



<b>OPEN PROCEDURE REQUEST FOR TENDER FOR A CONTRACT</b>	
<b>Title of Contract</b>	AM0069 Capital Expenditure and Project Management Framework
<b>Open Procedure</b>	<b>Below OJEU Value</b>
<b>Key Dates</b>	
<b>Issue Date</b>	21.01.2022
<b>Closing Date for Queries</b>	<b>[17:00, on Friday, 4th February 2022]</b>
<b>Closing Date for Tender Submissions</b>	<b>[17:00, on Friday, 11th February 2022]</b>
<b>Contact for Queries</b>	VIA <a href="http://www.etenders.gov.ie">www.etenders.gov.ie</a> ONLY - delete as appropriate
<b>Format for submission of tenders - use the <u>Tender Response Document (TRD)</u> provided</b>	
VIA <a href="http://www.etenders.gov.ie">www.etenders.gov.ie</a> ONLY	

<b>Tender Parameters – Buyer to Select as applicable</b>		
<b>Document Reference</b>	<b>Description of Parameter</b>	<b>Requirement Applicable</b>
<b>(e)</b>	Please state Tender Validity period in months.	12 Months
<b>(w)</b>	Currency of the Tender	<b>Euro €</b>
<b>(x)</b>	Place of Supply	<b>ROI &amp; NI</b>
<b>(bb)</b>	Relevant Contracts Tax (RCT)	<b>does not apply to this contract</b>
<b>(ee)</b>	In this Request for Tender the processing of <u>Personal Data</u> under GDPR	<b>applies to the contract</b>

## IMPORTANT NOTES

Please note that information relating to this Request for Tender, including clarifications and changes, will be published on the Procurement Opportunities Portal [www.etenders.gov.ie](http://www.etenders.gov.ie). Registration is free of charge and there is no charge for documents. Please note that the Contracting Authority accepts no responsibility for information relayed (or not relayed) via third parties.

Waterways Ireland have provided a Tender Response Document as a separate document for tenderers to use in preparing their response to this tender. This document and format must be used.

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## 1. ABOUT THE CONTRACTING AUTHORITY

### 1.1 About Waterways Ireland

Waterways Ireland (hereinafter referred to as the “Contracting Authority”) is the largest of the North-South Implementation bodies established under statute and has a statutory remit to manage, maintain, develop and restore certain navigable inland waterways in Ireland, principally for recreational purposes. The seven navigations under the Contracting Authority 's remit include the Lower Bann, the Erne System, the Shannon-Erne Waterway, the Royal and Grand Canals, the Barrow Navigation and the Shannon Navigation.

Further information is available at our corporate website [www.waterwaysireland.org](http://www.waterwaysireland.org)

### 1.2 Small and Medium Enterprise Participation

It is the policy of the Contracting Authority to promote participation by Small and Medium Enterprises (SMEs) on a fair and equal basis.

SMEs are encouraged to explore the possibilities of forming relationships with other SMEs or with larger enterprises to meet the financial, economic or technical capacity requirements of the competition, if required.

Tenderers may include individuals, partnerships, limited companies, groupings or any combination of the foregoing with or without legal personality. However, a grouping if successful will be required to establish legal personality to enter the contract.

Tenderers are reminded that they may rely on the resources of other entities to establish the requirements on condition that they can prove to the satisfaction of the Contracting Authority that they will have these resources at their disposal when necessary.

If the tender is from a consortium / joint venture, Tenderers must ensure that all the relevant information is provided and where necessary, provide the information requested separately for each party. Relevant information relates to where a tenderer is relying on the resources to qualify (e.g. turnover, manpower, previous experience) and/or to deliver the contract. The consortium must appoint a single point of contact who will assume overall responsibility for delivery, and who is authorised to sign the contract on behalf of all consortia members. The Contracting Authority will not act as an arbitrator between members of consortia.

## 2. SCOPE OF THE CONTRACT

### 2.1 Overview of the Requirement

Waterways Ireland has a need to procure the services of a suitable management consultant to assist with the development of a consistent, document gated process for capital expenditure and a project management process to support delivery of capital projects with recommendations for implementation, organisational capability requirements and suitable enabling IT system.

This should be aligned with Public Financial Procedures North and South including the 'Public Spending Code: A Guide to Evaluation, Planning and Managing Public Investment' and 'Better Business Cases NI Guidance' (2020).

### 2.2 Details of Options

Additional 'in scope' services, such as additional consulting services, drafting of documents (procedures, policies, plans etc.), workshop participation, responding to queries, may be required subject to need and budget availability.

Tenderers should then declare their rates for subsequent service by the day/hour etc. which can if required be broken down by grade of staff or asked for as a blended rate.

