



Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

Procedure for Engagement of Contractors and Settlement of Fees

Procedure No. 004

	Print Name	Title	Date
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INTRODUCTION

The purpose of this procedure is to describe the procedures required for the Engagement of Contractors and Settlement of Fees in accordance with Public Procurement Guidelines, and the Department of Health and Children Guidelines.

Scope

This procedure applies to the Engagement of Contractors and Settlement of Fees by the Health Service Executive, Mid-Western Area.

Responsibility

It is the responsibility of the appropriate Team member to ensure that this procedure is implemented.

PROCEDURE

1.0 The procedures, detailed in 2 through 12, have been issued by the Department of Health and Children on 21st December 1987 and are set out in Appendix 1, Public Procurement 1994.

2.0 The procedures have the following elements.

- 1) Separate agreements for a) preliminary report stage and b) design and construction stages;
- 2) 'split-fees' as between the following three stages:
 - a) Preliminary report stage
 - b) Design stage
 - c) Construction stage
- 3) a selection process for appointing consultants for all projects except relatively small ones;
- 4) the principle of fee negotiation between client and consultant; and
- 5) amended arrangements for the payment of travelling and other incidental expenses.

The new procedures are designed to obtain better value for money, to allow for greater flexibility in the determination of fees in relation to the diversity of works and to give more consultancy firms the opportunity of being considered for assignments.

3.0 Design Brief

A comprehensive design brief is of fundamental importance. Inadequate briefing, poor planning, delays in responding to inquiries, revision or updating of design and changes in requirements can lead to considerable inconvenience and substantial additional costs for all concerned. All the clients programme for the completion of the work should be supplied and all relevant information should be given in a clear concise form. The service to be provided by the consultants must be properly identified and the existing conditions of engagement should be modified where necessary.

Separate agreements and splitting of fees

4.0 Normally separate agreements should be made for the preliminary report stage and for the design and construction stages. (In some cases it may be appropriate that design and construction should each have a separate agreement). Fees should be split as between the three stages – (a) preliminary report, (b) design and (c) construction. If the scope of the project can be well defined at the outset a lump sum fee should be negotiated for the preliminary report stage. The design stage fee will be based on the accepted tender sum or, where no such sum exists, on the estimated cost. The construction stage fee will be based on the final cost of the works.

5.0 Final payments for the preliminary report and design stage fees will be made on completion of the respective stages and the accounts for those stages will be deemed to be discharged in full at that time irrespective of the effects of inflation, delays or other factors on the final cost of the works.

6.0 For the purpose of commencing fee negotiation, the existing scale of fees and conditions of engagement as recommended by the professional bodies may be regarded as a useful guide in most cases. 'Existing' denotes the scale

operating at the date of this circular subject to some structural changes which are being finalised. All fees are to be payable by reference to the V.A.T. exclusive cost of the works.

Selection of Consultants

7.0 The revised procedures which will apply to projects (a) of IR£1.0M = €1,269,738 and over and (b) below IR£1.0M = €1,269,738 at the time of assignment are outlined in the following paragraphs.

Projects of and estimated value of IR£1.0M = €1,269,738 and over at assignment stage

8.0

- 1) At least three suitable consultancy firms should be elected in the first instance.
- 2) Submissions should be invited from, and discussions should begin with, these firms on the basis of an outline brief, on the consultants' approach to the project, relevant experience of staff and manning proposals and the general competence of the firm.
- 3) And discussions and the best technical advice available to the client. The initial appointment should be for Preliminary report stage only as defined in the standard 'Conditions of Engagement' for consultants (where this is appropriate) and negotiations should take place with the firm to arrive at a fee which is considered fair and reasonable. Agreement should also be reached on the fees for the design stage and for the construction stage of the project unless different consultants are being retained for these stages of the work. If no agreement is reached within the chosen firm, negotiations with that firm should terminate and not be re-opened and the firm should be notified accordingly. Negotiations should then be opened with the second firm selected. The same procedures about terminating and not re-opening negotiations will apply.
- 4) Where Preliminary Report Stage is not required and the appointment is confined to the design and construction stages only, negotiations with

the chosen firm should also be undertaken on the basis applicable to those stages as set out in sub-paragraph 3.

Projects below an estimated value of IR£1.0M = €1,269,738 at assignment stage

9.0 One firm of consultants should be chosen and negotiations with that firm should proceed to arrive at a fee which is considered fair and reasonable taking account of the complexity of the work involved. If the contracting authority is not satisfied with the response of the firm chosen, negotiations should terminate and not be re-opened and the firm should be notified accordingly. Another firm should then be selected for the purpose of the negotiations. The same provisions about terminating and not re-opening negotiations will apply.

