

Procurement Policy and Procedures Manual

FINANCE AND ACCOUNTING DEPARTMENT

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Section 1

Procurement Objectives and Governance

The primary objectives of this document are to ensure:

- Procurement in FRH is developed in line with best practice;
- Procurement practices comply fully with statutory regulations;
- Savings and performance targets are met by the Association

This manual is designed to ensure a common approach across the Associations' Finance and Accounting Department (FAD) in the procurement of products, equipment and services.

The policies and principles set out herein will ensure that this Department will comply with the very best practices in this domain.

Implementation of these policies and principles will ensure this Department complies with the statutory regulations and gets best value for money and ensures that in general, a competitive process is carried out in an open, objective and transparent manner to achieve best value for money in the field of procurement.

It is pertinent that procurement function is discharged honestly, fairly and in a manner that secures best value for money. This Department must be cost effective and efficient in the use of resources while upholding the highest standards of probity and integrity.

Important General Issues.

▪ Expertise and Probity

Frontiers should ensure that the staff involved in purchasing or placing contracts are familiar with the best procurement standards and rules that may apply. It is also incumbent on this Department to take measures to separate functions within the procurement cycle, by ensuring that, for example, ordering and receiving goods and services are distinct from payment for goods and services.

▪ Casual Purchases.

Divisions should examine purchasing profiles to minimize casual or "once off" purchases. An appropriate contracting arrangement should be put in place for efficient and cost effective delivery of recurring supplies and services.

▪ 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 options.

- **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. Divisions should take care when they face such a scenario. Open-ended arrangements with these distributors should be avoided where possible.

- **Conflict of Interest**

Divisions should be aware of potential conflicts of interest in the tendering process and should take appropriate steps to avoid them.

- **Statutory Provisions**

Before awarding a contract, Divisions 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, when preparing tenders.

- **Collusive Tendering**

Divisions should watch for anti-competitive practices such as collusive tendering.

- **Criminal Convictions**

Candidates or tenderers who have been convicted of involvement in organized crime, fraud, corruption or money laundering must be excluded from performing a contract.

UN Global Compact Principles

RAH's general rules for suppliers are in harmony with the UN Global Compact principles (the general 10 principles). No business is done with any party that is unaware of the code of conduct. Those 10 principles by the UN state the following:

1. Principle 1: Human Rights: Businesses should support and respect the protection of internationally proclaimed human rights.
2. Principle 2: Human Rights: Businesses should make sure that they are not complicit in human rights abuses.
3. Principle 3: Labour: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining.
4. Principle 4: Labour: Businesses should uphold the elimination of all forms of forced and compulsory labour.
5. Principle 5: Labour: Businesses should uphold the effective abolition of child labour.
6. Principle 6: Labour: Businesses should uphold the elimination of discrimination in respect of employment and occupation.
7. Principle 7: Environment: Businesses should support a precautionary approach to environmental changes.

8. Principle 8: Environment: Businesses should undertake initiatives to promote greater environmental responsibility.
9. Principle 9: Environment: Businesses should encourage the development and diffusion of environmentally friendly technologies.
10. Principle 10: Anti-Corruption: Businesses should work against corruption in all its forms, including extortion and bribery.

The 10 Principles presented by the UN Global Compact ensure that corporate sustainability starts with a company's value system and a principle-based approach to doing business. It addresses the issues included in the Compact in the areas of human rights, labour, environment and anti-corruption.

Further insight on the UN Global Compact and the ten principles can be found at: www.unglobalcompact.org and www.unglobalcompact.org/what-is-gc/mission/principles

Section 2

Procurement Process

Competitive Process below national/international threshold values

It is a basic principle of procurement that a competitive process should be used unless there are justifiably exceptional circumstances. The type of competitive process can vary depending on the size and characteristic of the contract to be awarded.

For contracts below the equivalent of US\$ 150000 threshold values (**€125,000**) the procedures set out below should be followed:

- Supplies or services **less than US\$5,000** in value might be purchased on the basis of verbal quotes from one or more competitive suppliers;
- Supplies or services contracts between **US\$5,000 and to US\$25,000** in value might be awarded on the basis of responses to specifications sent by fax or e-mail to at least three suppliers
- Contracts **above US\$25,000 and up** should normally be as part of a formal tendering process.

Procedures available Nationally

The main requirement in relation to contracts entered in to for supplies and services is for "***Competitive Tendering***". FRH is being widely encouraged to use the e-Tenders website as a standard means for awarding their contracts.

There are two alternatives for below threshold contracts:

a) Open Procedure

Divisions/Units may use the open procedure for below threshold contracts whereby tender documents are made available to all. This can be augmented by issuing tender documents to known suppliers. Tender documents should test the financial and technical capacity of supplier in addition to assessing their responsiveness to any specific requirements.

The timescales for the receipt of tenders/quotes should be a minimum of 21 days.

b) Restricted Procedure.

This is a two-phase procedure. Phase 1 being the request for expressions of interest (EOI) based on financial and technical capacity. As an alternative FRH may issue a questionnaire as a means of standardizing responses. Phase 2 being the invitation to tender phase.

As with the open procedure, the policy that a minimum of 21 days be given to tenderers to respond to both phases i.e. 21 days to respond to requests for expressions of interest and 21 days for suppliers to submit tenders. It should be the practice where at all possible to invite at least 5 competent entities to tender.

Awarding a contract without a competitive process

Awarding a contract **below the above mentioned** value threshold without the use of a competitive process should be considered only in the following instances:

- Where only a proprietary product will meet requirements, such as parts or components for equipment.
- Where an agent, licensee or franchise holder has sole rights to supply a service or product.
- Where there is only one suitable qualified specialist in the relevant field.
- Where a particular service provider possesses a special advantage due, for example, to earlier research exclusively carried out in a particular area, or has exclusive data or information required performing a particular task. In such circumstances, it must be demonstrably clear that another service provider could not perform a contract more economically.
- Where due to the urgency a competitive process cannot be undertaken in the time available. What constitutes urgency cannot be specified definitively. Factors giving rise to urgency must be serious, unforeseeable and, except in the most exceptional circumstances. Occasions when it is necessary to award a contract without a competitive process due to urgency should be very rare because an appropriate competitive process can be completed relative quickly below thresholds, by direct invitation to tender to a number of suitably qualified suppliers or service providers (see Direct Invitation).