### 2.3 Anticipated Timeline

The following indicative timeline is envisaged for this procurement:

Issue RFT	21-01-2022
Closing date for Queries	04-02-2022
Closing date for Receipt of Tenders	11-02-2022
Clarification meetings (if anticipated)	n/a
Award decision	25-02-2022
Contract Commencement	28-02-2022

The dates provided above are estimates at the time of publication of the Request for Tender. The Contracting Authority will endeavour to run the process to this timetable, but this cannot be guaranteed.

### 2.4 Termination of Contract

The Contracting Authority reserves the right at its sole discretion to terminate any contract where, due to matters outside its control, including but not limited to, increased costs

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arising from any changes in the Customs Union, which render the commercial arrangement uncompetitive.

### 3. DETAILED SPECIFICATION OF REQUIREMENTS

The Contracting Authority proposes to engage in a competitive process for the award of a contract as specified hereunder.

#### 3.1 Specification

##### (a) **General**

The scope of the consultancy services required is outlined in the following clauses and shall consider all capital expenditure projects, including but not limited to, asset age related deterioration, new developments and infrastructure, third party, fleet and plant, marketing and IT.

##### (b) **Gated Capital Expenditure Framework Incl. Governance**

Develop a capital expenditure decision gate process to manage the definition and review of projects, allocation of funding through to delivery and handover. The framework will need to consider the asset lifecycle and project lifecycle with varying investment triggers such as asset age related deterioration (defects, maintenance and asset refurbishment), development projects including third party investment and other capital expenditure projects as outlined in clause 1.3.1. The gate process should enable investment decisions to support the best value of money addressing the following:

- Feasibility
- Costing
- Business Cases
- Portfolio Review
- Investment Prioritisation
- Commercial & Procurement
- Delivery & Implementation
- Handover & Operations

A governance structure will be required to be developed as well as the definition of 'responsible' and 'accountable' roles to enable a RACI to be developed for the processes

Deliverables to include:

- Capital Expenditure Framework and Procedure Manual
- Capital Expenditure Governance Structure and associated RACI

##### (c) **Project Management Process**

A formal Waterways Ireland Project Management Procedure detailing how the Capital Expenditure Framework will operate is required, capturing each stage of the investment lifecycle with a structured approvals process and associated documents that aligns with public policy across both jurisdictions. The procedure should be developed with decision gates and templates for each stage of the project lifecycle as per the Public Spending Code and NI equivalent, including but not limited to:

- Strategic Assessment Report
- Preliminary Business Case
- Detailed Project Brief and Procurement Strategy

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- Final Business Case
- Monitoring Reports
- Project Completion Report
- Ex Post Evaluation Report

The associated project management processes should be identified at a high-level using portfolio, programme and project management best practice principles. At a minimum this should consider:

- Risk Management
- Schedule Management
- Scope Management (Cost and Change Control)
- Procurement & Contract Management (including SLAs internal WI and external)
- Programme & Project Assurance
- Stakeholder Management & Communications
- Safety Management
- Quality Management
- Value Engineering

Deliverables to include:

Project Approvals Process and Templates (to include review of current templates)

- Project Management Procedure Document and Templates
- High Level Project Management Process Map

### **(d) Implementation and Recommendations**

As part of the development of the Capital Expenditure Framework and project management procedures, observations and recommendations on the implementation of the framework, the organisations capability requirements (e.g. need for a PMO and where this sits within the organisation), data requirements, reporting tools and enabling technology should be included in the final deliverables. It is important to consider the supply chain and third parties that will need to operate within or interface with the framework.

### **(e) Stakeholder Plan and Engagement**

A structured stakeholder engagement plan will be needed to engage and communicate with the organisation and third-party stakeholders. The concepts and deliverables should be developed with input and engagement with the wider Waterways Ireland organisation through a series of stakeholder interviews and workshops at regular intervals in the programme delivery.

Deliverables to include:

Stakeholder engagement plan with associated workshops as required.

**(f) Summary List of Deliverables**

The following list of deliverables shall be included in the package and should be considered in any fee submitted:

- Capital Expenditure Framework and Procedure Manual
- Capital Expenditure Governance Structure and RACI Definition
- Project Management Procedure Document and Templates
- Project Approvals Process and Templates (to include review of current templates)
- High Level Project Management Process Map
- Implementation and Recommendation Report
- Stakeholder Engagement Plan (and associated workshops)

**(g) Documents and Standards**

Given Waterways Ireland is a North South body with capital expenditure in two jurisdiction, both ROI and NI the relevant frameworks regarding business cases, infrastructure funding and construction management need to be referenced as part of the develop of a Capital Expenditure and Project Management Framework. This would include but not be limited to:

