



**The Pharmacy Regulator**  
An Rialtóir Cógaisíochta

# PSI Procurement Policy

Version 4.0

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## A. General Introduction

The Pharmaceutical Society of Ireland (PSI) as a statutory body is governed by Public Procurement Guidelines, Regulations and Directives. Public procurement can be defined as the acquisition, whether under formal contract or not, of works, supplies and services. It ranges from the purchase of routine small value supplies and services via quotations to formal public tendering and placing of contracts for larger value services and infrastructural or ICT projects.

### *Procurement Principles*

Public procurement must be discharged with probity, transparency and accountability and in a manner that secures best value for money for the PSI. Procurement by the PSI will be governed by the following principles:

- Achieving efficiency, effectiveness and best value for money in terms of life-cycle cost
- Dealing with quality suppliers, contractors and service providers
- Operating in a fair, open, transparent and non-discriminatory manner in the marketplace
- Properly managing risk and potential conflicts of interest
- Complying with all relevant European, national legislation and Government rules and regulations
- Operating the highest ethical standards

### *Procurement objectives*

The primary objectives of PSI procurement policy are to ensure that all transactions:

- Deliver to the specified requirements
- Give PSI best value for money
- Are totally transparent
- Ensure equality of access to appropriately qualified suppliers
- Are formally contracted
- Fully comply with government guidelines and EU directives

### *Commitment to the Environment*

In line with Government Policy and the Climate Action Plan 2021, PSI commits to implement a process to ensure that green criteria are included in all procurements by 2023. A plan and targets will be agreed and monitored via the Corporate Procurement Plan process and the Annual Procurement Plan in particular. The main areas of focus for PSI will be energy, facilities management, cleaning products and services, IT equipment (eg laptops and displays), and paper.

## B. Financial Authority for Procurement and Reporting

The annual budget, Service Plan and the multi-annual Corporate Procurement Plan (incorporating the Annual Procurement Plan), approved by the Performance and Resources Committee and Council sets out the authority and plans for the procurement of goods and services.

### *Council*

- Updates on implementation of activities against the Service Plan are provided to Council on a quarterly basis.
- Council should be provided with an update on progress against the procurement plan for estimated contract values in excess of €25k (ex VAT) at each meeting.
- For purchases with estimated values exceeding EU thresholds they must be provided for in the Budget and Service Plan approved by Council. If outside Service Plan, separate approval is required by Council in advance of issue of request for tender which must be on the basis of a business case proposed by the Registrar and considered by the Performance and Resources Committee for referral to Council for final decision.

### *Performance & Resources Committee*

- At each Performance and Resources Committee meeting, members are informed of the status of ongoing and upcoming high value tenders (generally contracts with a value exceeding €25k).
- The recommendation of the Registrar for the award of a contract exceeding EU thresholds (see section C. 4 below) will be brought to the attention of the Performance and Resources Committee for noting of the process and of its outcome.
- Recommendations from the Executive on possible contract extensions will be approved by the Registrar and brought to the attention of the Performance and Resources Committee as part of the Executive reporting and Committee oversight/monitoring process at every meeting (see also section 7.7 below where this is explained in further detail).

### *Audit and Risk Committee*

- In order to ensure adequate oversight of procurement procedures, the Audit and Risk Committee should agree an annual plan of Internal Audits of procurement of all high-level purchases above €100,000. The audit programme should be developed with a specific focus on EU value procurements, but also with a view to looking at the full procurement profile for high-level purchases on a category spend basis.

## **C. Purchasing Procedures**

- It is a basic principle of public procurement that a **competitive process** should be used unless there are justifiably exceptional circumstances that are considered and approved by the Registrar (see section C.6 below for an explanation of what might constitute exceptional circumstances). The type of competitive process can vary depending on the size and characteristics of the contract to be awarded.

- When a procurement requirement is identified it is incumbent before proceeding to purchase to establish whether an existing contract or framework is already in place and if so to utilise that contract or drawdown from that framework.
- Attention is drawn to **Circular 16/13**: Revision of arrangements concerning the use of Central Frameworks put in place by the Office of Government Procurement informing public bodies of the importance of maximising the **value for money** achievable when procuring commonly acquired goods or services. In this regard, PSI is expected to use centrally established procurement frameworks for all purchases including those under €25,000 where they are suitable and meet the needs of the PSI. See link <http://circulars.gov.ie/pdf/circular/per/2013/16.pdf>.
- Also, in line with Public Service Stability Agreement 2021-2022's policy on implementing shared approaches within and across sectors including public procurement, the PSI through its membership of the Health and Social Care Regulators' Forum (HSCRF), ACESA (Association of Chief Executives of State Agencies) and other relationships will utilise shared procurement facilities to the maximum extent possible. This will be done by working with other agencies on information sharing and the establishment and use of multi-agency framework agreements.

