



BACKGROUND NOTE TO PROCUREMENT POLICY NOTES

In line with the functions of the Director of Contracts, the Department of Contracts (DoC) regularly publishes Procurement Policy Notes (PPNs) with the scope of clarifying and supplementing the Public Procurement Regulations.

The said Procurement Policy Notes started being published on 02 December 2013, when at the time, the Legal Notice in force was LN 296 of 2010. However, on 28 October 2016, the Government of Malta published LN 352 of 2016, repealing LN 296 of 2010.

In addition, the Office of the Prime Minister, through OPM Circular No 12/2019 (dated 30 October 2019) notified that the ‘Finance Administration and Audit Act’ (Cap 174) was repealed, and a replacement act titled ‘Public Finance Management Act’ 2019 (Cap 601) came into force on 12 July 2019 through the publication of Act XXI of 2019. As a result, all relevant Subsidiary Legislations in relation to Public Procurement Regulations shall no longer relate to S.L. 174. Instead, the new Subsidiary Legislations shall refer to S.L. 601.

Further to the above, it is pertinent to note that previous policies disseminated through past PPNs are still applicable (*mutatis mutandis*) unless otherwise stated, or as explicitly superseded by specific PPNs, Contracts Circulars or any other communication that has been / shall be published in the future.

In line with the above, any documentation published by the Department of Contracts bearing former Subsidiary Legislations / Legal Notices shall, unless indicated otherwise, remain applicable (*mutatis mutandis*).

Financial Procurement Thresholds

With specific reference to the Financial Procurement Thresholds referred to within the PPNs, it is to be noted that such thresholds are revised pursuant to the relevant European Union Directives as published in the Official Journal of the European Union. The European Commission revises the said thresholds every two (2) years in accordance with the terms of the World Trade Organisation Agreement on Government Procurement. The new EU Financial Thresholds, applicable to Public Contracts as of 01 January 2022, shall be reflected in the schedules¹ of the relevant local Public Procurement Legislations.

¹ Schedule 5: Values of Thresholds pursuant to Regulation 9 of S.L. 601.03 / Schedule 5: Values of Thresholds pursuant to Regulation 30 of S.L. 601.05 / Schedule 3: Values of thresholds pursuant to Regulation 57 of S.L. 601.09

In accordance with Regulation 9(3) S.L. 601.03², Regulation 30(2) of S.L. 601.05³ and Regulation 57 of S.L. 601.09⁴, the Minister responsible for Finance shall revise the applicable thresholds, which shall be equal to, and categorised in the same manner, as the thresholds established pursuant to the relevant European Union Directives. Accordingly, the Local Financial Thresholds shall also be revised.

Accordingly, a Departmental Procurement⁵ shall be deemed to be procurement in line with the below Estimated Procurement Values:

- Public Procurement Regulations S.L. 601.03: Less than €140,000 excl. VAT
- Utilities Procurement Regulations S.L. 601.05: Less than €431,000 excl. VAT

To this effect, at Annex 1, the Department of Contracts has prepared two (2) sheets as follows:

Sheet A – EU Financial Thresholds

Sheet B – Local Financial Thresholds

Applicability of the Financial Procurement Thresholds

In line with the above, in principle, the revised Financial Procurement Thresholds (including local and EU) shall not only apply to Procurement Policy Notes but also to all Contracts Circulars, e-Procurement Templates, Guidance Notes, Manual of Procedures, Standard Operating Procedures Guidelines and any other manuals / documents as published by the Department of Contracts.

Therefore, any documentation published by the Department of Contracts bearing former thresholds, unless indicated otherwise, shall remain applicable (*mutatis mutandis*).

Published Procurement Policy Notes

All the Procurement Policy Notes are accessible through the Department of Contracts' website under the 'Publications' section (<http://contracts.gov.mt>). Alternatively, all active ePPS account holders, when logged-in, may find a link to the said PPNs, through the 'Resources' section of Government's e-Procurement platform (Electronic Public Procurement System – ePPS).

In addition, in line with Contracts Circular No 03/2018 (dated 16 February 2018), to promote the publication of Procurement Policy Notes, the Department has endeavoured to publish a regular Contracts Circular providing a list of new / updated / repealed policies.