- Waterways Ireland Financial Memorandum for Capital Expenditure (Including current business case proformas)
- The Public Spending Code, A guide to evaluating, planning and managing public investment (Department of Public Expenditure and Reform 2010)
- Capital Works Management Framework (CWMF)
- Better Business Cases NI - HMT 'Business Case Guidance for Projects'
- HMT Green Book
- Guidance on best practice in project delivery and engagement with the gateway/assurance review process
- Managing Public Money NT

Other polices and standards to be referenced:

- Asset Management System Framework and Processes
- Waterways Ireland Heritage and Environment Plans.
- Protection of the Environment Act

Stakeholders to be considered as part of the framework include:

- WI Regional Managers (Operations & Maintenance)
- Senior Management Team
- Finance Department including Procurement
- Sponsor Department Officials

The framework will need to align with the WI Asset Management System and Lifecycle Value Model as well as ISO 55000/1



### 3.2 Duration

The contract will be for a period of **three months/3months (12 weeks)]** years/months.

The Contracting Authority reserves the right at its sole discretion to extend the contract, subject to satisfactory performance, budget availability and ongoing business needs. The number and duration of extensions will be **two number over 12 months]**.

### 3.3 Contract Management

The Contracting Authority requires tenderers to nominate a dedicated contract manager who will act as the main point of contact for the duration of the contract. This person shall have the authority to deal with all matters in relation to contracts and be responsible for the satisfactory delivery of the supplies/services required. The duties of the contract manager will include the following:

- Overall responsibility for a good working relationship with the Contracting Authority;
- Provide regular reports on performance as agreed with the Contracting Authority;
- Meet as and when required to review and examine performance;
- Deal with disputes, complaints or concerns that cannot be adequately resolved;
- Proactively discuss with the Contracting Authority ways of improving efficiency regarding service delivery in general and providing suggestions for improvement and cost savings.

NOTE: Tenderers will note that contract management activities will be non-billable.

### 3.4 Compliance with the Terms and Conditions

Award of contract will be subject to the successful tenderer agreeing to the Contract Terms and Conditions as contained in the appropriate Appendix.

### 3.5 Award to Runner Up

If having awarded a contract, the successful tenderer fails to deliver the contract in accordance with the terms and conditions, the Contracting Authority reserves the right to award the contract to the next highest scoring tenderer by mutual agreement based on the terms advertised at any time during the tender validity period. This shall be without prejudice to the right of the Contracting Authority to cancel this competitive process and/or initiate a new contract award procedure at its sole discretion.

## 4. SELECTION CRITERIA

The Contracting Authority is using the **Open** procedure for the award of this contract, therefore, while all interested parties may submit a tender, only those demonstrating that they have the required level of financial and technical capacity will have their tender considered. In order to demonstrate a tenderers' qualifications, tenderers are required to provide the information set out below in the Tender Response Document (TRD) which is based on a self-declaration model, however tenderers are required to provide the minimum information required.

### 4.1 Use of the European Single Procurement Document.

The Contracting Authority does not currently employ the European Single Procurement Document (ESPD) as part of its tender documentation. However, in accordance with Directive 2014/24/EU, tenderers may have compiled a European Single Procurement Document (ESPD) which will be accepted as evidence of compliance with Sections 4.3 and 4.4 on condition that all information self-declared will be provided promptly on request at any time prior to an award decision.

### 4.2 Relying on the Standing of Other Entities

Tenderers are reminded that they may rely on the resources of other entities to establish the requirements on condition that they can prove to the satisfaction of the Contracting Authority that they will have these resources at their disposal when necessary. Tenderers should provide information on proposed roles and relationships with the sub-contractor or partners.

If the tender is from a consortium / joint venture Tenderers must ensure that all the relevant information is provided and where necessary, provide the information requested separately for each party. The consortium must appoint a single point of contact who will assume overall responsibility for delivery, and who is authorised to sign the contract on behalf of all consortia members. The Contracting Authority will not act as an arbitrator between members of consortia.

### 4.3 General, Legal and Financial Requirements

Tenderers are required to provide information on the following in the Tender Response Document. The criteria and rules outlined below are assessed on a pass/fail basis. Failure to comply with the requirements will result in your tender being considered inadmissible.

## General Information

Provide contact and general information on the tendering organisation - company name, address and contact details for individual responsible for this tender and company overview as well as information on sub-contractors and consortium members if applicable.

**Declarations**

Complete the Declaration of Bona Fides as per Art. 57 of Directive 2014/24/EU as implemented by Regulation 102 of 2015 (UK) and SI 2814 of May 2016 (Irl) and as contained in the Tender Response Document.