The following outlines the PSI's purchasing procedures in place, the use of which depends on the value of the goods/services/works to be purchased.

All thresholds refer to the value **exclusive** of VAT.

### 1. Low Value Purchases (<€5,000)

The following procedure must be used for purchases with an estimated value less than €5,000:

- Email quotes obtained from one or more competitive suppliers
- Periodic market testing to apply, in order to ensure value-for-money is achieved
- PSI accountability and control procedures to apply

The following personnel have authority to sign orders under this procedure:

- Registrar
- Members of the Executive Leadership Team and Team Managers

### 2. Intermediate Value Purchases (generally >€5k - <€25k services)

The following procedure must be used for contracts for supplies and general services with an estimated value greater than €5,000 and less than:

- **€25,000** for good and services
- **€50,000** for works/engineering services.
- Expenditure approval of Business Area Head required.

- Formal purchase approval required by Registrar if not provided for and approved in the Business Area's/Team's annual budget.
- Minimum of three written competitive quotations from suppliers or service providers (5 quotations for works contracts).
- Based on written specification with clearly defined award criteria and returned by a prescribed date.
- Relevant back-up documentation filed in procurement file and provided to the Finance and Support Services Team.

### 3. High Value Purchases (but less than EU threshold) (generally >€25k - <€215k))

All requests for tender for high value purchases must have:

- Budget approval of the Registrar
- Detailed specification and tender documentation prepared by the Finance and Support Services Team in conjunction with the relevant Business Area head or Team manager.
- Completed declarations covering conflict of interest / confidentiality issues signed by all members of the Evaluation Team.
- Advertised and managed via the government procurement portal [www.etenders.gov.ie](http://www.etenders.gov.ie). Minimum response time for requests for tenders in line with best practice of 3-4 weeks
- Publicly tendered using the open procedure if estimated value less than €144,000 and where this procedure is appropriate (Note: it is not recommended to use the open procedure where confidential sensitive information is made available in the request for tender – in such circumstances a two-phased restricted procedure can be used).
- Tender appraisal must be carried out by an evaluation team (comprising at least 3 persons, who are required to confirm no conflict of interest exists) and consensus scores and reasons are documented in a '*tender evaluation form*' against the stated selection criteria (pass/fail criteria which test the financial and technical competence of the tenderers) and the stated award criteria and weightings (which enable the identification of the most economically advantageous tender).
- Evaluation teams for contracts of total value of €50k or above should comprise at least one person who is independent of, and external to, PSI.
- Contract award recommendation is subject to approval by the Registrar.
- Issue of notification letters to successful and unsuccessful tenderers with reasons for rejection.
- Publication on eTenders of award notice, identifying the name of the winning tender.
- Back-up documentation held in procurement file by the Finance and Support Services Team.
- Where the procurement has any element of risk of delivery or impact on the functions of PSI, a contract management protocol should be implemented with at least a minimum of one performance review meeting per annum.

The following are the different **procedures** that must be used for high value purchases depending on the value of the purchase:

**3.1 Supplies and general services** with an estimated value greater than €25,000 and less than €140,000

- Must use formal tendering via national advertising on [www.etenders.gov.ie](http://www.etenders.gov.ie).
- **Open** procedure must be used (where practical)

**3.2 Supplies and general services** with an estimated value greater than €140,000 and less EU threshold (2022/2022 limit – €215,000)

- Formal tendering must be used and advertised on [www.etenders.gov.ie](http://www.etenders.gov.ie)
- Choice of procedures (generally open or restricted procedures)

**3.3 Works** with an estimated value greater than €50,000 and less than €250,000

- Must use formal tendering via national advertising on [www.etenders.gov.ie](http://www.etenders.gov.ie)
- **Open** procedure must be used (where practical)

**3.4 Works** with an estimated value greater than €250,000 and less EU threshold (2022/2023 limit €5.382m)

- Formal tendering must be used and advertised on [www.etenders.gov.ie](http://www.etenders.gov.ie)
- See Capital Works Management Framework GN 2.3 Section 1.2

#### 4. EU Directive Procurement

This procedure must be used for purchases with estimated values exceeding EU thresholds which are currently:

Category	EU Threshold (as per 2022-2023)
Supplies	€215,000
Services – general	€215,000
Services – Title III relating to health, social and related services	€750,000
Service Concessions – where a 3 <sup>rd</sup> party exploits an asset and generates income from parties other than the PSI and also accepts a significant element of risk relating to the service in question	€5,382,000
Works	€5,382,000
Works Concessions (similar to service concession definition)	€5,382,000

These thresholds are applicable from 1<sup>st</sup> January 2022 and are valid for two years.

