

LEADER Procurement Webinar FAQ

The responses to the following questions are general in nature and are aligned with national public procurement guidance. LEADER Programme beneficiaries should consult the relevant LEADER Programme procurement guidance, as additional or more specific requirements may apply.

QUESTION 1

For costs under €5,000, do you need to obtain 3 quotes or actively seek a minimum of 3 quotes?

ANSWER

Contracts for goods and/or services with an estimated value of less than €5,000 (exclusive of VAT) can be purchased on the basis of verbal quotes from one or more competitive suppliers. Best practice is to seek a minimum of three quotes confirmed by email.

QUESTION 2

If a promoter seeks 3 or 5 quotes and receives one, will that suffice for LEADER application? And how can a LAG determine whether this represents good value for money?

ANSWER

For supplies and services up to €50,000, best practice is to seek a minimum of three quotes confirmed by email. Where only one quote is received despite reasonable efforts to obtain competition, the contracting authority should consider the circumstances and satisfy themselves that the price offered represents value for money. This may involve considering factors such as prevailing market rates, previous purchases or any other relevant information available. The rationale for each can be included in the comment section of the administrative check questions relating to project procurement. To note also, the purchaser is under no obligation to accept the quote received.

QUESTION 3

If the final costs or quotes exceed one of the thresholds, say €5,000, and you haven't applied the relevant procedures for the final amount, how do you correct it?

ANSWER

Procurement requirements are determined by the estimated contract value before commencing procurement. Contracting authorities should make a realistic estimate of the full value of the requirement at the outset and apply the appropriate procurement procedure based

on that estimate. Procurement cannot be retrospectively regularised if the wrong procedure was applied.

If it becomes apparent that the estimated value was incorrect and the applicable threshold has been exceeded, the safest approach is generally to pause the process and re-procure using the correct procedure before making a commitment or award. Where a procurement process is discontinued and recommenced, suppliers who have submitted quotations or tenders should be informed accordingly.

QUESTION 4

Are 3 quote requests necessary for ad-hoc items for less than €100?

ANSWER

Best practice is to seek a minimum of three quotes confirmed by email.

There is no specific exemption for purchases under €100. However, procurement requirements should be applied proportionately. For very low value, routine or incidental purchases, the focus should be on obtaining value for money and maintaining an appropriate audit trail.

QUESTION 5

If a promoter goes to tender and receives a quote that exceeds their available budget, can they select items for the quote to proceed with for a LEADER application?

ANSWER

Only where the original tender documents provided for separable elements, lots or clearly identifiable components that could be awarded independently. A contracting authority cannot negotiate or materially alter the scope after tenders have been received in a manner that could distort competition.

If the requirement changes significantly, a new procurement process may be required using a revised specification and budget.

QUESTION 6

What happens when there is an overrun in the costs after the tender has been awarded?

ANSWER

In general, a contract is awarded for a specific contract value. Any increase in contract value must be assessed carefully. Significant changes to the scope, value or nature of the contract may constitute a substantial modification and could require a new procurement process.

Minor variations may be permissible where they are provided for in the original procurement documents or fall within the permitted modification provisions.

QUESTION 7

Is there a cost for completing the 'Introduction to Public Works Procurement' e-learning course on csa.gov.ie?

ANSWER

There is no cost to completing the Introduction to Public Works Procurement e-learning course on <https://csa.gov.ie/>

The Introduction to Public Works Procurement is an introductory level course that is composed of five modules, introducing participants to the basics of public procurement making them aware of the EU Directives, Statutory Instruments, Infrastructure Guidelines and the CWMF (for works projects).

Module 1: Introduction to Public Procurement

Module 2: Introduction to the Capital Works Management Framework (CWMF)

Module 3: CWMF Part 1- Planning the Projects

Module 4: CWMF Part 2 - Contract Strategy

Module 5: CWMF Part 3 - Procurement Strategy

Participants can complete Module 1 or all 5 Modules. This training is delivered entirely online using self-directed learning. Participants can self-register for this eLearning course via the link below.

Further information of all upcoming programmes, eLearning and events are included on the CWMF website: <https://cwmf.gov.ie/en/learning/csa/>

Specific queries can be submitted to csacademy@per.gov.ie.

QUESTION 8

Can you give a short summary of what constitutes works services?

ANSWER

Works-related services are typically provided by a broad range of construction professionals who are involved in developing the different stages of a construction project. They will be

involved in the development of the brief, planning and design, the tender process for the contractor and oversight, inspection and certification of the construction project.

They would typically be architects, structural and civil engineers, building services engineers, quantity surveyors, geotechnical engineers, building surveyors, conservation architects, fire safety engineers plus many other specialist professional inputs which are too numerous to mention.

Specific queries can be submitted to construction@per.gov.ie

QUESTION 9

When reviewing a procurement where the winning bid isn't the lowest because it scored higher on technical specification, how do I assess whether that decision was correct? For example, if two consultants appear to have similar experience but one receives a much higher technical score, what should you be looking for to verify that the evaluation was fair and justified?