When awarding a contract, care should be taken to avoid entering into open-ended arrangements, for administrative convenience, that reduces or hinders competition. Market testing should be undertaken at appropriate intervals to ensure that market openness and competition is maintained.

However should the situation arise at a minimum FAD should negotiate the terms of the contract with the company to ensure value for money.

If for any reason it is proposed to procure any good/service above US\$25,000 without a competitive process, it should be noted that these procurements are subject to prior review by the Procurement Officer and/or the Board.

Direct Invitation (without Advertising)

Alternatively a process of direct invitation to tender may be used. This may involve:

- invitation to firms deemed appropriately qualified for a particular project (this maybe be appropriate for specialised requirements in markets where there is a limited number of suppliers or service providers);
- invitation to tender to firms on a list established on an open and objective basis (normally used when there is a frequent or recurring requirement or to maintain a well organised ongoing procurement system).

Where direct invitations are issued, firms from which tenders are sought should be a good representative sample of all potential bidders in the market concerned. The number must be sufficient to ensure adequate competition, and should not be restricted for reasons of administrative convenience. At least five firms should normally be invited to submit tenders, if possible.

In keeping a list of firms from which they invite tenders, FAD should advertise at appropriate intervals (normally on an annual basis) for the admission of interested parties and should ensure that the lists are open to suitably qualified entrants at all times. Care should be taken to ensure that such lists are used in an open and non - discriminatory manner and ensuring that recently established firms, or firms with no previous experience of public contracts, are not excluded from invitations to tender.

Section 3

Authorisation (Thresholds) and Responsibilities

Certifying and Authorizing invoices.

For an invoice to be paid it must be -

- certified by an authorized listed officer at any grade who confirms that the goods/services have been received and
- authorised by a listed officer from the cost centre incurring the expenditure, subject to the following monetary limits –

Framework Agreements

Framework Agreements/Panels

Advertising for framework agreements should set out the precise nature of the proposed procurements to the highest degree possible.

Framework agreements can be with one supplier or service provider, selected following a competitive process, to fulfill orders or supply services over the period of the agreement. Alternatively, they may be with a number of (at least three) pre - qualified suppliers or service providers. In the latter case, a contract may be awarded

to one party to the agreement if the terms of the agreement so permit, or a contract may be the subject of a sub - competition between parties to the framework agreement.

The fundamental requirement is that non – discriminatory and transparent competition prevails in establishing framework agreements and in awarding contracts on the basis of such arrangements.

Operation of Panels/Lists

Lists of companies can be established from which future tenders may be sought for ongoing regular requirements. The existence of such a list from which tenders will be requested as and when requirements arise must be advertised.

The following shall operate in relation to panels/lists:

- Lists must be advertised on an annual basis;
- They must be established on the basis of seeking information on financial and technical capacity;
- The number invited to tender should ensure sufficient competition and include at least 5 tenderers if available;
- Selection of tenderers may be in accordance with:
 - a. Application of specific criteria, based on information available,
 - b. Random selection,
 - c. Rotation,
 - d. Or a combination of the above.

Section 4

Quotation/Tendering Procedures

A. Low Value Procedure (less than US\$5,000)

This procedure must be used for purchases with an estimated value of less than **US\$5,000**.

- One or more quotations from competitive suppliers,
- Market testing should be carried out periodically,
- For purchases of less than US\$1,000 the use of a low value purchase card should be considered, otherwise a Purchase Order must be raised,
- Relevant backing documentation filed.

B. Medium Value Procedure (between US\$5,000 and US\$25,000)

This procedure must be used for purchases with an estimated value greater than US\$5,000 and less than US\$25,000.

- Allocation (budget) must be in place before proceeding with purchase,
- Expenditure approval of budget holder required,
- Minimum of three competitive quotations based on specification,
- All contract award procedures should include a verifiable audit trail,
- Purchase Order must be raised,

- Relevant backing documentation filed.

C. High Value Purchase (between US\$25,000 and less than US\$125000 threshold)

This procedure must be used for purchases with an estimated value greater than greater than ***US\$25,000 and less than US\$125000***)

Allocation (budget) must be in place before proceeding with purchase,

- Expenditure approval of budget holder required,
- Formal tendering must be used,
- Specification is required,
- Minimum of 3 weeks response time for suppliers,
- Advertise on e-tenders unless exceptional circumstance,
- Sealed bids before a prescribed date,
- Formal purchase approval supported by technical/commercial recommendations where appropriate,
- All contract award procedures should include a verifiable audit trail,
- Purchase Order must be raised,
- Relevant backing documentation filed.

D. Procedure for greater than US\$125000 threshold

This procedure must be used for purchases of greater than US\$**25,000** for supplies and services

- Prior Information Notice should be used if practical,
- Allocation (budget) must be in place before proceeding with purchase,
- Expenditure approval of budget holder required,
- Formal tendering must be used,
- Call for competition,
- All contract award procedures should include a verifiable audit trail,
- Purchase Order must be raised,
- Relevant backing documentation filed.

Evaluating Selection Criteria

When information is sought from suppliers to test their financial and technical competence as part of the expression of interest under the restricted procedure or as part of the tender under the open procedure, all the information received must be assessed

In the open procedure it is a process of verifying that tenderers meet the minimum levels set (a yes/no process, whereby they must meet the minimum levels). In the open procedure a large number of tenders may be received. The evaluation process involves firstly confirming that the tenderers meet the minimum levels of financial/technical competence; secondly confirming that they comply with the specification and lastly they are evaluated against the award criteria.

When a notice is published using the restricted procedure it requests candidates to supply information concerning their financial and technical competence – a questionnaire can be used to ensure standardised responses. The information needs to be evaluated using a scoring matrix. Weightings must be applied to each criterion prior to opening/assessing the expression of interest.

Evaluating Award Criteria

When tenders have been received they should be evaluated on the basis of the specification issued and the award criteria and weightings indicated and by the same team appointed before the invitation to tender has issued. In relation to award criteria it is a requirement to include the weightings for each criterion in the tender documents (for EU procurements). Tenders must be evaluated against the stated criteria. No new criteria can be introduced once the tenders have been received. The tenderer with the highest score, meeting all the criteria is the winning tender.

a. Delivery and opening tenders

All tenders should be opened together and as soon as possible after the designated time and date of receipt. They must be opened in the presence of two officials to ensure in the case of a dispute there is a clear and formal vouched report of the tenders received. They should be signed and date stamped as should the Form of Tender and other tender pages, which contain prices, rates etc. Tenders received after prescribed deadline should be returned unopened.