Complete the Declaration regarding compliance with relevant statutory obligations as contained in the Tender Response Document. Where tenderers are established and operating outside of the jurisdiction of supply, compliance with equivalent legislation as applicable in the country of establishment / operation is required.

**Financial and Economic Standing**

**Tax** Confirmation that the tenderer / all parties associated with the tenderer are fully tax compliant – please refer to the tax rules contained in the Tender Response Document.

**Turnover and Financial Standing**

(a) Confirmation that the tendering party turnover exceeded **€150,000** during **each** of the last three years or pro-rata if more recently established firms are tendering – however the firm must have been in existence for at least 6 months.

**In addition**

(b) Confirmation of financial standing ensuring the tendering party has the financial capacity to pay its debts identified on the current statement of assets and liabilities as being the debts as they fall due.

Evidence of both statements will be required prior to the award of any contract.

**Insurance** Confirmation of the following insurances being in place:

Insurance Type	Required Value €	Required Value STGE
Employer’s Liability	€13 million	£10 million
Public Liability	€6.5 million	£5 million
Product Liability	€6.5 million	£5 million
Professional Indemnity	€2.0 million]	£1.66 million
Environmental Liability Impairment (EIL) (where there is risk of gradual pollution or contamination)	n/a	n/a
Cyber Insurance	[n/a]	[n/a]

**4.4 Technical Capacity Requirements**

Tenderers are required to provide information on the following in the Tender Response Document. The criteria and rules outlined below are assessed on a pass/fail basis. Failure to comply with the requirements will result in your tender being considered inadmissible.

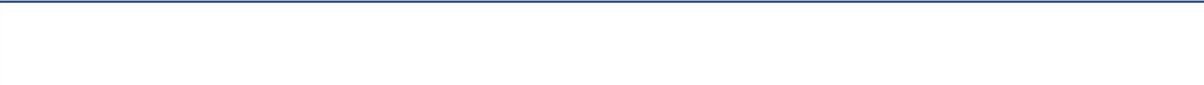
	1
<b>Previous Contracts / Experience</b>	
<p>Tenderers must provide information clearly demonstrating successful delivery of <span style="background-color: yellow;">three</span> previous comparable contracts / experience, involving the following features:</p> <p>-</p> <ul style="list-style-type: none"> <li>-Development of a Capital Expenditure Framework and Procedure</li> <li>-Development of Project Management Processes and Procedures</li> </ul>	

**Health & Safety**

Tenderers must provide information which demonstrates operation of health & safety systems and procedures in line with all relevant Safety Health & Welfare at Work legislation. Please complete the TRD. Evidence of compliance will be required as condition of contract award.

**Quality Assurance**

Tenderers must provide information which demonstrates a commitment to quality assurance and provide details of quality assurance policies and systems and whether 3rd party certified. Please complete the TRD.



## 5. AWARD CRITERIA

Only tenderers who meet the Selection Criteria and are confirmed as valid and responsive to the specifications set out in this document will be evaluated against the award criteria. Tenderers should ensure that they have submitted sufficient relevant information to allow their tenders to be assessed under each of the award criteria set out below.

The contract will be awarded on the basis of the most economically advantageous compliant tender taking into account the following award criteria and weightings.

Criterion A	Weighting	Maximum Marks	Minimum Marks Required
	40%	4000	N/A
<b>Title</b>	Cost		
<b>Description</b>	Please note that under this criterion the basket of costs to be assessed are set out in the form of tender]		
Criterion B	Weighting	Maximum Marks	Minimum Marks – 50%
	30%	3000	1500
<b>Title</b>	Methodology for delivery of the service]		
<b>Description</b>	[Understanding and knowledge of tender requirements, detail as to how the works will be completed within the specified time frame, balance of resources and inputs to deliver the service, communication methods and systems proposed to deliver the service]		
Criterion C	Weighting	Maximum Marks	Minimum Marks – 50%
	30%	3000	1500
<b>Title</b>	Quality and Quantity of Resources offered for the contract		
<b>Description</b>	[Qualifications, experience and expertise (related to comparable contracts) of the team proposed for this contract.		

	-The Project Manager Proposed should have a minimum of 5 years PQE.		
Criterion D	Weighting	Maximum Marks	Minimum Marks – 50%
	%		
<b>Title</b>	N/A		
<b>Description</b>	N/A		

**NOTE 1:** Tenderers should ensure in their tenders that they provide detailed information in respect of all aspects of the contract award criteria as stated above. This will enable the awarding authority to assess fully the extent of their offers.

