

Department of Contracts
Notre Dame Ravelin
Floriana

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

08 March 2021

UPDATED MODUS OPERANDI OF THE DEPARTMENT OF CONTRACTS AND PUBLIC PROCUREMENT PROCESSES IN VIEW OF COVID-19

In view of the current circumstance related to COVID-19, below is the modus operandi that shall be adopted by the Department of Contracts with immediate effect from date of this circular. Each phase of the Public Procurement process is being detailed. These guidelines are to be followed by all Ministerial / Sectoral – Units / Contracting Authorities.

Pre-Contract Phase

- All **clarifications / corrigenda** required for tenders under publication are to be approved internally via email. The uploaded clarification / corrigendum will be indicated as signed and then uploaded through the electronic Public Procurement System (ePPS) as usual.

Clarification Meetings are encouraged to be held via web conferencing by providing the relevant links and details within the procurement documents. Clarification Meeting Minutes are to be circulated as usual via a Clarification Note. **Site Visits** should be avoided. If any Site Visits are held, the Contracting Authority must strictly abide by the instructions issued by the Health Authorities.

- **Opening of electronic tenders** shall continue remotely as scheduled.
- **Evaluation Committees** are to avoid convening physically since the evaluation may be carried out remotely through the ePPS. All Evaluation Committee members are to endorse the Evaluation Report and Addenda through email and directly through the ePPS specifying that they are in agreement with the respective Report.

Tendering and Evaluation Stage

Any documentation at Tendering / Evaluation Stage, as applicable (*such as* the Power of Attorney, Key Expert related Forms, Declarations, endorsed documentation from the Primary Resource Supplier / Manufacturer etc.) that requires a signature must be signed.

The most preferred option would be that the document in question is printed and physically signed in blue ink, scanned and uploaded on Government's e-Procurement Platform (ePPS) accordingly. Alternatively, a photo of the signed document is also permissible.

Contract signing

- The **Contract Agreements** are to be compiled and ready for eventual signatures as per usual procedure. Backlogs are to be avoided. The Contract Agreement shall invariably bear the customary physically signed signatures of all parties involved.
- With regard to submission of **bank guarantees**:
 - **Performance Guarantees** and **Pre-Financing Guarantees** (for EU-funded tenders if applicable). The contractors are to be informed that the original guarantees will be requested together with the submission of the signed contract. Requests for extension for the submission of the signed contract together with respective guarantees may be accepted by the Contracting Authority. Such communication is to be in writing.

The Contract Agreement will not be signed without the submission of the applicable original Performance Guarantee and / or Pre-Financing Guarantee.

- **Retention Guarantees** (for EU-funded tenders if applicable) are to be accepted in electronic format. The contractors are to be informed that the original guarantee will eventually be requested to be submitted within five (5) working days from notification.
- **Bid Bond (Tender Guarantee)** for the time being and until further notice is not to be requested.
- **Compliance Certificates** for procurement estimated above €500,000 excluding VAT, are to be requested and submitted in electronic format.
- The **Departmental Contracts Committees** are to be held via web conferencing preferably MS Teams. Minutes of Meetings will be indicated as signed and circulated via email.
- **Recommendations for award** are to proceed normally and appeals period granted as applicable and further detailed below in section "Remedies".

Post-Contract Phase

- **Modification** requests are to follow the usual procedure by providing justification, endorsement and obtaining relevant approvals electronically. The procedure including any minutes are to be circulated also via email.

- Approved **Addenda / Corrigenda to the Contract** will be circulated via email to the Economic Operators who must print, sign, scan and submit via return email the said addendum / corrigendum. The final copy signed by all parties will then be forwarded electronically via email to the Economic Operator and the Contracting Authority.

Prior to Contract Agreement Stage

Unless otherwise stated in any other relevant communication, the above Modus Operandi is also applicable for other documentation that shall be required prior to Contract Agreement Stage and necessitates a signature.

Remedies

In the eventuality of a notification that a **Remedy before Closing Date of a Call for Competition** has been lodged, the Ministerial / Sectoral Procurement Unit / Contracting Authority concerned is to follow the instructions conferred by the Public Contracts Review Board (PCRB).

On the other hand, recommendations for award are to proceed normally. The template letter to be sent to unsuccessful tenderers indicating the right of **Appeal** is to include the following text replacing the previous procedure:

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If you intend to object to this decision, the Public Procurement Regulations allow for an official objection which in this case has to be lodged electronically with the Public Contracts Review Board by sending an email on: info.pcrb@gov.mt by noon of < INSERT DATE > against a deposit of €XXXX.

Payments are to be made through bank transfer in terms of the following details:

<i>Name of Account Holder</i>	<i>Cashier Malta Government</i>
<i>Name of Bank</i>	<i>Central Bank of Malta</i>
<i>Address of Bank</i>	<i>Castille Place, Valletta</i>
<i>Account Number</i>	<i>40001EUR-CMG5-001-H</i>
<i>BIC</i>	<i>MALT MT MT</i>
<i>IBAN Code</i>	<i>MT55MALT011000040001EURCMG5001H</i>
<i>Bank Code</i>	<i>01100</i>

The official schedule can be accessed on the website: www.etenders.gov.mt.

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Therefore, all future objections by Economic Operators, whether prior the closing of a call for competition or as indicated in the letter to unsuccessful tenderers, are to be filed electronically on info.pcrb@gov.mt against payment as per above bank details.

Contacts

Contracting Authorities are encouraged to submit any queries to their respective Ministry's Procurement Section or to their Ministerial / Sectoral Procurement Unit, as the case may be.

In addition, Contracting Authorities, Economic Operators and the General Public may also submit any requests on the following generic emails which are to be utilised as follows when contacting the Department of Contracts:

General queries and submission of new tenders for vetting/requests by all Ministerial Procurement Units/Contracting Authorities	info.contracts@gov.mt
Queries related to the electronic Public Procurement System (ePPS)	etenders@gov.mt
Compliance matters including statistical returns	compliance.contracts@gov.mt
Modifications	variations.contracts@gov.mt

Direct telephone lines at the Department of Contracts shall be active as usual. On the other hand, the generic line of the department is +356 21220212.

Due to the special circumstances currently prevailing, the cooperation of those involved in the management of Public Procurement is solicited in order to ensure a smooth continuation of business processes.

Anthony Cachia
Director General (Contracts)