

The Adoption of the Charter

This document is the result of extensive consultation on the major issues associated with best practice in supplier debriefing. It is therefore recommended to all Public Sector and Utility organisations.

Since its establishment in 1996, FPP has addressed key issues highlighted by its members requiring urgent attention if public procurement markets are to operate openly and fairly in the Republic of Ireland and Northern Ireland.

Debriefing of suppliers and improved communications between buyers and suppliers are recognised by all parties as being of paramount importance.

This Charter is intended to meet the requirements of suppliers operating in a highly competitive and growing market while offering contracting entities an acceptable framework within which they also can achieve continuous improvement.

The Charter provides buyers and suppliers with simple guidelines, enabling them to work together in an atmosphere of mutual trust while respecting each other's individual rights and obligations.

As it encompasses the scope of the EC Directives, FPP believes that this policy document conforms fully with EC rules.

Elements of the Charter

This Charter comprises two principal elements:

- i) Firstly, the range of information feedback ("The Information") to be made available to suppliers interested in obtaining contracts or in the outcome of contract award procedures. These are detailed in full in Annex I.
- ii) Secondly, the format and agenda appropriate to a personal debriefing meeting ("The Debriefing") as in Annex II.

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Suppliers Rights

"Suppliers" means suppliers of products, service providers and works contractors. Suppliers shall be entitled to receive relevant information from contracting entities (i.e. the "Buyers") regarding their use of the criteria and rules relating to contract award procedures for contracts covered by the public procurement directives in general. In addition to their rights to information, Suppliers should also be given the opportunity of direct personal meetings with Buyers in the manner and to the degree recommended by this Charter.

Treatment of Legal Rights

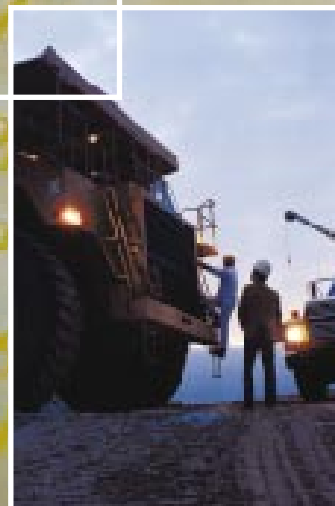
Suppliers' legal rights to information relating to contract award procedures vary as between those rights afforded by the public sector procurement directives and those afforded by the utilities directives.

The purpose and intent of this Charter is to provide Suppliers targeting markets on the island of Ireland with similar access by extending Buyers' obligations where appropriate.

It should be noted however that legislation such as the Freedom of Information Act, 1997 (ROI) which applies to specified public authorities may have a bearing on the release of certain tender information.

The Charter provides for common access to information and a common debriefing policy. It will apply on a voluntary basis to contracting entities in the public sectors and utilities. Initially it will be offered for adoption to the individual contracting entities. FPP will also seek the support and endorsement of the national authorities in extending its application to the largest possible constituency.

NOTE: FPP reserves the right to alter or amend this Charter to reflect Government policy, changes in the law, relevant judicial decisions or policy changes adopted by FPP's membership. FPP takes no responsibility for the implementation of the Charter.



Annex I – The Information

i) Contracting Entities, shall at all times when requested, make available to interested Suppliers the non-confidential technical specifications regularly referred to in their contract documents.



ii) Contracting Entities, which select candidates to tender in restricted procedures or to participate in negotiated procedures, where such procedures are available for use, shall do so according to objective criteria* and rules which they lay down and make available to Suppliers interested in obtaining a contract.

iii) Contracting Entities shall ensure that all notices published as calls for competition will supply interested Suppliers with a direct point of contact for contract-related clarification.

iv) Contracting Entities shall, within 15 days of receiving a written request, inform a candidate or tenderer as to whether or not a decision has been taken either to award a contract or to cancel or re-advertise the contract.

v) Contracting Entities shall, within 15 days of contract award, inform all unsuccessful tenderers in writing of their failure to succeed in a given contract award procedure.

vi) Contracting Entities shall, within 15 days of receipt of a written request, inform an eliminated bid list candidate or tenderer¹ of the reasons for rejection of their application or tender. In addition, in the case of an eliminated tenderer, the characteristics and relative advantages of the tender selected, as well as the name of the selected tenderer shall also be provided.

vii) Contracting Entities shall dispatch a contract award notice, where applicable, to the Official Publications Office not later than 48 days after a contract has been awarded.

* Principles or standards for judgement

¹ An eliminated tenderer is one whose tender has not been successful

viii) Suppliers' and Contracting Entities' Rights to Confidentiality

- Contracting Entities shall ensure that the full confidentiality of tenders is maintained pending their evaluation.
- Contracting Entities shall, where requested and in conformity with national law, respect the confidential nature of information made available to them by Suppliers.
- Contracting Entities may require Suppliers to hold strictly confidential all information gained by them during the tendering process.

Annex II – The Debriefing

A personal debriefing shall be available to a Supplier whose tender is unsuccessful. A request for a personal debriefing should be made within 1 month of notification of the contract decision. The debriefing should take place within 2 months of the request being received.

Recommendations

- i) The numbers in attendance should be agreed in advance by the parties to the debriefing.
- ii) The Agenda, which should also be agreed in advance, may comprise any or all of the following items.
 - The specific contract award procedure and documentation, including any correspondence between the contracting entity and the unsuccessful tenderer.
 - The criteria and rules employed;
 - The relevant proposal or tender;
 - Any other pertinent matters;



"in pursuit of excellence in procurement"

A Voluntary Charter of Policy and Practice on Debriefing of Suppliers

*Recommended Best Practice for the
Public Sector and Utilities in Northern
Ireland and the Republic of Ireland.*