**5.1 Methodology for Calculating the Cost Score**

The following formula will be applied to the cost score:

The lowest cost tender that also meets all the minimum requirements of the qualitative award criteria will receive the maximum score achievable under this criterion. The scores of the other valid tenders will be calculated using the following formula:

<b>Lowest Cost from a Bona Fide Tender</b>	<b>A</b>
<b>Cost for the tender being evaluated</b>	<b>B</b>
<b>Maximum Points available for Cost</b>	<b>4000</b>
<b>Formula employed</b>	$4000 \times \frac{A}{B}$

## 5.2 Methodology for Calculating Scoring of Qualitative Criteria

Score	Meaning	Interpretation
90 – 100%	Outstanding	A very comprehensive response demonstrating extensive understanding offering full assurance to client – fully supported with no reservations.
80 – 89%	Excellent	An excellent response demonstrating excellent understanding offering assurance to client – strongly supported.
70 – 79%	Very good	A very good response demonstrating very good understanding offering assurance to client – fully supported.
60 – 69%	Good	A good response demonstrating good understanding offering assurance to client – well supported.
50 – 59%	Acceptable	An acceptable response demonstrating a minimum understanding offering assurance to client - satisfactorily supported.
<b>Less than 50% is unacceptable</b>		

Marks in the score ranges outlined above can be awarded where responses so merit additional marks.

## 5.3 Clarification / Verification Meetings

Award of contract may be subject to attendance at a clarification and verification meeting. It would be essential that the key personnel assigned to this contract should be available and present at this meeting. If required, tenderers will be notified of the date, time, agenda and format for such meetings as soon as possible.

A visit to the tenderer's premises may be required to clarify any questions or queries regarding the tender offer.

Tenderers should note that the Contracting Authority reserves the right to confirm that the financial and technical capacity of the tenderer is valid and unchanged prior to the award of any contract.

## 5.4 Clarification of Abnormally Low Tenders

If the Contracting Authority considers the tender submission to be commercially unsustainable or otherwise problematic in light of the tendered price or any other financial matter (including proposed indicative hours), the tenderer shall be invited to provide clarification to the Contracting Authority in respect of all elements of the tender submission that the Contracting Authority deems relevant. Any failure to satisfactorily comply with such

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a request, or to satisfactorily address the Contracting Authority's concerns, may, at the discretion of the Contracting Authority, result in the elimination of the tender in question on the basis of it being considered abnormally low.

## INSTRUCTIONS FOR TENDERERS

### (h) Submission of Tenders

The Contracting Authority is using the Tender Postbox facility and tenders must be submitted electronically via the eTenders post-box facility stated on the front of this tender document only (i.e. [www.etenders.gov.ie](http://www.etenders.gov.ie) or [www.etendersni.gov.uk](http://www.etendersni.gov.uk)). Only Tenders submitted to the nominated electronic post-box will be accepted. Tenders submitted by any other means (including but not limited to by email, fax, post or hand delivery) will **not** be accepted.

Tenderers must ensure that they give themselves sufficient time to upload and submit all required tender documentation before the Tender Deadline. Tenderers should consider the fact that upload speeds vary.

To submit a document to the electronic postbox, please note that tenderers must click "Submit Response". After submitting tenderers can still modify and re-send their response up until the response deadline. Tenderers should be aware that the 'Submit Response' button will be disabled automatically upon the expiration of the response deadline.

Tenderers not familiar with uploading on eTenders should ensure they familiarise themselves with the process prior to the submission deadline.

### (i) Closing date for Tenders

The closing date for submission of tenders is as stated on the cover of this Request for Tender (RFT) document.

It is the responsibility of the tenderer to ensure that their tender is complete and is uploaded / submitted by the designated deadline.

### (j) Queries

The process for submitting queries shall be through the Questions and Answers facility provided through the nominated procurement portal as on the cover of this tender document. Queries, including any omissions which would prevent tenderers from submitting a comprehensive tender, should be raised as soon as possible and, in any case, at before the closing date and time for queries as stated on the cover page of this document.

In circulating responses, queries will be edited to avoid disclosing the identity of the querist and will be circulated to all parties who have expressed an interest in the procurement on the eTenders website.

### (k) Extension of Tender Period

The Contracting Authority reserves the right, at its sole discretion, to extend the closing date for receipt of tenders by giving notice in writing (by post or electronic means) to all parties who have expressed an interest in the notice via eTenders no later than six days before the original closing date.

Tenderers will be responsible for any costs incurred by them in the event that they are required to attend clarification or other meetings or make a presentation of their proposals.

**(l) Tender Validity Period**

To allow sufficient time for Tender assessment a Tender Validity period is required. The period required is as stated on the cover of this document and this period commences on the closing date by which the Tenders are to be returned.