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² S.L. 601.03 - Public Procurement Regulations

³ S.L. 601.05 - Public Procurement of Entities operating in the Water, Energy, Transport and Postal Services Sectors

⁴ S.L. 601.09 - Concession Contracts Regulations

⁵ Departmental Tender is defined as tenders published by Contracting Authorities/Entities with an Estimated Value which is less than the threshold established under Regulation 9(1)(a) of S.L. 601.03/Regulation 30(1)(a) of S.L. 601.05

TABLE 1

PUBLIC PROCUREMENT, UTILITIES PROCUREMENT AND CONCESSION CONTRACTS - EU THRESHOLDS
All Estimated Values are Excluding VAT

	AUTHORITY PUBLISHING PROCUREMENT CALLS	SUPPLIES Estimated Value	SERVICES Estimated Value	DESIGN CONTESTS Estimated Value	WORKS Estimated Value
PUBLIC PROCUREMENT REGULATIONS S.L. 601.03 (LN 352/2016)	Department of Contracts (including Sectoral Procurement Directorate)	From € 140,000 <i>Previously was € 139,000</i>	From € 140,000 <i>Previously was € 139,000</i>	From € 140,000 <i>Previously was € 139,000</i>	From € 5,382,000 <i>Previously was € 5,350,000</i>
	Schedule 3 Contracting Authorities (excluding Local Councils)	From € 140,000 <i>Previously was € 139,000</i>	From € 140,000 <i>Previously was € 139,000</i>	From € 140,000 <i>Previously was € 139,000</i>	From € 5,382,000 <i>Previously was € 5,350,000</i>
	Sub-Central Contracting Authorities (i.e. Local Councils)	From € 215,000 <i>Previously was € 214,000</i>	From € 215,000 <i>Previously was € 214,000</i>	From € 215,000 <i>Previously was € 214,000</i>	From € 5,382,000 <i>Previously was € 5,350,000</i>
UTILITIES PUBLIC PROCUREMENT REGULATIONS S.L. 601.05 (LN 351/2016)	Utilities Contracting Authorities/Entities	From € 431,000 <i>Previously was € 428,000</i>	From € 431,000 <i>Previously was € 428,000</i>	From € 431,000 <i>Previously was € 428,000</i>	From € 5,382,000 <i>Previously was € 5,350,000</i>
CONCESSION CONTRACTS REGULATIONS S.L. 601.09 (LN 353/2016)	All Contracting Authorities/Entities	/	From € 5,382,000 <i>Previously was € 5,350,000</i>	/	From € 5,382,000 <i>Previously was € 5,350,000</i>

TABLE 2

PUBLIC PROCUREMENT, UTILITIES PROCUREMENT AND CONCESSION CONTRACTS - LOCAL THRESHOLDS
 All Estimated Values are Excluding VAT

	AUTHORITY RESPONSIBLE FOR THE PROCUREMENT PROCESS AUTHORITY RESPONSIBLE FOR PUBLISHING PROCUREMENT CALLS	PROCUREMENT ESTIMATED VALUE
PUBLIC PROCUREMENT REGULATIONS S.L. 601.03 (LN 352/2016)	Department of Contracts (Operations Directorate) obo Contracting Authorities classified under Schedule 2	From € 140,000
	Contracting Authorities classified under Schedule 2	Below € 140,000
	Department of Contracts (Sectoral Procurement Directorate) obo Contracting Authorities classified under Schedule 16 <i>Specifically for Procurement Procedures which are the Open or Restricted</i>	From € 10,000.01 till € 750,000
	Department of Contracts (Operations Directorate) obo Contracting Authorities classified under Schedule 16 <i>Specifically for Procurement Procedures which are <u>not</u> the Open or Restricted</i>	From € 140,000
	Department of Contracts (Operations Directorate) obo Contracting Authorities classified under Schedule 16	From € 750,000
	Contracting Authorities classified under Schedule 16	Equal to or below € 10,000
	Schedule 3 Contracting Authorities (including Sub-Central Contracting Authorities i.e. Local Councils)	From € 0.01
UTILITIES PUBLIC PROCUREMENT REGULATIONS S.L. 601.05 (LN 351/2016)	Department of Contracts (Operations Directorate) obo Contracting Authorities/Entities pursuing activities in line with S.L. 601.05	From € 431,000
	Contracting Authorities/Entities pursuing activities in line with S.L. 601.05	Below € 431,000
CONCESSION CONTRACTS REGULATIONS S.L. 601.09 (LN 353/2016)	All Contracting Authorities/Entities	From € 0.01