ANSWER

If a tenderer received a significantly higher technical score, there should be clear and documented evidence showing why it received the higher score. The reasons should be in line with the published scoring methodology and they should be specific and measurable rather than subjective statements. The winning tender does not have to be the lowest priced tender where the contract is awarded on the basis of Most Economically Advantageous Tender (MEAT).

QUESTION 10

What is the correct procedure if a promoter (applicant) uses the e-tenders platform to publish a tender and either fails to receive any tenders or fails to receive suitable tenders that match the criteria? Can they then directly procure?

ANSWER

If a properly conducted competitive tender process receives no tenders or no suitable tenders, the purchaser should first consider the circumstances and whether any aspect of the procurement may have affected market participation, such as the specification, qualification criteria, timeframes or estimated contract value.

Direct procurement may be permissible in limited circumstances in accordance with Article 32 (Use of the negotiated procedure without prior publication) of the Directive 2014/24/EU of The European Parliament and of The Council of 26 February 2014 on public procurement.

QUESTION 11

Is there a cost involved in using e-tenders?

ANSWER

No. eTenders is Ireland's national procurement portal and is free for both contracting authorities and suppliers to use.

QUESTION 12

How do you deal with a breakdown in relations with a procured contractor and promoter delivering a works project midway through a project and continuing to deliver the project to conclusion?

ANSWER

The issue should be managed through the contract management mechanisms provided in the contract. Queries on works procurement should be directed to construction@per.gov.ie.

QUESTION 13

How should a potential conflict of interest be handled in a tendering process? For example, if one of the suppliers or contractors invited to quote is a family member or close relative of the promoter, what additional evidence or documentation is required to demonstrate that the process was fair, transparent and competitive?

ANSWER

Contracting authorities are required to take appropriate measures to prevent, identify and remedy conflicts of interest in the conduct of a procurement procedure to avoid any distortion of competition and to ensure equal treatment of tenderers. A conflict of interest includes any situation where a relevant staff member has, directly or indirectly, a financial economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure. The conflict of interest should be declared at the earliest opportunity and those with the conflict of interest may need to be removed from the procurement process to ensure that it is transparent for all tenderers.

QUESTION 14

Artificial Splitting Case: The promoter has several separate RFTs covering different supplies and services. These requirements genuinely relate to different service categories and would not realistically be delivered by a single supplier. Some of the draft RFTs include a provision stating that suppliers may submit tenders for all elements or for individual elements only, and that contracts may be awarded separately for each element. Is this approach permissible under

public procurement rules? Can a single RFT be structured into separate lots or elements, allowing suppliers to bid for some or all components, with awards made independently for each lot or element?

ANSWER

Yes. Public procurement rules expressly allow contracts to be divided into lots and encourage this approach where appropriate to support SME participation.

Provided there is a genuine operational rationale for separate lots and the overall contract value has been properly calculated, suppliers may be invited to tender for one, several or all lots and contracts may be awarded separately for each lot.

The important distinction is that the procurement must not be artificially divided solely to avoid procurement thresholds. The total value of all lots must still be aggregated when determining the applicable procurement procedure.

QUESTION 15

If a contractor does not set up a consortium, tenders for all 2 Lots, but sub-contracts out the work or supply and service for one of the lots. Is this okay?

ANSWER

Tenderers may use subcontractors provided this is permitted under the procurement documents and disclosed appropriately.

The primary contractor remains responsible for delivering the contract and should identify any subcontractors where required by the tender documents. The use of subcontractors does not in itself require a consortium arrangement.

QUESTION 16

How do you demonstrate or differentiate between sub lots and artificial splitting to keep costs below thresholds?

ANSWER

Contracting authorities are encouraged to consider sub-dividing contracts into lots to support SME participation. Procurement files should clearly document why the lots were established and why separate awards represent the most appropriate delivery model. The following demonstrates acceptable lots and artificial splitting.

Acceptable lots:

- Reflect distinct requirements.
- Have a legitimate commercial or technical rationale.
- Could reasonably be delivered separately.
- Are procured together under a transparent process.
- Have their combined value considered when determining thresholds.

Artificial splitting:

- Divides one overall requirement into smaller contracts.
- Has no genuine operational justification.
- Is designed to avoid a higher procurement threshold or advertising requirement.

QUESTION 17

What's the penalty for not complying with procurement guidelines?

ANSWER

Public procurement procedures must adhere to the principles of EU law, including transparency, equal treatment, non-discrimination, proportionality and mutual recognition. While there are no specific penalties for failing to adhere to procurement guidelines, failure to comply with applicable procurement rules may expose a contracting authority to legal challenge, procurement complaints, audit findings or reputational damage. Tenderers may also seek legal remedies where they consider that a procurement process has not been conducted in accordance with the relevant legal requirements.

From a LEADER programme perspective, failure to follow correct procurement procedures will result in some or all elements of the project being disallowed. In addition, a penalty may be applied using the methodology outlined in the European Commission Guidelines on applying corrections for public procurement irregularities. Such disallowances may result in the repayment of previous phased grant payments.