All EU tendering must comply with the following:

- Formal tendering must be used and advertised on [www.etenders.gov.ie](http://www.etenders.gov.ie) which in turn despatches the notice to be published in the Official Journal of the European Union (OJEU)
- Choice of procedures (generally open (single stage) or restricted (two stages) and adherence to the minimum timescales mandated by the EU Directive).
- On occasion use of other procedures involving a separate qualification stage, such as competitive dialogue or competitive procedure with negotiation – these may be considered for complex, sensitive procurements where proactive engagement with the tenderers is required.

All requests for tender:

- Must be provided for in the Budget and Service Plan approved by Council. If outside Service Plan, separate approval required by Council in advance of issue of request for tender.
- Budget approval of Registrar required.
- Formal tendering procedures undertaken as directed by the Finance and Support Services Team.
- Completed declarations covering conflict of interest / confidentiality issues signed by all members of the Evaluation Team.
- Detailed specification and tender documentation prepared by Finance and Support Services Team in conjunction with the relevant Business Area head and/or Team Manager.
- Call for competition in eTenders and the OJEU.
- Tender appraisal must be carried out by an evaluation team and documented in a '*tender evaluation form*' against the stated selection criteria (pass/fail if open procedure) and the stated award criteria and weightings.
- Issue of compliant notification letters to successful and unsuccessful tenderers including application of a minimum 14-day standstill period for notifications issued by email (16 days if letters issued by post).
- Contract award must be supported by '*Detailed evaluation report*' and '*tender report form in compliance with Article 84*'.
- The recommendation of the Registrar for the award of a contract under this procedure will be brought before the Performance and Resources Committee for noting of the process and of its outcome.
- Formally signed contract terms and conditions held on file for all contracts (and frameworks), with appropriate sign-off on extensions as applicable.
- Contract award notice published in OJEU/TED (Tenders Electronic Daily) within 30 days of formal conclusion of contract arrangements providing a range of information relevant to the competition.
- Back-up documentation held in procurement file by the Finance and Support Services Team. All necessary records to be stored electronically under the responsibility of the Finance and Support Services Manager.



- All EU procurements should operate with a formal contract management protocol with at least a minimum of one performance review meeting per annum.

*Summary of Procedures*

Value (excl. VAT)	Type of Contract	Procedure
<b>QUOTATION PROCESS</b>		
€0 - €4,999	Supplies, services, works and works related services	Email quotes from one or more competitive suppliers
€5,000 - €24,999	Supplies and services	Three written (email) competitive quotations sought
€5,000 - €49,999	Works and works related services	Five written (email) competitive quotations sought See <a href="http://www.constructionprocurement.gov.ie">www.constructionprocurement.gov.ie</a> See D/PER CWMF GN2.3 Section 3.2
<b>NATIONAL TENDER PROCESS</b>		
€25,000 - €140,000	Supplies and services	Open procedure (where appropriate) NON-OJEU As per Circular 10/14
€140,001 – EU Threshold	Supplies and services	Any NON-OJEU procedure, but generally open or restricted
€50,000 – EU Threshold	Works related services	Open procedure (where appropriate) NON-OJEU <a href="http://www.constructionprocurement.gov.ie">www.constructionprocurement.gov.ie</a>
€50,000 – €250,000	Works	Open procedure (where appropriate) NON-OJEU <a href="http://www.constructionprocurement.gov.ie">www.constructionprocurement.gov.ie</a>
€250,000 – EU Threshold	Works	Any NON-OJEU procedure, but generally open or restricted <a href="http://www.constructionprocurement.gov.ie">www.constructionprocurement.gov.ie</a>
<b>OJEU PROCESS IN ACCORDANCE WITH EU DIRECTIVES</b>		
>€215,000	Supplies and services (incl. works related services)	Any OJEU procedure, but generally open or restricted
>€750,000	Title III services (health, social and related services)	Any OJEU procedure including negotiation
>€5,382,000	Works	Any OJEU procedure, but generally open or restricted
>€5,382,000	Service Concessions Works Concessions	Any OJEU procedure including negotiation

