

Department of Contracts
Notre Dame Ravelin
Floriana

To Ministries and
Heads of Departments

02 June 2008

CONTRACTING PROCEDURES

Heads of Department and Government Agencies are to ensure that all contracting procedures are carried out in a spirit of fairness, transparency and non-discrimination between economic operators. In this regard, public procurement is to follow the procedures as laid out in the Public Contracts Regulations.

In order to achieve these objectives, tender documents should be drafted in a manner that clearly sets out the way that bids are to be adjudicated. Ambiguous expressions should be avoided. Particularly for high valued tenders it is recommended that contracting authorities obtain the assurance that bidders have the necessary experience to offer the services or to carry out the works that are being requested. In these types of tenders, there should be a clear distinction between the selection and award phase. Experience can be used as a selection criteria but it cannot be used as an award criteria. The Department of Contracts has put on line tender templates to guide contracting authorities when drafting new tenders. It is recommended, that contracting authorities should always draft tenders on the basis of the latest templates being provided on the Department of Contracts website – <http://contracts.gov.mt/tenderstemplates.asp>.

The adjudication of bids should be carried out solely on the basis of the tender conditions. Evaluation Committees are to ensure that bids are fully administratively and technically compliant with the tender conditions. This will ensure fairness and transparency. Clear conclusions and recommendations will reduce the number of objections made by economic operators thereby speeding up the procurement process.

Contracting authorities should familiarise themselves with the different procurement procedures laid out in the Public Contracts Regulations. These are the (a) the open procedure (b) the restricted procedure (c) the negotiated procedure and (d) the competitive dialogue. The regulations provide for ways by which the stipulated publication period of 52 days can be reduced. Contracting authorities are advised to familiarise themselves with the provisions of the accelerated procedure. In order to reduce further the publication period, contracting authorities are advised to publish a Prior Information Notice covering public procurement for the following twelve (12) months. This notice should be published as soon as the availability of funds to finance that particular procurement is confirmed.

Variations on contracts should be reduced to the barest minimum. This objective can be achieved if proper planning is carried out prior to the publication of tenders. In order to assist contracting authorities in the planning process, the Department of Contracts has prepared the attached check list in respect of works tenders. This check list should invariably be submitted with requests for the publication of works tenders. The Department of Contracts will not consider any requests for variations unless there will be any explanations on the background to the cause of such variations, the effect on the total cost of the tender and any effect on the recurrent expenditure that will ensue. Furthermore, contracting authorities are to explain what were the unforeseeable events that prevailed and specify whether such a variation could have been avoided. Heads of contracting authorities are to publish all variations approved by them in the Malta Government Gazette every six months.

Francis Attard
Director General (Contracts)

Check List for Tenders involving Civil Works

Kindly indicate which type of works is to be carried out (eg. marine, road, etc).

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Please mark which preparatory works have been carried out.

Prior to the issuing of a tender one has to make sure that:

Marine / Dredging Works

- The proposed project is covered by a MEPA permit;
- Pricking at frequent intervals to determine the profile of the rock sea bed;
- Soundings at frequent intervals to determine the volume of the overburden is calculated with accuracy.

Road Works

1) Resurfacing of Existing Roads

- Core Drillings at frequent intervals;
- Contact with Enemalta Corporation to identify existing services and projected commitments for the next 20 years.
- Contact with Water Services Corporation to identify existing services and projected commitments for the next 20 years.

2) Construction of New Roads

- The projected road is covered by a MEPA permit;
- Contact with Enemalta to identify existing services and projected commitments for the next 20 years.
- Contact with Water Services Corporation to identify existing services and projected commitments for the next 20 years;
- Expropriation of private land by Land Department and publication of President's declaration in the Malta Government Gazette;
- Core drillings at frequent intervals to establish the nature of the terrain prior to the design of the road.

Buildings Flats, Schools etc.

- The proposed buildings are covered by a MEPA permit;
- Private land has been expropriated or confirmation that the land is Government owned;
- Core drillings at frequent intervals prior to the design of the proposed building.

Tunnels, Galleries & Shafts

- These projects are to be covered by a MEPA permit;
- Core drillings at frequent intervals so that the nature of the terrain is determined with accuracy prior to establishing the best route for the tunnel or gallery.

Architect in charge of works _____

Official Position _____

Date _____

Signature _____