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Sheachadadh PFN agus Athchóirithe  
Department of Public Expenditure  
NDP Delivery and Reform

# Infrastructure Guidelines: Project Design, Planning and Procurement Strategy

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Tionscadal Éireann  
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# 1. Pre-Tender – Project Design, Planning and Procurement Strategy

At this stage, the preferred option is subject to more detailed scrutiny, assumptions are further tested and refined, risks are better understood and the design stage is sufficiently advanced to arrive at the Detailed Business Case. This stage includes the development of the procurement strategy and project execution plan.

**These recommendations reflect best practice in project development. It is the responsibility of the Accounting Officer of the Department funding the project to ensure that these guidelines are adopted.**

## 1.1 Purpose of Project Design, Planning and Procurement Strategy

Investment proposals proceeding on incomplete or inaccurate project briefs will invariably require amendment after project design or construction has begun. Such changes inevitably give rise to delays or additional costs. The later the changes are made in the delivery process, the more expensive they become. To avoid unnecessary, unpredictable and uncontrolled changes in costs, suggested best practice for Sponsoring Agencies is to specify their output requirements accurately, precisely and comprehensively at the start or as early as possible in the investment proposal delivery process – this is the primary purpose of Design and Planning.

Key recommended outputs at this point include:

- Developing further the governance structures that will be used throughout the life of the project;
- Reviewing and confirming assumptions and constraints on which the Approval in Principle was based, including budget estimates;
- Reviewing the assumptions which underpinned the preferred option;
- Preparing the Detailed Business Case;
- Developing and refining the budget within the Detailed Business Case;
- Developing a Project Execution Plan; and Deciding on a Procurement Strategy.

The Capital Works Management Framework (CWMF) is complementary and derives from the Infrastructure Guidelines. It contains key requirements and guidance for this stage. Of particular relevance to the Planning & Design Stage is guidance provided in relation to investment proposal management, project definition and the definitive project brief, and budget development. The CWMF will be updated to reflect the specific provisions of the Infrastructure Guidelines. In the interim, it continues to provide support documentation which remains consistent with the principles that underpin these Guidelines.

Where a programme of works is undertaken, the design, planning and procurement stages may proceed at different stages, depending on the nature of constituent projects and whether they are interdependent. Where differences may occur in timelines, we suggest minimising them as much as possible, with documentation setting out how programmes and their constituent projects intend to be submitted for seeking approval.

**For proposals with an estimated capital cost of less than €20 million, Sponsoring Agencies and Approving Authorities are not required to carry out the elements outlined at the Pre-tender – Project Design, Planning and Procurement Strategy stage of the project lifecycle or seek approval at AG2. They should follow the steps outlined by the OGP in the Capital Works Management Framework prior to tendering for the main contract.**

## **1.2 Making time for the Design and Planning Stage**

The guidelines suggest Sponsoring Agencies ensure that clear and recognised cost planning and control procedures are operated throughout the planning stage, so that project costs are constantly monitored and regularly confirmed and benchmarked.

## **1.3 Governance and assurance**

During the planning and design process, we recommend the Sponsoring Agency continue to develop and refine its arrangements for an investment proposal's governance and assurance.

A robust governance structure ensures that an appropriate framework is put in place to govern relationships between all parties to the project:

- The Project Manager and team
- The Project Board
- The key stakeholders – public service delivery personnel and end users
- Accounting Officer
- The Sponsoring Agency
- The Approving Authority
- The relevant government department (in the case of exceptions where it is not the Approving Authority)

This relationship clearly assign roles, responsibilities and reporting arrangements. This phase drives forward the processes within the management structure of a project, and provides a framework for monitoring performance and delivery.

Throughout the planning stages of an investment proposal, the Accounting Officer is responsible for verifying the continuing viability of the project, including:

- That the project or programme needs have not changed
- That technology advances have not made the approach obsolete
- That private sector advancements have not altered the market
- That risks are being identified and actively managed
- That the project or programme continues to be affordable and that it represents value for money in the context of constrained Exchequer resources
- That departmental priorities have not changed and that the project continues to be consistent with public policy

The Sponsoring Agency should report regularly to the Approving Authority and Accounting Officer, and provide continual assurance in these matters. Should adverse developments occur in any of the above fields, the Sponsoring Agency, Approving Authority and Accounting Officer must review the ongoing viability of the proposal.