**(m) Amendment of Tender Documentation**

A pdf version of the tender has been made available on the procurement portal being used to advertise this tender. This pdf document will be considered as the primary source document in this procurement process, word versions of documents where they are provided are being made available to assist tenderers in responding to the tender competition. Where there is a discrepancy between a pdf version and a word version, the pdf version will take precedence. Tenderers are requested to notify the Contracting Authority immediately of any anomaly. Where applicable the Contracting Authority will issue amended versions.

Tenderers are prohibited from amending any text or content of forms or declarations or templates provided as part of this tender competition in their tender responses. Where amendments have been identified, the Contracting Authority may at its discretion eliminate the tenderer from further consideration.

**(n) Collusive Tendering**

If any Tendering Party is found to have, at any time, offered to give or to have agreed to offer or give to any person, any bribe, gift, gratuity, commission or consideration of any kind as an inducement or reward for taking or forbearing to take any action in relation to the obtaining of its Tenders, or for showing or forbearing to show any favour or disfavour to any person in relation to its Tenders, the bid submitted by such Tendering Party shall be automatically disqualified and the circumstances surrounding such action shall be referred to the appropriate authority.

**(o) Confidentiality**

After the official opening of Tenders, information relating to the examination, clarification, evaluation and comparison of Tenders and recommendations will not be disclosed to tenderers or other persons not officially concerned with such process until the award decision with the successful Tenderer has been announced and in conformity with national laws.

Tenderers shall treat the details of all documents supplied to them in connection with this contract as private and confidential and shall not disclose the contents to a third party without the permission of the Contracting Authority.

Any effort by the Tenderer to influence the Contracting Authority or his staff in the process of examination, clarification, evaluation and comparison of Tenders and in decisions concerning the award of the contract may result in the rejection of that Tender.

**(p) Clarification of Tenders**

The Contracting Authority is entitled, but not obliged, to seek clarification of tenders, including pricing breakdowns in the course of the evaluation process. No change in the price or substance of the Tender shall be sought, offered or permitted. To assist in finalising

the tender evaluation, selected tenderers may be invited to attend clarification meetings with the Contracting Authority.

**(q) Correction of Errors**

Detailed pricing of all tenders will be examined for errors that might alter the tender pricing as determined from the figures on the tender form or as between the hard copy and electronic versions of the tender. In general, the following approach will be applied to manifest errors - where there is a discrepancy between the unit price and the total amount derived from the multiplication of the unit price and the quantity, the unit price as quoted will normally govern.

The amount stated in the tender form will be adjusted by the Contracting Authority in accordance with the above procedure and, with the agreement of the tenderer, shall be considered as binding upon the tenderer. Without prejudice to the above, a tenderer not accepting the correction of their tender as outlined may have their tender rejected.

**(r) Change in the Composition of a Tender**

The Contracting Authority reserves the right, but is not obliged, to disqualify any Tenderer that makes any change to its composition after submission of a Tender.

**(s) Interference and Inducement to Purchase**

Any effort by the tenderer to unduly influence the Contracting Authority, relevant agency personnel or any other relevant persons or bodies in the process of examination, clarification, evaluation and comparison of tenders and in decisions concerning the Award of Contract shall have their tender rejected. The presumptions (including as to any gift, consideration or advantage) and other provisions under the Bribery Act 2010 (UK) and the Criminal Justice Act 2018 (Ireland), and all other measures for the time being governing the subject-matter in any applicable jurisdiction, shall be applicable.

**(t) Conflict of Interest**

Any conflict of interest involving a tenderer (or tenderers in the event of a consortium bid) must be fully disclosed to the Contracting Authority. Any registrable interest involving the tenderer and the Contracting Authority or employees of the Contracting Authority or their relatives must be fully disclosed in the tender submission or should be communicated to the Contracting Authority immediately upon such information becoming known to the tenderer, in the event of this information only coming to their notice after the submission of a bid and prior to the award of the contract. Failure to disclose a conflict of interest may disqualify a tenderer or invalidate an award of contract, depending on when the conflict of interest comes to light.

**(u) Publicity**

Tenderers shall not undertake (or permit to be undertaken) at any time, whether at this stage or after the award of the contract, any publicity activity with any section of the media in relation to this tender/agreement other than with the prior written consent of the Contracting Authority. Such consent shall extend to the content of any publicity. For the purposes of this paragraph, the word "media" includes (but is not limited to) radio,

television, newspapers, trade and specialist press, the Internet and e-mail, accessible by the public at large and the representatives of such media.

The Contracting Authority will have the right to publicise or otherwise disclose to any third-party information regarding this process and the agreement.

**(v) Right Not to Award**

The Contracting Authority does not bind itself to accept the most economically advantageous tender or any tender. It also reserves the right to accept or reject in whole or in part any or all tenders received, and, in particular, to source the requirement with more than one service provider.