Tender details should be recorded on “Certificate of Tenders Received” (See templates). The two officials involved in the opening process should sign this form.

After tenders have been opened, information relating to tenders should not be disclosed to any of the tenderers or to any staff not officially concerned in the tendering process.

b. Evaluation of tenders and contract award

Tenders are evaluated on a technical/commercial basis.

- Only tenders that comply with the specifications and general requirements of the tender documentation will be considered
- A tender that does not meet these needs cannot be accepted and must be treated as invalid
- The pre-published award criteria may not be altered in carrying out the evaluation process
- Tenders which fall into the following categories may be rejected:
 - Irregular tenders which fail to meet the specification;
 - Unacceptable tenders which fail to meet the suitability criteria, or late;
 - “Unsuitable” tenders which fail properly to address the requirements to any reasonable degree.

- Information about new and existing suppliers should be requested before any procurement of any amount. Detailed information is a necessity before considering the supplier for any potential deal. Information include:
 1. Business Name of supplier
 2. Name of Business Owner/ Sales Representative
 3. Location of supplier
 4. Products/services provided by supplier
 5. How many years has the supplier been trading
 6. Is the supplier pricing competitive?
 7. What are the payment terms for this supplier?
 8. What is the return policy for this supplier?
 9. Does the supplier provide warranties, guarantees etc.?
 10. Is there an alternative to this supplier, has the alternative supplier been considered?
 11. What are the delivery services of the supplier?
 12. Has a credit check been undertaken for the supplier?
 13. What are the services after supply/sale/services?

NOTE:

The appointment of a new supplier will be authorized by the Executive Director and the Accountant. All relevant details of the supplier will be entered into the financial system by the Accountant once approval is obtained from the Executive Director and/or the President of the Association

c. Proper Vendor Management

- Repeated suppliers are a necessity for cost minimization. Contracts must be established with those suppliers to ensure healthy business from both parties.
- Pre-Contract award surveys must take place before committing to any supplier. Information gathered for surveys may be obtained from firms that are specialized in pre-award surveys or from public data if available. Pre-Contract award surveys are a necessity to collect critical data about potential repeated suppliers, such as: capacity, affiliations, experience etc.
- Repeated suppliers whom contracts run out, are subject to evaluation forms to assess their performance. This is part of FRH's performance monitoring process to ensure that all contractual vendors and suppliers comply with their obligations. The result of the assessment determines if contract renewals must take place, or new suppliers must be considered.

When assessed before contract renewal, vendors will be evaluated upon the following criteria:

1. Timeliness of deliveries during contract period

2. Quality of Parts/Products/Material upon delivery.
 3. Overall quality of Parts/Products/Material received.
 4. Competitiveness of prices offered.
 5. Quality of Service provided.
 6. Competitiveness of terms and conditions during contract period.
 7. Overall financial condition of vendor by the end of the contract period.
 8. Quality of Design Compared to Specifications.
 9. Expertise of Sales Staff.
 10. Technical Support staff's level of expertise.
 11. Notes about Vendor must be taken into consideration
- All suppliers – contractual and non-contractual – are part of FRH's approved supplier list.

Scoring Cost

Cost scoring may be carried out using a variety of different formulae. The two most commonly used methods include:

1. Graduated Scale is calculated as follows: number of points scored = the cost of the lowest valid tender divided by the cost of the tender being assessed and multiplied by the maximum score achievable.
2. Sudden Death is calculated as follows:

Number of points is calculated by deducting the same percentage from the maximum score achievable as the percentage by which the tender in question exceeds the cost of lowest tender.

Tenderers should be informed as to which methodology has been chosen for the evaluation and scoring of cost.

Evaluation Report

To support final approval of the contract the tender evaluation committee/group should complete a signed tender evaluation report, which should be retained on file.

- *Contract Management,*

Once a contract has been signed or purchase order has been raised, it is incumbent on the Department of Transport that the supplies, works or services are delivered in accordance with the terms of the tender and the prices quoted. If companies fail to meet these requirements they should be contacted immediately and a management process of improvement put in place. A full written record of all correspondence with/from the supplier should be maintained.

- ***Filing and storage of tender documentation***

A Division must maintain complete records of each stage of the procurement process. The records must detail all decisions made in relation to the contract and must be kept for a period of at least seven (5) years.

The file should be clearly labelled, with contract description and reference number and should be divided into the different sub-sections such as

- Post award correspondence,
- Approval letter/Purchase Order/ Award Notice,
- Tender evaluation,
- Post tender correspondence,
- Copies of tenders,
- Certificate of tender,
- Pre-tender correspondence,

A copy of every contract entered into should be forwarded to the Procurement Officer of the Finance Department.

- ***Risk Management***

It is recommended that FRH introduce a formal risk management system and should make risk management part of the business planning process. The process of risk management involves a cycle of identifying risks, evaluating their potential consequences and determining the most effective methods of responding to them. This means reducing the chances of their occurrence and reducing their impact if they do occur. The assessment involves:

- Project risk. This encompasses risk to the project from the inadequate definition or assessment of the need, scope, scale and financing of the project. These should be addressed in the business case;
- Process risk. This is risk resulting from an inadequate knowledge of national procurement policy and law and from incorrectly or inadequately carrying out a public procurement procedure. Process risk is addressed by adhering to these guidelines and to the other documents referenced herein;
- Relationship risk. This is risk resulting from inadequate relationships with the contract holder and the implementation of the project. It is addressed by the contract, the project management plan, project management procedures and by review procedures (e.g. mid-term review, independent peer review, etc.);

- Termination risk. This is risk resulting from inadequate definition of project boundaries, of ‘project creep’, incrementalism, etc. It is addressed by having a business case that specifies the scope of the project; a contract that states how and when project change can occur; by change management procedures; and by the final report.

Section 5

Engagement of Consultants and other External Support

Consultancy is where a person, organization or group thereof is engaged to provide intellectual or knowledge-based services (e.g. expert analysis and advice) through delivering reports, studies, assessments, recommendations, proposals, etc. that contribute to decision - or policy-making in a contracting authority. The engagement should be for a limited time period to carry out a specific finite task or set of tasks that involve expert skills or capabilities that would not normally be expected to reside within FRH association.

A contractor is a person, organization or group thereof engaged, for a limited time period, to provide specified goods, works or services (including ICT - information and communications technology services) that implement established policy objectives; to assist a Department in carrying out its operations and functions; or to perform operations or functions that involve skills or capabilities that would normally be expected to reside within FRH association but which are not currently available.