## 1.4 The Detailed Business Case

Design and Planning involves the development of a Detailed Business Case, which will inform a decision to proceed to procurement or cancel the project.

Developing the Detailed Business Case is a process that involves adding new information and continuous refinement of initial information made available at the Strategic Assessment & Preliminary Business Case stage of a project (Approval Gate 1), leading to greater understanding and certainty as to what the project proposes to deliver and the actions necessary to achieve its objectives.

In the course of developing the Detailed Business Case, the project team needs to:

- Confirm the assumptions upon which the Approval in Principle was based, including the budgetary estimates;
- Clarify and quantify all requirements precisely; and
- Draw up an output specification that is detailed and accurate.

The Detailed Business Case is the full and complete statement of the investment proposal expressed in output requirements. It defines all design requirements for a project or programme including performance standards and quality thresholds. It is the benchmark for measuring the development of the project and later becomes the basis for the construction contract.

Where constituent projects are developed under a programme of works, the Detailed Business Case outlines the appraisal results for each constituent project where appropriate. This would allow for a less costly and more timely optimisation of constituent projects within the programme. A number of constituent projects may be bundled together into a single submission, where appropriate, to streamline the process, even if the nature of the programme means multiple submissions and approvals are required at Approval Gates.

## 1.5 The Project Execution Plan

The Project Execution Plan (PEP) is developed building on the consideration of delivery in the business case and in the light of new information emerging as other parameters are defined more precisely. The PEP shows the overall timescale for completions, the milestones for the design and construction elements of the project, how the project or programme is to be implemented as well as the projected long term maintenance and major replacement requirements. The PEP is a live document and can address risk management.

## 1.6 The Procurement Strategy

### 1.6.1 Purpose of the Procurement Strategy

The purpose of procurement is to guide the considered acquisition of works, goods and services in a manner which maximises value for money, aids the achievement of project and programme objectives and is consistent with EU and national law and regulations.

Procurement by Public Bodies<sup>1</sup> is regulated through legislation and policy. At an EU level, the procurement directives establish clear rules with which contracting authorities in all Member States must comply when awarding public contracts and there are remedies available to tenderers where contracting authorities do not comply. The rules and procedures set out in the Directives typically apply to contracts above certain specified monetary thresholds.<sup>2</sup> However the *Treaty on the Functioning of the European Union* (TFEU) applies to all procurement activity by public bodies regardless of value.

## 1.6.2 General legal framework and Government policy on procurement

Public Procurement is governed by EU legislation and National rules and guidelines. The aim of these rules is to promote an open, competitive and non- discriminatory regime which delivers best value for money.

EU Procurement legislation is set out in a suite of directives which are transposed into national legislation as follows (collectively the Regulations).

- SI 284 of 2016<sup>3</sup> European Union (Award of Public Authority Contracts) Regulations
- SI 286 of 2016<sup>4</sup> European Union (Award of Contracts by Utility Undertakings) Regulations
- SI 203 of 2017<sup>5</sup> European Union (Award of Concession Contracts) Regulations.

At a minimum all public contracts that exceed a range of value thresholds for works, services and supplies must be advertised on the Official Journal of the EU and are open to all who meet the minimum pre-stated prequalification requirements.

All works projects delivered under the Exchequer- funded element of the National Development Plan (NDP) must be procured via the Capital Works Management Framework (CWMF).

Anticipated values that exceed national thresholds must be advertised on the national tendering portal [www.etenders.gov.ie](http://www.etenders.gov.ie), if the value of the contract exceeds the EU thresholds the contracts must be advertised on the Official Journal of the EU (as set out above). Details of the most up to date thresholds are available on the website of the OGP.

## 1.6.3 Procurement procedure

There five main procurement procedures set out in the Regulations governing the award of contracts which contracting authorities may use. All five procedures require applicants to be screened for

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<sup>1</sup> Defined as contracting authorities or contracting entities (utilities sector). Please see regulation 2 of SI 284 of 2016 for further information

<sup>2</sup> These are revised every two years with new thresholds entering into force in even years e.g. 1 January 2020 to 31 December 2021, 1 January 2022 to 31 December 2023 etc.

