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Policy Development and Programme Implementation Directorate

Procurement Policy Note #22

The Performance Guarantee and the Single Bond (Single Performance Guarantee)

Date issued: 30.11.2015

1 Purpose

The Performance Guarantee secures performance and fulfilment of the contractor's obligations under the contract, and, if in default, the guarantee is forfeited in favour of the Government. Through this guarantee the Government is protected from financial losses should the contractor fail to perform in accordance with the conditions of the contract.

Contracts Circular No. 01/2014 dated 2nd January 2014 was published with the intent to increase the efficiency in the processing of post-award guarantees, to eliminate undesired burdens including bank charges and other bureaucratic administrative procedures to economic operators and to encourage the utilisation of the single bond. Following the publication of this aforementioned circular, the Department of Contracts deems fit to give Single Bonds an increased amount of flexibility and concurrently issue guidelines to Contracting Authorities to encourage them to enable economic operators to utilise Single Bonds and also to ensure that the Single Bond procedure runs smoothly and is applied uniformly across the Public Sector.

2 Organisational Scope

This is a Government-wide policy. It shall apply to all Ministries / Departments / Entities falling under Schedule 1 of the Public Procurement Regulations.

3 Definitions

Cumulative – total public contracts value signed with a single contracting authority.

4 Policy Content and Guidelines

- i. The Performance Guarantee for all contracts with a value above €10,000 but below €500,000 exclusive of VAT will now be 4%;
- ii. The Performance Guarantee will remain at 10% for all contracts with a value above €500,000 exclusive of VAT;
- iii. Through the submission of the Single Bond, economic operators will now have the possibility to provide the Contracting Authority with a Single Bond covering the performance guarantees for all the contracts **with the same Contracting Authority**;
- iv. The value of the Single Bond will be as follows:

Cumulative contracts value range / €		Single bond value / €
<i>From</i>	<i>To</i>	
10,001	150,000	2,000
150,001	320,000	6,000
320,001	500,000	12,800
500,001	750,000	50,000
750,001	1,000,000	75,000
1,000,001	1,500,000	100,000
1,500,001	2,000,000	150,000
2,000,001	3,000,000	200,000
3,000,001	5,000,000	300,000
> 5,000,000		500,000

It is up to the Contracting Authority to monitor the cumulative value of contracts currently awarded to the contractor. As soon as the same contractor is awarded an additional contract which results in his current Cumulative Contracts Value to go beyond the contract value range currently covered by the single bond, the contractor is to be requested to: either submit a separate Performance Guarantee for the additional contract; or else submit a new Single Bond to cover the new total contracts value.

5 Effective

All public contracts signed as from 1st December 2015 onwards.

6 Legislative Compliance

Laws of Malta, Subsidiary Legislation 174.04 – Public Procurement Regulations.

7 References

Contracts Circular No. 01/2014

8 Appendices

Nil

9 Other related policy notes published

Nil