## 5. Framework agreements

Where the PSI envisages that it will have an ongoing requirement for a particular type or types of services or goods from economic operators, but where it does not know at the outset the exact delivery times or the detailed requirements for the assignments to be performed, it should consider holding an open or restricted call (advertised in the OJEU if the envisaged maximum value of the contract equals or exceeds the EU threshold) to establish a framework agreement. The maximum duration of a framework agreement generally cannot exceed four years (however longer duration may be justified in certain circumstances). A framework can be established with one or multiple (i.e. at least two) framework members, up to a maximum value (which has been indicated). Contracts are subsequently 'drawn down' based on the terms of the framework agreement (which can be on foot of original tenders (single party) or in case of multi-party option of mini-tendering among the framework members or awarding to the first ranked using the cascade system, depending on the rules contained in the original tender documentation. Framework agreements must comply with the conditions of Article 33 of Directive 2014/24/EU.

The Office of Government Procurement, the Government's procurement organisation mandated to coordinate and drive value for money initiatives has established a wide variety of framework agreements which can be used by the PSI. For information on framework agreements which might be used by the PSI please contact the PSI's Finance and Support Services Manager.

Where PSI establishes its own framework agreements, award notices are required listing the firms admitted to the framework within 30 days of the framework being established.

Where PSI uses centrally established frameworks, the award of contracts must follow the rules laid down in the original tender documentation – details available on [www.ogp.gov.ie](http://www.ogp.gov.ie).

## 6. Exceptional Circumstances

In exceptional circumstance, the requirement to secure a minimum of three quotes/tender process need not apply. The circumstances under which these derogations from normal procedure may be availed of, and which must be approved as such by the Registrar include such issues as:

- Urgency – due to unforeseen circumstances and where major risks arise to organisation / health and safety of staff, etc. due to non-award
- Proprietary material – justification / proof that only one supplier or service provider exists e.g. where IT code resides with original supplier (this is an exception, and a report must be prepared confirming that no other supplier is available at global market level to deliver the requirement).
- Additional deliveries – based on an existing contract, where a change of supplier would cause major inconvenience or technical incompatibility, noting a 3-year limit on such an extension applies.
- Where a formally advertised process has resulted in no tenders (or applications) or no suitable tenders.

***The use of the exceptional circumstances outlined above does not permit a departure from EU Procurement Directives – please refer to Art. 32 for the precise rules on derogations from competition.***

Where a derogation / exceptional circumstance is to be applied, the budget holder must complete the Sole Source Form, seeking approval to the derogation. In relation to derogations with a value exceeding the EU threshold, an award notice must also be published in the OJEU notifying the market of the decision to award a contract without public tendering.

## **7. Procurement and Risk Management**

One of the primary objectives of any contract entered into should be the minimisation of risk. To ensure this, the following practices should be applied.

### **7.1 Quality and Reliability**

Supplies and services which are critical for safety should be sourced only from suppliers who have appropriate quality systems in place (either in-house or 3<sup>rd</sup> party certified). Safety or operationally critical material should be subjected to testing prior to any award of contract.

### **7.2 Conditions of Contract**

All suppliers should be made aware of and agree to comply with PSI's standard terms and conditions of the contract and framework agreement terms and conditions if applicable. All contracts/framework agreements awarded must be accompanied by written signed agreement between both/all parties.

### **7.3 Insurance**

Where we require that candidates or tenderers have certain insurance cover for particular risks (e.g. professional indemnity, public liability) and in accordance Circular 10/14 & guidance on measures to facilitate participation of SMEs in public procurement, any capacity levels that are set by the PSI must be both relevant and proportionate to the circumstances of the contract.

### **7.4 Government Regulations**

Contractors and suppliers must comply with all relevant governmental regulations including:

- Data Protection
- Tax Clearance Requirements
- Construction Payments Procedures
- Health and Safety
- Employment legislation and regulations.

### **7.5 Long-Term Contracts**

Where a contract is of long-term duration, insurances and relevant certificates must be kept current. In particular no payment may be made on foot of a contract unless the payee's Tax Clearance status is

current – this can be checked via [www.revenue.ie](http://www.revenue.ie) – please request the Finance and Support Services Manager’s assistance with this.

## 7.6 Value-for-money review

All contracts will be subject to an annual look-back exercise to ensure value for money as defined by the Contract Owner at the contract commencement.

## 7.7 Contract extension

For all contracts that have an option to extend beyond the initial award period, the recommendation and rationale for extension from the Executive should be considered by the Registrar whose approval will be required. All such extensions approved by the Registrar must be brought to the attention of the Performance and Resources Committee as part of the Executive reporting and Committee oversight/monitoring process at every meeting.