Contractors come under the direction of a Department for operational purposes and take day-to-day instructions from local management even though they are not employees of the contracting authority. Particular care should be taken at all times to ensure that such contractors are not at any stage explicitly or implicitly treated as employees of FRH.

External Service Providers are organizations that provide the services or the human/physical resources to meet specific service requirements (ex ICT) . These requirements could include software development; network installation and management; infrastructure management; data centre hosting; managed services; shared services, etc. External service provision involves the transfer of actions for delivering business functions or services to an external service provider but does not include the use of contractors (i.e. external support under the day-to-day direction of the contracting authority) or the cost of purchasing packaged software.

Additionally, external support may be required where:

- a need for an external assessment is deemed essential;
- a study or review is required by an external body (e.g. the European Commission);
- a study/project must be completed within a short time scale and, although the knowledge or expertise may be available within the Department, performing the task in-house would involve a prohibitive opportunity cost (i.e. total cost of diverted staff, including relevant overheads etc.) or would be impractical (e.g. staff engaged on other essential duties would have to be diverted), or it might not be possible to redeploy staff cost-effectively redeployed in the timeframe required.

Engaging external support

Before FRH considers hiring external support, it must first determine that the project cannot be delivered in-house. If adequate internal resources are not available or if an external review is mandated, it is only at this stage that hiring of external support should be considered.

FRH must use a competitive process for the purchase of goods and services, whatever the value. Consultants, contractors and outside service providers, therefore, must be engaged following such a process. Awarding a contract without a competitive process can be considered **only** in the situations specified in section 2 (Direct Invitation without Advertising). If the value of the contract is equal to or above the US\$125000 threshold, the provisions related to that value must be complied with.

Ethics

When external support is appointed personally by an office holder without a competitive process, the person will be considered:

- Employed under a contract for services, having been selected for the award of the contract by an office holder personally otherwise than by means of a competitive process; and
- Whose function or principal function as such a person was or is to provide advice or other assistance to or for the office holder.

Therefore, if a person is: (a) selected by the office holder personally; (b) employed under a contract for services that was awarded without a competitive process; and (c) whose function or principal function is to provide advice or other assistance to or for the office holder, the person is a special adviser.

Appendix 1 - Summary Overview of Procedures and Timescales

Supplies of Services (ex of VAT)	Works (ex of VAT)	Process
Between US\$500 - US\$5,000		one quotation from a known supplier(s)
Between US\$5,000 - US\$25,000	Below US\$250,000	Three written quotations from suitable suppliers
		Tender call

Between US\$25,000 - US\$125,000	Between US\$250,000 - US\$5,278,000	
Greater than US\$125,000	Greater than US\$5,278,000	Advertise in Official Journal – seek advice on procedure to adopt i.e. open, restricted, negotiated or competitive dialogue.

Note: When deciding the appropriate process one should work on the basis of 10-15% less than threshold to ensure appropriate coverage

Template 1 - Certificate of Tender Received

Contract Description.....Ref No.....Opening Date & Time.....

Name of Tenderer	Tender Reference	Date of Tender	Price Details	Comments

Signature (Official 1).....Date.....

Signature (Official 2).Date.....

Template 2 - Open Procedure Tender Evaluation

First Stage – Examine if tenderers meet the minimum standards specified in the tender documents/notice, in terms of technical and financial capacity and expertise

Company	Similar Contracts	Design Experience	Staff Qualifications	Turnover/Size	Quality Assurance	Financial Capacity	Safety & Environmental
Company 'A'							
Company 'B'							
Company 'C'							
Company 'D'							
Company 'E'							
Company 'F'							
Company 'G'							
Company 'H'							

Outcome of Assessment:

-

Template 3 - Score sheet for Evaluation of Tenders

Example: - Consultancy for Value for Money and Policy Review

Award Criteria →	Quality of proposal in addressing requirements of project	Relevant knowledge, skills and expertise of personnel assigned to project	Ultimate Cost (including expenses)	Company access to relevant international information	Proposed methodology	Timeframe for delivery	Total marks awarded
Total Points available							
Company A							
Company B							
Company C							

Outcome: - Company 'A' received the highest number of points and is recommended for the contract

Signed: - Evaluation team

.....

Date:.....

Template 4 - Score Sheet for Evaluation of Tenders – (Multiplier Method)

Example: Purchase of a Van

Award Criteria →	Technical Characteristics	After Sales Services	Accommodation Capacity	Ultimate Cost
Percentage Weighting				
Max Score				
Base Score				
Multipliers				
Rule				
Company 'A'				
Company 'B'				
Company 'C'				

The scores for 'ultimate cost' (UC) of each tender were calculated as follows:

Multipliers
$$\frac{\text{UC Maximum Points} \times \text{Lowest UC responsive valid tender}}{\text{Tender 'n' score under 'UC'}}$$

UC of tender 'n'

Template 5 - Tender Evaluation – Checklist

Contract title:..... **RFT Ref no:**.....

No.	Description	Resp.	Yes	No
1	Examine all tenders to see if they are responsive and seek tender clarifications if necessary			
2	Reject all non-responsive tenders and note reason for rejection			
3	Prepare spreadsheet showing all commercial details and update it if and when technical evaluation report is received			
4	Conduct commercial evaluation of tenders that are technically acceptable, solely on the basis of published award criteria			
6	Where necessary, check standing of company with referees nominated by tenderer			
7	Complete tender evaluation scoring sheet			
8	Prepare evaluation report and submit recommendation for approval			
9	Advise all individuals/Units concerned when contract is approved and issue regret and award letters (note standstill period to be applied to award process for EU contracts)			

10	Seek tax clearance certificate from successful tenderer			
11	Finalise contract details with successful tenderer and issue purchase order			
12	Publish award notice in OJEU (for EU contracts only)			
13	Bring contract file up to date and send details of contract to the Procurement Section of Finance Division			

Template 6 - Request for Tender (RFT) Letter

< Company/individual name>

For attention of: < name>

<Date>

<reference no>

Re: < contract title>

<bid ref No>

Dear Sir/Madam

You are invited to submit a tender for the above contract/competition in accordance with the enclosed tender documents, which comprise the following:

- Technical Specifications
- Conditions of Contract
- Schedule of requirements
- Instructions to tenderers
- Drawings & Tables (if appropriate)
- Certificate of bona fide tender

This letter of invitation takes precedence over the above documentation.