The invitation to tender is issued in good faith; however, the Contracting Authority at its sole discretion shall not be obliged to award a contract or proceed to further stages in the procurement process and reserves the right to cancel the procurement process.

**(w) Notification of Tender Evaluations**

All tenderers will be informed of the outcome of their tenders following tender evaluation and any necessary clarifications. Potential outcomes can be:

- a) Award of Contract
- b) Letter of Regret
- c) Decision not to proceed with the award of Contract

The following information will be provided in the Letter of Regret – name of successful tenderer designate; the applicable standstill period (for EU tenders only); scores of tenderer and that of successful tender; features and characteristics of successful tender where they scored higher marks in specific criteria.

In the case of EU tenders only, the Contracting Authority will undertake not to award the contract for a period of at least 14 (or whatever period is stated in the notification letters) days from the date of notification of unsuccessful tenderers ('standstill period').

**(x) Award Notices**

Following the award of contract, an award notice will be despatched to the Official Journal of the European Union announcing the results of the competition no later than 30 days after the award of contract. It should be noted that it is standard practice for the Contracting Authority to include the price of the winning tender or the range of prices of tenders received in the publication of the award notice as required under European procurement rules.

**(y) Policy on Personal Debriefings**

Based on the provision of the information to unsuccessful tenderers as outlined above and due to resourcing constraints, the Contracting Authority will not be offering individual debriefing meetings to unsuccessful bidders.

**(z) Copyright**

The Contracting Authority will have copyright ownership of any material developed for use by the Contracting Authority under the terms of this tender. The service provider may have a non-exclusive license to use such material but only for its own purposes (to be agreed with the successful tenderer).

**(aa) Brand Names, etc.**

Please note in relation to this tender document; where reference is made to a particular make, source, process, trademark, type or patent, that this is not to be regarded as a de facto requirement. In all such cases it should be understood that the reference in question is accompanied by the words "or equivalent".

**(bb) Environmental Aspects**

The Contracting Authority is committed to the principles of environmental management in its activities and it encourages the implementation of sustainability principles in its procurement practices. Tenderers/contractors should make all reasonable efforts to minimise adverse environmental impact in the methods of services delivery and in materials used.

**(cc) Knowledge and Skills Transfer**

It will be a condition of the contract that opportunities for the transfer of skills and/or knowledge from the Tender/Tender's staff to the Contracting Authority staff will be availed of during the course of the contract or prior to the handing over of the finished work/product.

**(dd) Currency and Payments**

The currency and invoices in which all prices and rates shall be tendered, and which payments under the contract will be paid, shall be as stated on the cover page of this tender document.

All prices and rates quoted should be on the basis of both VAT exclusive and VAT inclusive costs, clearly identifying the applicable rate of VAT.

A schedule of payments will be agreed with the successful tenderer and invoices shall be submitted in accordance with the terms agreed with the Contracting Authority.

The Contracting Authority require that invoices are submitted electronically, and the following information sets out our requirements with regard to billing the Contracting Authority. Any claim for payment should meet the following minimum format and information requirements:

- Be produced on invoice or headed stationery showing the supplier's name, address and VAT details (where applicable)
- Be addressed to or otherwise properly identify the Contracting Authority as the client/customer/payee
- Display the invoice/billing date
- Display the relevant contracting authority purchase order number or agreed payment reference
- Display a unique supplier invoice number/billing reference

## WI-4 Request for Tender Contract Open Procedure

- Fully itemise the services provided in line with the costs structure set out in the tender
- Subtotal amount
- VAT rates and amount (as applicable)
- Gross Total

The method of payment used by the Contracting Authority is normally Electronic Funds Transfer.

### RELEVANT LEGISLATION

#### **(ee) General**

For the contracting authority the place or places of supply can be in Ireland, Northern Ireland or both. The supplies, services or works which are the subject matter of this tender will be supplied to the contracting authority as stated on the cover of this document.

As a cross border public body, the Contracting Authority must comply with all applicable legislation within its relevant jurisdiction(s) of operation. The place of supply will determine the applicable terms and conditions under which supply will be made and place specific obligations on the Contracting Authority to comply with relevant legislative requirements as follows:

#### **(ff) Health & Safety**

With respect to the jurisdiction where the supply of goods or services will be provided, the successful Tenderer must comply with the following Health and Safety legislation as applicable;

- The Safety, Health & Welfare at work Act 2005, in Ireland
- The Health and Safety at Work (Northern Ireland) Order 1978 in Northern Ireland and all relevant regulations made thereunder.