In cases where existing contracts require an extension, and this has not been catered for in the original competition, an exception must be approved when the value of the extension is greater than 10% (and not more than €215,000) in the case of supplies and services; and 15% (and not more than €5.382m) in the case of works. Please refer to Art. 72 of Directive 2014/24/EU for further details. In such cases a Modification Award Notice must be sent to the OJEU as soon as possible, noting that the value of the individual extension cannot in any circumstances exceed 50% of the original contract value.

## 7.8 General procurement guidance

This policy document should be read in conjunction with general procurement guidance found on both [www.etenders.gov.ie](http://www.etenders.gov.ie) and [www.ogp.gov.ie](http://www.ogp.gov.ie) websites including the following public procurement publications.

- National Public Procurement Policy Framework (OGP June 2018) <https://ogp.gov.ie/national-public-procurement-policy-framework/>
- [Public Procurement Guidelines for Goods and Services \(January 2019\)](https://ogp.gov.ie/public-procurement-guidelines-for-goods-and-services/)  
<https://ogp.gov.ie/public-procurement-guidelines-for-goods-and-services/>
- Circular 20/19: Promoting the use of Environmental and Social Considerations in Public Procurement  
<https://ogp.gov.ie/circular-20-2019-promoting-the-use-of-environmental-and-social-considerations-in-public-procurement/>
- Circular 10/14 Initiatives to assist SMEs in public procurement  
[http://etenders.gov.ie/Media/Default/SiteContent/LegislationGuides/Circular\\_10\\_-\\_14\\_0.pdf](http://etenders.gov.ie/Media/Default/SiteContent/LegislationGuides/Circular_10_-_14_0.pdf)

- Circulars 02/09, 02/11 and 02/16 relating to procurement of ICT  
<https://circulars.gov.ie/pdf/circular/per/2016/02.pdf>  
[Circular 02-11 Department of Finance](#)  
<https://ogp.gov.ie/wp-content/uploads/Circular-02-2009.pdf>
- Circular 16/13: Revision of arrangements concerning the use of Central Contracts put in place by the National Procurement Service/OGP  
[https://www.procurement.ie/sites/default/files/migr/circular\\_16\\_2013\\_-\\_revision\\_of\\_arrangements\\_concerning\\_the\\_use\\_of\\_central\\_contracts\\_put\\_in\\_place\\_by\\_the\\_national\\_procurement\\_service.pdf](https://www.procurement.ie/sites/default/files/migr/circular_16_2013_-_revision_of_arrangements_concerning_the_use_of_central_contracts_put_in_place_by_the_national_procurement_service.pdf)
- Freedom of Information Model Publication Scheme (DPER July 2016) – this includes the requirement to publish procurement information under FOI Act, 2014 <https://www.per.gov.ie/wp-content/uploads/Model-Publication-Scheme-Guidance-July-2016.pdf>
- Circular 13/13 The public spending code: expenditure planning, appraisal and evaluation in the Irish Public Service – standard rules and procedures <https://publicspendingcode.per.gov.ie/wp-content/uploads/2012/09/The-VFm-Code-except-D-03-Print-Version.pdf>
- Circular 05/13 relating to procurement of legal services and managing legal costs  
<https://circulars.gov.ie/pdf/circular/per/2013/05.pdf>
- Circular 01/11 Model tender and contract documents for Public Service and supplies contracts  
<https://circulars.gov.ie/pdf/circular/per/2011/01.pdf>
- Guidelines and model contracts for Construction and Engineering Services (as available via [www.constructionprocurement.gov.ie](http://www.constructionprocurement.gov.ie)).
- EU Thresholds 2022/2023  
<https://www.gov.ie/en/news/fc9e9-revision-of-eu-thresholds/>
- EU Legal rules and Directives
  - Directive 2014/24/EU – covering supplies, works and services
  - Directive 2014/23/EU – covering service and works concessions
  - Remedies directive for public sector - Directive 89/665/EEC as amended by Directive 2007/66/EC
- Information on European public procurement policies drawn-up by the European Commission  
[http://ec.europa.eu/internal\\_market/publicprocurement/index\\_en.htm](http://ec.europa.eu/internal_market/publicprocurement/index_en.htm)
- Revised Code of Practice for the Governance of State Bodies 2016,

<http://www.per.gov.ie/en/revised-code-of-practice-for-the-governance-of-state-bodies/>

taking account of the September 2020 update relating to A new Annex on Gender Balance, Diversity and Inclusion

<https://www.gov.ie/en/circular/ceb75-142020-code-of-practice-for-the-governance-of-state-bodies/>

- Public Spending Code

<http://publicspendingcode.per.gov.ie>