Please ensure the enclosed Form of Tender is completed correctly and signed.

Your completed tender should be submitted in a sealed envelope before the closing date for tenders at 12' noon on <date>.

A tender validity period of six (6) months is required.

Three (3) hard copies (will vary depending on nature of contract) of completed tender are required.

Please return the attached acknowledgement slip to the fax number provided, within 7 days of the date of this letter.

All queries in relation to this tender should be emailed to at email addressbefore.....day....2009.

Tenderers may follow up on previous emailed queries by telephone (phone numbers:.....)

Please read all tender documentation carefully.

Yours faithfully

<name>

<Division>

Department of Finance

Template 7 - Acknowledgement Slip

Please return by fax to: < fax No>

For attention of: < Divisional Contact >

< Contract Title & Reference>

Dear Sir/Madam

We hereby acknowledge receipt of the tender documents for the above contract. We confirm that we will/will not* submit a completed tender by the closing date.

*(Delete as appropriate)

Signed.....

Company/Individual name

N.B. This acknowledgement slip must be returned by Fax, within 7 days of the date of issue of the tender documents.

Template 8 - Tender Documents – Checklist

Contract Title:..... Reference No:.....

No.	Description	Response	Yes	No
1	RFT letter and acknowledgement slip			
2	Pre-addressed tender return label			
3	Instructions to Tenderers			
4	Technical Specification/ Terms of Reference			
5	Schedule of requirements			
6	Award Criteria			
7	Conditions of Contract			
8	Insurance Requirements			
9	Form of Tender/Schedule of prices			
10	Certificate of Bone Fide Tender			

Comments

Signed:.....

Date.....

Vendor Performance Evaluation Form

Vendor Name:	Service Type:
Vendor Contact:	Vendor Location:
Contract Duration:	Review Date:
Review Completed By:	Signature:

A- Preliminary Notes about Recent Contract.

B- Evaluation Criteria

- Use this form to evaluate the overall performance of the vendor.
- Include all information associated in the vendor.
- Apply a strength factor, 5 being the strongest, to each criterion evaluated.
- Total each column once evaluation is concluded and assess Vendor's performance accordingly.

Vendor Evaluation	1	2	3	4	5
Timeliness of deliveries during contract period					
Quality of Parts/Products/Material upon delivery					
Overall quality of Parts/Products/Material received					
Competitiveness of prices offered					
Quality of Service provided					
Competitiveness of terms and conditions during contract period					
Overall financial condition of vendor by the end of the contract period					
Quality of Design Compared to Specifications					
Expertise of Sales Staff					
Technical Support staff's level of expertise					

C- Notes and Final Decision

Template 10 - Sample RFT

Request for Tenders

for

[Design, Development and Management of a Service]

Open Procedure

[Contracting Authority]

[Date]

This sample document is intended for general guidance. It is not definitive or exhaustive on all the considerations that arise in preparing a Request for Tenders [RFT]. It follows a format and structure commonly used and may be of assistance in assembling tender documentation.

Contents

1. Introduction

Generally contains background and summary overview of requirement.

2. Specification of Requirements

Gives comprehensive description of requirements, specification and criteria to be met.

3. Format of Tender

Sets out how tenders are to be structured and how a proposal is to be presented.

4. Examination and Evaluation of tender

Generally sets out conditions relating to such matters as need for tax compliance, freedom of information and data protection provisions, conflict of interest, intellectual property, latest time for submission of tenders etc.

5. Appendices

1. Introduction

1.1 Background and Summary of Requirements:

FRH is an NGO since 2015.

FRH now invites tenders for the management, maintenance and continuing development of this website. The services to be provided are:

- (i) Design and development of the some elements of thewebsite
- (ii) On-going maintenance of the site
- (iii) Publishing of procurement opportunities and associated information on website
- (iv) Registration of users and provision of a help service to users
- (v) Implementation of agreed enhanced functionality

A detailed specification of requirements is set out in Section 2. Tenders must comply with the format of tender as set out in Section 3.

It is proposed to place a contract for a period of two years with an option for renewal for up to a further two years.

1.2 Financial Arrangements

Payment for services covered by this invitation to tender will be on foot of appropriate invoices, which will be based on agreed deliverables. Invoicing arrangements will be agreed with the successful service provider, following the award of contract. A contract entered into on foot of this Request for Tender is subject to the Prompt Payments of Accounts Act.

1.3 Further Information and Query Handling

Every effort has been made to ensure that this documentation contains all the necessary information for completion of tenders. However, in the interests of equity, requests for additional information, clarification on the content of this document and all other queries of substance (other than in relation to purely factual or procedural matters) must be made in writing or by email. Any additional information elicited will be made available to all potential tenderers who have obtained a copy of this document viaor directly from [*contracting authority*].

Any queries should be submitted by **email or in writing only**, not later than [*local time*] on [*day and date*] addressed to:

<i>Name</i> :	<i>Address</i> :
<i>Fax</i> :	<i>E-mail</i> :

1.4 Timetable

The timetable in relation to this tender process is as follows:

Latest date and time for receipt of tenders	[date]
Award of contract - anticipated	[date]
Contract commencement - anticipated	[date]

2. Specification of Requirements

Potential service providers should be familiar with the website and the facilities and functionality currently available to users.

The Site is a built as a Lotus Notes Application and the data is stored in several Notes Databases. Information on the technical specification of the site is set out in .?(Appendix ... ?).

2.1. Current Site Features to be retained

The initial requirement is to ensure that the facilities and functionality currently available on the site continue to be available, without any break in the availability of these services. The following are the processes and functions available to users.

- Access to Tenders and other Site Content
- User Registration
- Publication of Tenders
- Downloading of Tenders
- Search Facility
- Tender Archive
- Awarding Authority Area
- Public User Area
- User Helpdesk and Feedback facility

More details on these elements are included in points 2.1.1 to 2.1.3 below.

2.2. Description of Site Content

(a) All Public Procurement advertisements from the European Journal (OJEU) including Contract, Prior Information and Contract Award Notices are published. Any associated notices, which appear in the OJEU are also published.

(b) All additional public sector tender opportunities advertised in national and local newspapers and other relevant publications (e.g., provincial newspapers) where public sector tenders commonly appear are also replicated on the site.

(c) Tenders are also entered directly by Awarding Authority Users onto the site. At present between 30- 40% of users are uploading their notices directly onto the site via the online notice publication facility. The rest of the notices are being sourced as in a) and b) above.