<sup>3</sup> <https://www.irishstatutebook.ie/eli/2016/si/284/made/en/print>

<sup>4</sup> <https://www.irishstatutebook.ie/eli/2016/si/286>

<sup>5</sup> <https://www.irishstatutebook.ie/eli/2017/si/203>

suitability. The choice of procedure is determined in accordance with the regulations<sup>6</sup> and will depend on the nature of the works that are being procured. The five procedures are:

- Open Procedure<sup>7</sup>
- Restricted Procedure<sup>8</sup>
- Competitive Procedure with Negotiation<sup>9</sup>
- Competitive Dialogue<sup>10</sup>
- Innovation Partnership<sup>11</sup>

The negotiated procedure without prior publication<sup>12</sup> is only available in exceptional circumstances. The open and restricted procedures are available for use on all procurements whereas there are specific circumstances that apply to the use of the other four procedures. The template prequalification and tender documents available under the CWMF are for the open and restricted procedures.

Public bodies have an obligation to ensure that value for money is achieved when awarding contracts, it is essential therefore that adequate competition is maintained while at the same time ensuring that those engaged have the capacity to perform the contract to the required standard. The selection of criteria and the standards that are applied to them plays a crucial role in determining the outcome of a procurement process.

Unless a Sponsoring Agency has resources in-house, generally the first procurement to be conducted for a capital works project contract is the procurement of expert services to inform the preparation of the design brief. The Capital Works Management Framework provides template documents and guidance for the procurement of both service providers and works contractors.

## 1.7 Reviewing Design, Planning and Procurement Strategy and Approval Gate 2

The review of the Detailed Business Case and Procurement Strategy is the responsibility of the Accounting Officer and Approving Authority. The Accounting Officer and Approving Authority checks the completeness of the Detailed Project/Programme Brief and Procurement Strategy in terms of the material set out here and the quality of the material in relation to the elements outlined in this chapter.

After reviewing, the Accounting Officer and Approving Authority can decide to:

- Abandon the proposal.
- Seek refinement or further development of Detailed Business Case or Procurement Strategy.
- Approve the proposal to proceed to Tendering.

This is a critical milestone in the project lifecycle and it is imperative that the Accounting Officer and Approving Authority is satisfied with the project as designed. Any developments which have taken

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<sup>6</sup> Regulation 26 of SI284 of 2016

<sup>7</sup> Regulation 27 of SI284 of 2016

<sup>8</sup> Regulation 28 of SI284 of 2016

<sup>9</sup> Regulation 29 of SI284 of 2016

<sup>10</sup> Regulation 30 of SI284 of 2016

<sup>11</sup> Regulation 31 of SI284 of 2016

<sup>12</sup> Regulation 32 of SI284 of 2016

place at the design and planning stage must be considered within the parameters of the economic and financial appraisal and the appraisal should be reviewed where there have been material changes which may have undermined the basis on which Approval in Principle was granted at Approval Gate 1. The Accounting Officer and Approving Authority must be satisfied that the project continues to represent maximum value for money.

### Approval Requirements for Major Projects

The requirements necessary for approval of a major projects proposal at Approval Gate 2 are:

- Ministerial Approval - Ministerial approval from the funding Department must be sought at Approval Gate 2 to approve the proposal to proceed to tendering

Major project proposals are not required to be submitted for External Review or consideration by the Major Projects Advisory Group at this stage of the project lifecycle. However, if there are outstanding issues or concerns around the proposal that the MPAG feel need further scrutiny before proceeding to the tendering, MPAG may request in their review report at the Strategic Assessment and Preliminary Business Case stage that the proposals be submitted to them again for consideration at the pre-tender stage prior to Approval Gate 2.

## 1.8 Tendering

Tendering is the final operational phase of procurement. In broad terms tendering involves four main steps as shown in table 4.1:

Table 1.1 Main Steps in the Tendering Process	
1	<i>Preparation</i> - the detailed tender documentation is prepared for publication
2	<i>Invitation</i> – the tender documents are published and prospective contractors are invited to respond
3	<i>Evaluation</i> – The responses from prospective contractors are evaluated
4	<i>Approval</i> – the Approval to Proceed is sought from the Approving Authority. This requires the re-appraisal of the proposal using information from the tendering process and submission of Final Business Case





