

Department of Contracts
Notre Dame Ravelin
FLORIANA

To Permanent Secretaries
Directors General
Directors
Heads of Public Sector Organisations

30 June 2018

APPROVAL FOR THE IMPOSITION / REMISSION OF PENALTIES TO A CONTRACTOR

A Contracting Authority reserves the right to impose or remit penalties to a Contractor in case of delays in execution and/or failure to meet contractual obligations. In addition, the said Contractor is also liable to any other penalties arising out of the signed contract, including any envisaged terms and conditions as specified in the respective General Conditions and Special Conditions, as applicable.

In line with Regulations 20 (1), 20(2) and 111(1) of the Public Procurement Regulations S.L. 174.04 and in line with Regulations 37 and 87 of S.L. 174.06, Contracting Authorities are being reminded that the necessary approvals prior to imposing a penalty are to be sought accordingly.

Below Local Threshold Procurement

To this effect, for procurement with an estimated value which is less than the threshold established in regulation 9(1)(a) of S.L. 174.04 / 30(1)(a) of S.L. 174.06, which is currently €144,000 / €443,000 excluding VAT as applicable, a Contracting Authority, after seeking the approval of its respective Minister may allow the imposition or remission of penalties. It is to be noted that the Minister concerned may delegate his/her authority in writing to the Parliamentary Secretary, the Permanent Secretary or the Head of the Contracting Authority.

Above Local Threshold Procurement

On the other hand, for procurement with an estimated value which equals to or exceeds the threshold established in regulation 9(1)(b) / 30(1)(b) as applicable, a Contracting Authority can impose or remit penalties only after obtaining the permission of the Director General Contracts.

Schedule 16 Procurement

However, a Schedule 16 Contracting Authority resorting to remit or impose a penalty for procurement with an estimated value which does not exceed €250,000 excluding VAT shall obtain the permission of the respective Permanent Secretary responsible for the Contracting Authority.

Ministries are also 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)