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**Directorate Policy Development and Programme Implementation**

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**Procurement Policy Note #32**

**Direct Orders below the local threshold**

Date issued: 19.06.2017

**1 Purpose**

MFIN Circular no. 03/2013, dated 10<sup>th</sup> June 2013, was issued with the intent to limit the use of the Direct Order procedure to the barest minimum and concurrently highlight the circumstances when this procedure may be used. These circumstances are being conveniently reproduced below:

- a) *When no tenders or no suitable tenders or no applications have been submitted in response to an open procedure;*
- b) *When for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the services may be provided only by a particular economic operator;*
- c) *Where the contract concerned is awarded subsequent to a design contest and must be awarded to the successful candidate or to one of the successful candidates;*
- d) *In so far as is strictly necessary, when the time-limits for open, restricted or negotiated procedures referred to in the Public Procurement Regulations cannot be respected for reasons of **extreme urgency occasioned by unforeseeable events**. The circumstances invoked to justify urgency must not be attributable to the contracting authority;*
- e) *In so far as is strictly necessary, for additional supplies, services and/or works not included in the project initially considered or in the contract first concluded but which have, through unforeseen circumstances, become necessary for the performance of the service or works or supplies described therein, on condition that the award is made to the economic operator executing the contract.*

This Procurement Policy Note seeks to clarify further the above-mentioned circumstances, and to **repeal PPN #17 dated 11.08.2015, as the thresholds (values) established therein are no longer applicable.**

## 2 Organisational Scope

This is a Government-wide policy. It shall apply to all Ministries /Departments /Entities falling under Schedule 1 of the 2016 Public Procurement Regulations (PPR) – Subsidiary Legislation 174.04

## 3 Definitions

The local threshold applicable - as from the 28<sup>th</sup> October 2016 through LN352/2016, i.e. Euro 135,000 net of VAT.

## 4 Policy Content and Guidelines

a) Where the estimated value does not exceed five hundred euro (€500), 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.

Nevertheless, in total, such procurement shall not exceed a total value of five thousand euro (€5,000) during a period of one calendar year.

b) Where the estimated value does not exceed five thousand euro (€5,000), the supplies, works or services may be procured departmentally either after obtaining a minimum of three (3) quotations or after the publication in the government's e-procurement platform or through a direct contract at the discretion of the Head of the Contracting Authority, taking into consideration the amount involved, the urgency attached to the procurement or restrictions of choice and availability.

c) Where the estimated value meets or exceeds five thousand euro (€5,000), but does not exceed ten thousand euro (€10,000), the supplies, works or services may be procured departmentally either after obtaining quotations through government's e-procurement platform or through a direct contract at the discretion of the Head of the Contracting Authority, taking into consideration the amount involved, the urgency attached to the procurement or restrictions of choice and availability.

d) In **exceptional circumstances**, following the prior written approval of the Minister responsible for that Contracting Authority, who may delegate his authority in writing to the Permanent Secretary or any other senior official in his Ministry, a Direct Contract may be issued by the Direct Orders Office, for the direct procurement of public works/services/supplies with an estimated value ranging between €10,000 and €134,999.99.

e) Direct Orders are non cumulative and non renewable. **There is no case for variations on Direct Orders.** A Direct Order is very specific – it is for procurement of works /services /supplies for a **specific period and a specific value** – it has a beginning and an end. Hence for each and every request, as soon as the envisaged value of procurement exceeds the approved value, a fresh Direct Order approval is to be sought.

f) All requests for Direct Order approval are to be exclusive of VAT and in the Euro currency.

The above are being depicted in a table for ease of reference as follows:

Procurement < €500 exc VAT	Procurement < €5,000 exc VAT	Procurement > €5,000 exc VAT but < €10,000 exc VAT	Procurement > €10,000 exc VAT but < €135,000 exc VAT
The Head of Contracting Authority, may delegate his authority in writing, to a senior official of an entity forming part of the Contracting Authority, for the procurement by direct order of supplies, works or services.	obtain a minimum of three (3) quotations  <u>OR</u>	quotations <b>through the Government's e-Procurement platform</b> , unless otherwise authorized in writing by the Director General (Contracts)  <u>OR</u>	supplies, works or services <b>must</b> be procured after a departmental call for tenders, issued <b>through the Government's e-Procurement platform</b> , unless otherwise authorized in writing by the Director General (Contracts).  <u>OR</u>
Nevertheless, in total, such procurement shall not exceed a total value of Euro5,000 exc VAT during a period of one calendar year.	publication in the Government's e-Procurement platform  <u>OR</u>	direct contract at the discretion of the Head of the Contracting Authority	direct contract through Direct Orders Office MFIN
	direct contract at the discretion of the Head of the Contracting Authority		

## 5 Effective

Immediate

## 6 Applicability

This PPN applies to all procurement procedures, with a value up to €134,999.99 (VAT exclusive).

## 7 Legislative Compliance

Subsidiary Legislation 174.04 ~ Public Procurement Regulations.

**8 References**

MFIN Circular 03/2013 dated 10.06.2013.

**9 Appendices**

Nil

**10 Other related policy notes published**

Nil

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