

Department of Contracts
Notre Dame Ravelin
FLORIANA

To Permanent Secretaries
Directors General
Directors
Heads of Public Sector Organisations

24 February 2020

ADMINISTERING PROCUREMENT CALLS: INTERIM MODUS OPERANDI

Further to OPM Circular 3/2020, the Schedules in the Public Procurement Regulations shall be updated accordingly so as to classify the Contracting Authorities with the aim to determine the schedule under which they form part of.

Until the necessary Legal Notice is published, the Department of Contracts in liaison with the Finance and Procurement Reform Office under the remit of Permanent Secretary Strategy & Implementation OPM has agreed on an interim modus operandi.

(i) Generic Interim Modus Operandi

Until further notice, the current 7 Ministerial Procurement Units (MPUs) shall serve as a pool of MPUs as per Appendix 1. Hence, they shall continue processing Procurement Calls and Procurement Contracts as was being done prior to the reorganisation of the Ministries. Therefore, Contracting Authorities listed under Schedule 16 currently operating under a particular Ministerial Procurement Unit shall continue to respond to the same MPU.

The MPU in question shall be acting in the name and on behalf of the Ministry under which the Contracting Authority is now allocated. This is a temporary measure until the Legal Notice is published. However, when a Contracting Authority under Schedule 16 now falls under another Ministry where an MPU is established it shall operate under such MPU.

Furthermore, Contracting Authorities listed under Schedule 2 shall be answerable to the Procurement Section (or any other relevant section / unit) within the new Ministry as per same OPM Circular 03/2020. Thus, the said Ministry is their point of contact and they shall adhere to any internal procedures accordingly.

In line with the current Procurement Regulations in force, any established Schedule 3 Contracting Authorities shall respond to the Ministry to which it is now allocated and shall act in terms of law.

Where a Contracting Authority or Body governed by Public Law is not listed under any schedule, it shall have the same obligations of an authority listed under Schedule 2. Therefore, if a new Contracting Authority has been established as per the new portfolios, it shall operate within the parameters of Schedule 2.

(ii) Procurement at Publication or Evaluation Stage

Ministerial Procurement Units (or any other relevant section / unit) within the Ministry shall continue processing any procurement call already published by them. Therefore, the original authority responsible for a procurement procedure shall finalise the whole process up till contract signing.

To this effect, Ministerial Procurement Units shall be accountable for the:

- Approval of Requests for Rectifications / Clarifications
- Vetting of the Evaluation Reports
- Preparation of the Letters to Successful / Unsuccessful Bidders
- Publication of the Recommendation of the Award / Cancellation Notice
- Publication of the Contract Award Notice through ePPS

On the other hand, Contracting Authorities listed under Schedule 2, shall bear the above responsibilities, except for the Approval of Requests for Rectifications / Clarifications and Vetting of the Evaluation Reports. In such instances, the said tasks shall be the remit of the Department of Contracts / Departmental Contracts Committees (DCC) as applicable.

In case of the latter, the DCC to whom the request is sent will be the DCC of the Ministry under which the Contracting Authority is now allocated.

(iii) Departmental Contracts Committees

In line with the current Procurement Regulations in force, there shall be a Departmental Contracts Committee for Contracting Authorities listed in Schedule 2 and in Schedule 16.

The composition of a DCC is as follows:

- Chairman: Head of the Department responsible for Corporate Services or his representative
- Member: Appointed by the Permanent Secretary of the concerned Ministry
- Member: Director of Contracts representative

The DCC shall make definite recommendations for the Award / Cancellation of a Contract. Such DCCs shall review the recommendation presented by the Contracting Authority / MPU (as applicable) as per the Ministry under which the Contracting Authority is now allocated.

(iv) Contract Agreements, Modifications and Addenda

Any contract currently being implemented (including any endorsed Addenda), any Modification Requests, Approvals and Addenda shall be the remit and responsibility of the relevant authority as per the current Procurement Regulations in force, i.e. the Contracting Authority will have to obtain the approval of the Ministry under which it is now allocated if the law so requires.

(v) New Procurement Calls

Until the necessary amendments are published, Contracting Authorities listed under Schedule 16 and Schedule 2 shall retain their status.

To this effect, Schedule 16 Contracting Authorities shall draw up Procurement Documents and forward to their current MPU where the Procurement Estimated Value exceeds €10,000 excl. VAT but does not exceed €250,000 excl. VAT. The said MPU will however, temporarily, be acting in the name and on behalf of the ministry under which the Contracting Authority is now allocated.

In addition, the duties and responsibilities of Contracting Authorities listed under Schedule 2 and 3 shall operate as per the applicable regulations set in the Procurement Regulations in force.

(vi) Publication of a List of Awarded Contracts on the Gazette

Until the Legal Notice is published, the responsibility of publishing the List of Awarded Contracts (including quotations, tenders, Direct Orders and modifications) on the Government Gazette shall lie with the MPU responsible for the Contracting Authority where the latter is listed under Schedule 16. In the case where a Contracting Authority is listed under Schedule 2 or 3 it shall be responsible for the publication of the said list.

(vii) ePPS Accounts

Ministries, Ministerial Procurement Units and Contracting Authorities/Entities are encouraged to contact the IT Unit within the Department of Contracts in relation to the creation of new ePPS accounts, namely as CAPC and CAPCA users. It is advisable that where an MPU is serving more than one Ministry and thus acting as a pool, another ePPS account is opened, for instance MHAL and MJEG. Also, the current ePPS account MJCL is not to be used for fresh calls.

In addition, as per Manual Notification titled 'Change in Ministries' Names' (dated 24th January 2020) published by the aforesaid IT Unit, ePPS accounts linked to the previous Ministry / MPU / CA are not to be updated / deleted as the history of past procurement publications will be lost.

In addition, users might still be responsible for procurer duties tasks (such as Tender Coordinators, Opening Staff and Evaluators) in relation to procurement under the previous Ministry / MPU / CA.

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