

Department of Contracts
Notre Dame Ravelin
FLORIANA

To: Permanent Secretaries
Directors General
Directors
Heads of Public Sector Organisations

12 June 2017

THE PUBLIC PROCUREMENT (AMENDMENT) REGULATIONS 2017 (LN155 OF 2017)

Further to LN 352/2017, the Public Procurement Regulations are being amended through LN155/2017.

This Legal Notice aims to define the general principles embedded in the Public Procurement Regulations LN352/2016, particularly in respect of the decentralisation process of the Contracting Authorities through the ‘Ministerial Procurement Units’ (amendment to Schedule 16) as well as defining another ‘threshold’ vis-à-vis ‘Call for Quotations’.

A Ministerial Procurement Unit is being set-up in each Ministry. This unit shall fall under the responsibility of the office of the respective Permanent Secretary or under the responsibility of any other person in an equivalent post, being so delegated by the Minister responsible for that Ministry.

Principally, the Ministerial Procurement Unit (MPU) is a unit which administers calls for tenders published under an open procedure, where the estimated value of such calls for tender is above ten thousand euro (€10,000) but does not exceed two hundred and fifty thousand euro (€250,000).

Therefore, the MPUs shall process, publish, administer and recommend for award through the respective Departmental Contracts Committees (DCCs) only Call for Tenders up to this threshold. However, they shall not administer any Call for Quotations (procurement under €10,000) on behalf of Contracting Authorities. Similarly, Calls for Quotations do not need any form of approval through the Departmental Contracts Committees (DCC).

Guidance on the logistics and the operational process of the Ministerial Procurement Unit are available through Guidance Note 3, which is available through the Resources Section via www.etenders.gov.mt.

Hence, Schedule 16 of LN 352/2016 has been amended to include also the Ministries being decentralized, which to date are the following:

- Ministry of Education (MEDE)
- Ministry for Justice, Culture and Local Government (MJCL)
- Ministry for the Family and Social Solidarity (MFSS)
- Ministry for Home Affairs and National Security (MHAS)
- Ministry for Gozo (MGOZ)

Through LN155/2017, approval for Quotations is also being revised as follows:

Regulation 6

'In sub-regulation (1) of Regulation 100 of the principal regulations, for the words "and availability." there shall be substituted the words "and availability:", and immediately thereafter, there shall be added the following new provisos:

"Provided that the Head of a Contracting Authority, listed in Schedule 1, may delegate his authority in writing, providing the reasons for such delegation, to a senior official of an entity forming part of the Contracting Authority, for the procurement by direct order of supplies, works or services, where the value does not exceed five hundred euro (€500). However the procurement under the above shall not exceed a total value of five thousand euro (€5,000) during a period of one calendar year: Provided further that every six months, the senior official, who receives such a delegation from the Head of the Contracting Authority, shall provide the Head with a full list of all procurement effected under this sub-regulation.

The list must include the date of the purchase, the name of the economic operator, the nature of the purchase, the invoice number, the payment reference, and the value of the supplies, works or services: Provided finally the Head of the Contracting Authority may retrieve this delegation at any time at his discretion'.

This implies that the Head of the Contracting Authority may delegate his authority to any senior official for the direct procurement of supplies, works or services. Nevertheless, such procurement cannot be more than five hundred euro (€500) and cannot exceed five thousand euro (€5,000) excluding VAT during a given year.

Such delegation of authority is to be established through an official approval as per attached template at Annex 1.

It is advisable that any procurement carried out in line with the above thresholds, takes into consideration the urgency attached to the procurement or the restriction of choice and availability.

Contracting Authorities are encouraged to submit any queries to the Department of Contracts' customer care service on info.contracts@gov.mt or +356 21220212.

Anthony Cachia
Director General (Contracts)

Annex 1:

SAMPLE DELEGATION OF AUTHORITY LETTER

By means of this letter, the ‘Head of the Contracting Authority’, in terms of Regulation 6 of the Public Procurement Regulations 2016, delegate the authority herein described to the ‘Senior Official’ on the following terms and conditions:

1. The ‘Senior official’ may review and execute, on behalf of the Contracting Authority, contracts in an amount and duration not to exceed Euro 500 per purchase, which over a year cannot exceed a total amount of Euro5,000 excluding VAT.
2. The contracts subject to this delegation are those relating to any works, services or supplies within the threshold as identified in (1) above.
3. The delegation is being conferred due to [state reason here].
4. The effective date of this delegation is [specify date] and it shall remain in force for a period of one calendar year or until revoked by the delegating official.
5. The authority delegated is not subject to sub-delegation without prior and express written consent of the Head of the Contracting Authority.
6. This delegation is made pursuant to the Public Procurement Regulations 2016 and the Public Procurement (Amendment) Regulations 2017 and is subject thereto.

[signature]

[signature]

Head of Contracting Authority

Senior Official

Date: _____