10.0 To allow some flexibility for smaller projects it is not essential to adopt this selection procedure for projects costing less than IR£100,000 = €126,973 but Public Authorities should of course take the necessary precautions to ensure that a competent firm is engaged and that the fees are reasonable.

Travelling and other incidental expenses

11.0 For the Preliminary Report Stage, the fee for travelling and other incidental expenses should be estimated and should be added to the agreed fee for that stage. As regards the main design and/or construction stages, details of the likely travelling and other expenses should be completed and the estimated cost added to the agreed fee. All expenses must be fully justified, the object being that, in accordance with the normal practice in the Public Service recoupment will apply only to those expenses which are necessarily incurred.

Monitoring

12.0 It must be clearly understood that this procedure does not imply that anything less than a full professional service should be provided by consultancy firms. Firms which cannot provide such a service should not be selected. Fee negotiation as such must not jeopardise standards. A high

standard of performance must be maintained and it is essential that those authorities which engage consultants should each establish a formal system for monitoring and assessing the effectiveness and efficiency of consultancy firms in the discharge of their duties.

Consultant Fee Negotiation

13.0 When fees are being negotiated with a consultant the following factors should be considered.

Siting

1. Green Field site with no existing buildings.
2. A totally new building to integrate with existing buildings.
3. A mixture of new building and renovation work within existing buildings.
4. Total renovation work within existing buildings.

Complexity

1. Building type and size of project i.e. Acute Hospital, residence for the elderly etc.
2. Does the development require new research work by the consultant?
3. Does the development require new research work by the consultant?
4. Has the consultant previous experience of the proposed building type in the Health Service Executive?
5. Will the work involve phasing decanting etc?

Information

1. Does an accurate site/services survey exist?
2. Has a Protective Development Control Plan or a Development Control Plan been prepared?
3. Has the consultant worked on this site before?

Design Team

1. Is a full design team required?
2. Is a full service required from each member of the team?
3. Extent of service if full service is not required.

4. Will all consultants be directly employed or will some be employed by the Architect?

Expenses

1. Travel distance to sit, meetings etc.
2. Printing, reproduction, CAD etc.
3. Numbers of copies of documents required.
4. Extent of site staff employed.

Fees

The following are the acceptable fee ranges for the total service for new works. The 'total service' covers all fees and expenses for a full design team.

- i. Jobs valued at less than €2,539,476.
Range 12% – 13.5% (plus VAT) of the Construction Cost excluding VAT.
- ii. Jobs valued at more than €2,539,476.
Range 12.25% – 12.75% (plus VAT) of the Construction Cost excluding VAT.

Note: The 'Total Service' percentages' are the sum of the percentages negotiated individually with the members of the Design Team.

The guideline scales used for the Architects and Quantity Surveyors allows for some increase in fees for works in existing buildings and this should be taken into account when fees are being negotiated.

14.0 Consultants – Payments of Fees

Architect / Structural Engineer / Services Engineer / Quantity Surveyor:

Stages 1 & 2	Client Brief & Development Control Plan
Stage 3	Sketch Design & Cost Plan
Stage 4	Architectural Drawings, Specification & Final Cost Plan
Stage 5	Bill of Quantities, Tendering Procedures and Conditions of Contract
Stage 6	Tenders – advertising, issuing tender documentation and examination and report on tenders by the Design Team
Stage 7	Supervision of contract to issue of Final Cert.

Method of Payment

Architect

Stages 1&2	–	1/8 of total fee
Stage 3	–	1/4 of total fee
Stage 5	–	3/4 of total fee
Stage 7	–	1/4 of total fee payable in instalments

Structural Engineer

Stages 1&2	–	17.5% of total fee
Stage 3	–	30% of total fee
Stages 4&5	–	80% of total fee
Stages 6&7	–	20% of total fee

Services Engineer

Stages 1&2	–	16.5% of total fee
Stage 3	–	33.3% of total fee
Stages 4&5	–	Balance of 80% of total fee
Stages 6&7	–	20% of total fee

Quantity Surveyor

Stages 1&2	–	8.33% of 60% of total fee
Stage 3	–	25% of 60% of total fee
Stages 4&5	–	60% of total fee
Stages 6&7	–	40% of total fee

References:

Public Procurement 1994; "The Green Book"

Department of Health and Children, Circular No. 21 /87