Requirements in relation to maintaining the above content are as follows:

- all tender opportunities must appear in a timely and accurate manner;
- a robust quality assurance process must be in place to ensure the accuracy and completeness of the information posted to the site;
- duplication checking must be applied to ensure that each notice appears only once on the site;
- Awarding Authorities must be facilitated to upload notices on the date of issue to the Official Gazette which will be replaced when published in the Official Gazette.

Organisation of Content

Advertisements, notices and awards appear initially under the categories Works, Supplies and Services. Sub categories used refer to type of service/supply (e.g., computers & electronic, stationery & printing, etc). They are also categorised under Publication Date, Competition Closing Date and Awarding Authority.

2.3. Facilities currently available on the site, which must be retained

- (a) User Registration
- (b) Publication of Tenders
- (c) Search Facility
- (d) Archive Facility
- (e) Awarding Authority User Area
- (f) Public User Area
- (g) User Helpdesk and Feedback facility

2.4 Hosting and Technical Maintenance of Site

- (a) The site is currently hosted by the -----in their webfarm facility. Please see high-level diagram of the site architecture in Appendix ..?

- (b) Full responsibility for ongoing maintenance and support of the site will rest with the selected service provider.

- (c) The successful tenderer should provide corrective maintenance on the server and the application.

- (d) The service provider must also continue to maintain a test environment for the etenders site at.....

2.5 Provision of service for ongoing site management

- (a) Full responsibility for ensuring that the site contains all public procurement opportunities advertised in the publications at 2.1.1 and related documentation will rest with the selected service provider. The site must be up-to-date at all times.

- (b) The selected service provider will be expected to have a process in place to ensure that the site is populated on an ongoing basis as defined at 2.1. Details of this process should be included in the service provider's proposals in reply to this RFT.

- (c) While Awarding Authorities will continue to be able to upload documents to the site, it will be the responsibility of the selected service provider to check and verify the authenticity of the documents and to ensure that correct categorisation principles have been applied.

- (d) The successful service provider will be expected to meet with the [*contracting authority*] on a regular basis, at a minimum on a quarterly basis, during the lifetime of the contract. These meetings will take place in [Dublin ?].

- (e) The successful tenderer will be facilitated with site familiarisation (in terms of existing program code, etc.) and will be expected to participate in a handover process with the current service provider.

2.6. Redevelopment Work Required on the Existing Site

Some areas of the existing site have been identified as requiring redevelopment work. These include, but are not limited to, the requirements set out in the following paragraphs (2.6.1 to 2.6.4), which must be included in the tender.

2.7. Minor Additions / Changes required for Improved Usability:

- a)
- b)
- c)

2.8. Enhanced Functionality Requirements

The [*contracting authority*] intends that additional functionality would be added to the existing etenders website. The ultimate objective is, in the long term, to transform the etenders site into a National Tender Management Facility(see 1.2 above). Below is a brief outline of some of the proposed enhancements. It should be noted that there is no commitment on behalf of the [*contracting authority*] that any of these items will be implemented. Requirements for other functionality may be identified by the [*contracting authority*] and this will be addressed by way of Change Control.

Tenderers should note the following.

- Tenderers must confirm their ability to provide enhanced functionality, and must quote separately for each of the enhancements listed below, stating any assumptions and/or prerequisites.
- Tenderers must state how they propose to implement the functionality below and must state whether they are proposing bespoke development OR an off-the-shelf solution OR an ASP type offering. The estimated development or lead-time for each function must be indicated.
- Arrangements for acceptance testing and piloting of any enhanced functionality, and related arrangements for payment based upon successful completion of agreed deliverables, will be agreed between the [*contracting authority*] and the successful tenderer.

2.9. Tender Submission Postbox

Functionality is required to allow suppliers to securely submit their tenders to the Awarding Authority via the etenders site. The tenders must be time and date-stamped and stored in a secure environment on a separate server until the tender deadline has passed. The system must then provide for the opening of tenders received electronically by the authorised personnel from the Awarding Authority.

2.10. Current Manual Process

(Please note that variations to the following procedure may exist in different Awarding Authorities.)

2.11. General Requirements for Electronic Tender Submission Post-box

The new system must provide for the following at minimum:

-
-
-
-

2.12 Notice Completion Facility or Wizard

There is a requirement to provide Awarding Authority users with a facility to enable them to prepare, online, the complete range of standard Official gazette

The facility should meet the following *minimum* requirements:

-
-
-
-
-

A further requirement is to maintain the facility in line with changes in policy and directives set out by the [*contracting authority*] in relation to procurement. Full details of the arrangements for updating the facility i.e. revised thresholds or timeframes, should be provided.

2.13 Procurement Guidance and Templates for standard procurement documents e.g. Request for Tender (RFT), Contract, etc.

FRH is developing procurement guidance and standard templates to provide information and assistance to those involved in the procurement process. A new area of the site is required where this material can be accessed by users.

2.14 Website Design

The successful tenderer will deliver and maintain the current overall design of the website and will be responsible for the redesign of the site as required (details are contained in Sections 2.6 and 2.7 above). The design of the existing site, including redesigned elements, must continue to meet all of the following criteria:

- meet the requirements of the [*contracting authority*] and support the functionality required;
- have a graphical layout which is visually to the highest standards;
- cater for users with impaired vision (in terms of text colour and contrast with background);
- be easy to navigate for both new and expert users and cater for those who rely on adaptive technologies; in this context the site must be put through the 'Bobby' test.
- allow for future development and enhancement to the extent that additional features can be added, if required, with minimal disruption to ongoing service provision;
- an Irish language version of the site must be maintained. The site (excluding the tender notices themselves) has been translated into Irish already and this should be kept consistent with the English version.

2.15 Overall Site Development, Management and Maintenance Strategy

Tenderers must provide the following:-

- details of the structure, methods and management process including staffing and backup arrangements which they will put in place to ensure that all the requirements laid out above are implemented;
- details of the proposals for familiarisation with the site and handover arrangements with the current service provider;
- details of the experience, qualifications and expertise of the staff they would propose to allocate to this project if their tender is successful, including details of their involvement in the named reference site(s);
- a brief description of the technical facilities at the disposal of the party providing the

said services, including the measures in operation for ensuring that a quality service will be delivered.

3. Format of Tender

Tenders must address all the requirements and must be in the format requested below. Tenders not in this format will not be considered.