#### **(gg) Anti-Competitive Conduct**

Tenderers attention is drawn to the following legislation:

- Competition Act 2002 (Ireland)
- Competition Act 1998 (Northern Ireland)
- Enterprise and Regulatory Reform Act 2013 (Northern Ireland)

This legislation makes it a criminal offence for Tenderers to collude on prices or terms in a public procurement competition.

#### **(hh) Accessibility**

The Contracting Authority operate in line with

- The Disability Act 2005 in Ireland and
- The Disability Discrimination Act 1995 in Northern Ireland.

Under the requirements of these Acts the Contracting Authority is required to ensure that both the goods supplied, and services provided to it are accessible to persons with disabilities.

**(ii) Value Added Tax (VAT), Tax Clearance and Relevant Contracts Tax (RCT)**

The nature of the supply to be made under this contract together with the place of supply requires the Contracting Authority to consider specific obligations in relation to the application of Value Added Tax (VAT), Relevant Contracts Tax (RCT) and the requirement to verify tax clearance. These specific obligations which may, depending on the place of supply, affect how purchases and payments are made to suppliers. The table below summarises the taxation rules depending on the place of supply and the place of establishment for the supplier;

<b>Supply to Locations in Ireland</b>			
<b>Supplier Based in</b>	<b>VAT</b>	<b>Tax Clearance</b>	<b>RCT</b>
<b>Ireland</b>	Supplier to charge vat in accordance with Irish VAT Rules	Required	The applicability of RCT will be identified on the cover page of this document.
<b>European Union Country (other than Ireland)</b>	Waterways Ireland self-account for VAT on the reverse charge basis		
<b>Supplier Based Outside European Union</b>	VAT position will be determined prior to award of contract		Where RCT applies to contracts (except haulage) Waterways Ireland will self-account for VAT on the reverse charge basis
<b>Supplier Based in the UK (post Brexit special conditions?)</b>	TBC		

<b>Supply to Locations in Northern Ireland</b>			
<b>Supplier Based in</b>	<b>VAT</b>	<b>Tax Clearance</b>	<b>RCT</b>
<b>Ireland</b>	The supplier will charge VAT in their country of establishment unless the nature or value of the supply requires the supplier to register and account for UK VAT	Waterways Ireland will require tax clearance to ensure that suppliers based in Ireland are tax compliant	Not Required
<b>European Union</b>		Not Required	

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<b>Supplier Based Outside European Union</b>			
<b>United Kingdom</b>	Supplier to charge VAT in accordance with UK VAT Rules	Not Required	

Specific information in relation to VAT, Tax Clearance and RCT will be identified in the terms and conditions of the tender and will apply to the subsequent contract(s) formed thereunder.

### **(jj) Freedom of Information**

In order to comply with legislation on the Freedom of Information the contracting authority as a North South Body operates a Code of Practice for Freedom of Information. The primary purpose of this code is to facilitate access by members of the public to information held by the body which is not routinely made available.

The objective is to provide:

- Greater openness and accountability and increased public confidence in the workings of North South Bodies, and
- Improvement in the quality of decision making by North South Bodies

Anyone corresponding with the contracting authority through any tender or procurement process should be aware that any information provided in the tender or other correspondence may be made available if requested under the Freedom of Information Code of Practice.

The contracting authority will consult with tenderers about sensitive information in their tender or correspondence before making a decision on the disclosure of any such information in response to a request under the relevant Freedom of Information legislation.

A decision on what information can be released under the relevant Freedom of Information legislation is the sole prerogative of the contracting authority.

A copy of the Freedom of Information Code of Practice is available on the the contracting authority website [www.waterwaysireland.org](http://www.waterwaysireland.org) under Other Information or by writing to:

FOI Liaison Officer  
Chief Executives Office  
Waterways Ireland  
2 Sligo Rd  
Enniskillen  
Co. Fermanagh  
BT74 7JY

Telephone +44 (0)2866 323004

**(kk) Late Payment**

The Contracting Authority operates in accordance with EU Directive 2011/7/EU on combating Late Payment in commercial Transactions transposed in to national legislation as

- S.I. 580 of 2012 in Ireland and
- The Late Payment of Commercial Debts (Interest) Act 1998 in Northern Ireland

**(ll) Data Protection**

As a cross border public body, the Contracting Authority must comply with all applicable data protection legislation within its relevant jurisdiction(s) of operation including,

- Data Protection Act 2018 (Ireland)  
and
- UK GDPR (General Data Protection Regulation) and the DPA (Data Protection Act) 2018,

Where the contract resulting from this tender competition involves the processing of **Personal Data**, as defined by the applicable Data Protection legislation in Ireland or Northern Ireland, it will be a requirement that contractors engaged sign and implement an Addendum to contract, in compliance with the data protection legislation and regulations as applicable in Ireland, Northern Ireland or both.