p> <p>The Public Contracts Regulations 2015</p>   |
| <p><b>Utility Contracts Directive 2014/25/EU</b></p> <p>Procedures of entities operating in the water, energy, transport and postal service sectors</p>   | <p><b>Statutory Instrument 2006 No 6.</b></p> <p>The Utilities Contracts Regulations 2006 (see amendments below)</p>   |
| <p><b>Defence and Security Directive 2009/81/EC</b></p> <p>Procedures of entities operating in the fields of defence and security</p>   | <p><b>Statutory Instrument 2011 No. 1848</b></p> <p>The Defence and Security Public Contracts Regulation 2011</p>  |
| <p><b>Directive 2007/66/EC Remedies Directive</b></p> <p>Amends the existing Remedies Directive (89/665/EEC and 92/13EEC) to improve the effectiveness of review procedures concerning the award of public contracts.</p> | <p>The Public Contracts (Amendment) Regulations 2009</p>   |
|   | <p>The Public Contracts Regulations 2006 &amp; The Utilities Contracts Regulations 2006 have been amended as below:<br/> The Money Laundering Regulations 2007<br/> The Public Contracts and Utilities Contracts (Amendment) Regulations 2007<br/> The Public Contracts and Utilities Contracts (Postal Services Amendments) Regulations 2008<br/> The Public Contracts and Utilities Contracts (CPV Code Amendments) Regulations 2008<br/> The Bribery Act 2010 (Consequential Amendments) Order 2011<br/> The Public Procurement (Miscellaneous Amendments) Regulations 2011</p> |