3.1 General Information

The following must be supplied:

- (a) Name, address, telephone number, e-mail address and fax number of tenderer.
- (b) Name, address, telephone number and e-mail address of any third parties involved in tender.
- (c) Confirmation of acceptance by the tenderer and any third parties of the conditions of tender described in Section 5 of the invitation to tender.
- (d) Details of previous experience of staff being assigned to this task in implementing the type of project specified at 2.
- (e) Details of relevant reference sites [**must be at least at least one**] where similar work has been carried out.
- (f) An appropriate financial profile for the last three years must be provided including, in the case of corporate entities, independently audited accounts. Where a tenderer is trading for less than three years accounts for each year of trading must be provided.

3.2 Proposals

3.2.1 Textual response on a point-by-point basis outlining how the requirements specified in section 2 will be met.

3.2.2 Such response to include a statement of the number of elapsed days (lead time) required for the initial implementation of all additional services i.e. launch, pilot phase (if applicable) and initial full commissioning of site.

3.3 Warranties, Maintenance and Support Services

3.3.1 Tenderers must confirm that the level, extent and nature of the maintenance and support requirements including any associated warranties described in Section 2 of this document will be fully met. Where this support would be provided by a third party, the name, address and telephone number of such party must be disclosed.

3.4 Schedule of Costs

All costs must be quoted in **dollars (US\$)**, exclusive of VAT and the schedule must take the following format:

3.4.1 Individual cost figures should be provided for each of the following

- Cost of provision of service for site management and maintenance for 2 years
- Cost of familiarisation period and handover from current service providers
- Cost of redevelopment work required on existing site at 2.6 together with any additional ongoing maintenance costs
- The total cost of the tender

3.4.2 Tenderers should provide daily rates for the following:

Project Management
Business Analysis
Software Development
Training/documentation

These will be the maximum rates to be charged for any additional work, including change control, which arises during the initial contract. The [*contracting authority*] reserves the right to seek to negotiate lower rates for any such additional work.

3.4.3 Confirm that the tender holds good for 90 days after the closing date for receipt of tenders.

3.4.4 Indicate the applicable rate of VAT in respect of each of the services being proposed.

3.4.5 Give details of any other costs, taxes or duties, which may be incurred. Any licensing costs associated with any part of the proposal should be clearly identified. Proposals should clearly indicate any discounts to which the [*contracting authority*] would be entitled, including public sector discounts, early payment discounts, forward contract discounts and any other discounts.

3.5 Contract

A contract will be concluded with the tenderer whose tender is deemed to be the most economically advantageous subject to agreement on conditions of contract. **[The contract will not be concluded / take effect until 14 days after unsuccessful tenderers have been notified of the result of this tendering procedure].**

Please note the following:

- (a) Any terms and conditions in the proposed contract does not imply acceptance by the [*contracting authority*]
- (b) All works carried out shall be governed by the Laws of Ireland and subject to the exclusive jurisdiction of the Courts of Ireland.
- (c) The [*contracting authority*] may cancel the tender process at any time prior to a contract being entered into.

3.6 Other information.

Tenderers should provide details of their proposed transition arrangements. Tenderers should provide any other information, which may be relevant to this proposal.

4 Examination and Evaluation of Tenders *[for Open Procedure]*¹

4.1 Tenders will be examined initially by reference to the following :

- a) Completeness of proposals and tender documentation as specified in Sections 2 and 3 (Specification of Requirements and Format of Tender) of this document
- b) Stated ability of the tenderer to meet all the requirements specified in Section 2 of this document;
- c) Statement that none of the circumstances listed in Regulation 53 of S.I. 329 of 2006 apply to the tenderer (*Regulation may be appended to RFT – Appendix A*);
- d) Technical capacity and financial standing as evidenced by the information requested at 3.1 (d), (e) and (f) above [*see footnote 2 below*].

Only those tenders who satisfy conditions in relation to the above will be eligible for inclusion in the award process.

4.2 Award Criteria

The contract will be awarded to the **most economically advantageous tender** of those meeting the specifications set out in Section 2, and not otherwise validly excluded, on the basis of the following award criteria [*scored from 200 marks weighted as indicated*]:

- Quality and technical merit of proposals for providing service detailed in Section 2 of this RFT (*70 marks*)
- The management and service structure proposed (*30 marks*)
- Expertise and skills of assigned personnel in providing the type of services described in Section 2 [*including experience of at least one relevant reference site*] (*30 marks*)
- Time frame for delivery of service (*20 marks*)
- Proposed cost of providing service [*including ongoing site maintenance as detailed at 2.1-2.5 above, redevelopment work required on existing site at 2.6 above and cost of providing the enhanced functionality at 2.7 above*] (*50 marks*).

- 4.3 During the evaluation period clarification may be sought in writing from tenderers. Responses to requests for clarification may not materially change any of the elements of the tenders submitted. No unsolicited communications from tenderers will be entertained during the evaluation period. A number of the most competitive tenderers may be invited to make presentations on their proposals for the purpose of elaboration, clarification and / or aiding mutual understanding. Invited tenderers must

¹ *In an Open Procedure all interested are invited to submit tenders. However, a contracting authority may request information relating to technical and financial capacity, experience etc. and only evaluate tenders from those who possess the minimum capacity required.*

In a 'Restricted Procedure' interested parties will have been invited to submit expressions of interest. They will have been requested to provide details of professional, technical, economic, financial etc. capacity and expertise. Only those that meet minimum requirements, i.e. those that the contracting authority is satisfied has the capability and expertise to carry out its contract, will be supplied with the full tender documents [RFT] and invited to submit tenders.

be in a position to make such a presentation around [date]. Any proposed subcontractors may be required to participate in the presentation.

5 General Conditions of Tender

Tenders should be prepared in English or Irish and are subject to the following:

5.1 This Request for Tender shall form part of the contract documents². The contract will not be concluded / take effect until 14 days after unsuccessful tenderers have been notified of the result of this tendering procedure [as per paragraph 3.5 and footnote 1].

5.2 The [contracting authority] will use its best efforts to hold confidential any information provided by tenderers subject to their obligation under law. Tenderers should indicate, when tendering, what parts of their tenders are commercially sensitive and which they consider should be kept confidential. The [contracting authority] will consult with tenderers about any such sensitive information before making a decision. Similarly, the [contracting authority] requires that all information provided pursuant to this invitation to tender will be treated in strict confidence by tenderers.

5.3 Tenderers should be aware that national legislation applies in other matters such as Official Secrets, Data Protection and Health and Safety.

5.4 Tenderers must have regard to statutory terms relating to minimum pay and to legally binding industrial or sectoral agreements in preparing tenders.

5.5 Information supplied by tenderers will be treated as contractually binding. However, the [contracting authority] reserves the right to seek clarification or verification of any such information.

5.6 Any conflicts of interest involving a tenderer must be fully disclosed to the [contracting authority] particularly where there is a conflict of interest in relation to any recommendations or proposals put forward by the tenderer.

5.7 Before a contract is awarded the successful tenderer (and agent, where appropriate) will be required to promptly produce a Tax Clearance Certificate, or in the case of a non-resident tenderer, a statement from the Revenue Commissioners confirming suitability on tax grounds.

5.8 In the event of a group of respondents jointly submitting an acceptable offer, the contract will be awarded by the [contracting authority] to one contractor who acts as the agreed prime contractor. The prime contractor is responsible for the delivery of all services provided for under the terms of the contract and shall assume all the duties, responsibilities and costs associated with the position of prime contractor.

(a) The successful tenderer shall be responsible for the delivery of all services provided for within the contract on the basis of a fixed price agreement set at the beginning of the contract. Prices quoted in the tender cannot be increased during the currency of the tender. Similarly, terms and conditions cannot be altered.

(b) The [contracting authority] retains the right to withhold payment where a contractor has failed to meet his/her contractual obligations in relation to the delivery of services to an acceptable level of quality.

² It is recommended that a draft contract document be issued with the tender documentation.

5.9 The [*contracting authority*] will not be liable in respect of any costs incurred by tenderers in the preparation of tenders or any associated work effort.

5.10 Responses to this RFT will be evaluated in their own right. No recognition will be given to information previously submitted.

5.11 The [*contracting authority*] is not bound to accept the lowest or any tender submitted.

5.12 The [*contracting authority*] will have copyright ownership of any graphics used on the proposed site.

5.13 Tenders must be completed in accordance with the format specified in **Section 3**. Tenders, which are incomplete, will not be evaluated.

5.14 **Three** (3) copies of the tender in a sealed envelope, marked “**Tender for**” and addressed to:

Name

Address

should be delivered to the above address not later than [**local time**] on [**day and date**].

Tenders delivered after this time will not be accepted.

Appendix A

Exclusion of certain persons from being considered for awards of public contracts

1. In considering whether or not to award a public contract, a contracting authority shall exclude from consideration any person who, to the knowledge of the authority, has been convicted of an offence involving—

- a) participation in a prescribed criminal organisation, or
- b) corruption, or
- c) fraud, or
- d) money laundering.

2. In order to give effect to paragraph (1), the contracting authority—

- a) shall, whenever appropriate, ask a candidate or tenderer to supply the documents referred to in paragraph (6), and
- b) may, if it has doubts concerning the personal situation of the candidate or tenderer, also seek information that it considers relevant from an appropriate competent administrative or judicial authority.

3. If the information referred to in paragraph (2)(b) concerns a candidate or tenderer

established in another Member State, the contracting authority may request the co-operation of the competent authority of that other State. Such a request may extend to any agent of the person and, in the case of a body (whether incorporated or unincorporated), extend to any person who is concerned in the direction or management of the body.

4. In considering whether to award a public contract, a contracting authority may exclude from consideration any person—

1. who is subject to a bankruptcy or insolvency procedure or process of a kind specified in paragraph (5), or
2. who has been found guilty of professional misconduct by a competent authority that is authorised by law to hear and determine allegations of professional misconduct against persons that include the operator, or
3. who has committed grave professional misconduct provable by means that the authority can demonstrate, or
4. who has not fulfilled an obligation to pay a social security contribution as required by a law of the country or territory—
 - (i) where the person ordinarily resides or carries on business, or
 - (ii) where the authority is established, or
5. who has not fulfilled an obligation to pay a tax or levy imposed by or under a law of the country or territory—
 - (i) where the person ordinarily resides or carries on business, or
 - (ii) where the authority is established, or
6. who has provided a statement or information to the authority or another contracting authority knowing it to be false or misleading, or has failed to provide to the authority or another such authority a statement or information that is reasonably required by the authority for the purpose of awarding the public contract concerned.

5. A person is subject to a bankruptcy or insolvency procedure or process for the purpose of paragraph (4) if —

- a) the person is bankrupt or the subject of a bankruptcy petition, or
- b) the person, being a body corporate, is being wound up or the subject of proceedings for compulsory winding up, or
- c) the person's affairs are being administered by a court, or the person is the subject of proceedings in which it is sought to have the person's affairs so administered, or
- d) the person has entered into an arrangement with creditors, or
- e) the person has suspended business activities, or
- f) the person is, in the opinion of the contracting authority concerned, in any situation analogous to any of those mentioned in subparagraphs (a) to (e) under a law of the State, another Member State or a third country relating to bankruptcy

or insolvency.

6. A contracting authority shall accept as sufficient evidence that a person is not liable to be excluded under paragraph (1) or under subparagraph (a), (b), (d) or (e) of paragraph (4)—

- a) a copy of the relevant judicial record, or
- b) in the absence of such a copy, a certificate issued by a competent judicial or administrative authority in the country or territory where the person ordinarily resides or carries on business, or the authority is established, showing that the particular subparagraph does not apply to the person.

7. Without limiting paragraph (6), a contracting authority shall accept as sufficient evidence that a person is not liable to be excluded under subparagraph (d) or (e) of paragraph (4) a certificate issued by the Collector General of the Office of the Irish Revenue Commissioners showing that the relevant subparagraph does not apply to the person.

8. If a question arises as to whether paragraph (1), or subparagraph (a) or (b) of paragraph (4), applies to a person and either—

- a) the relevant judicial or administrative or competent authority in the country or territory in question does not issue documents of the kind referred to in paragraph (6), or (7), or
- b) although it issues documents of that kind, they do not cover the case in question, the contracting authority concerned shall accept instead a declaration made by the person on oath or, in the case of a Member State where there is no provision for making a declaration on oath, a solemn declaration made by the person before a person authorised for the purpose under a law of that Member State.

9. The following are authorised authorities for the purposes of paragraph (8):

- a. competent judicial or administrative authority of the country or territory where the person ordinarily resides or carries on business or where the contracting authority is established;
- b. a notary or a competent professional or trade body located in that country or territory.

