

Department of Contracts  
Notre Dame Ravelin  
FLORIANA

To Permanent Secretaries  
Directors General  
Directors  
Heads of Public Sector Organisations

17 March 2020

## **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. Each phase of the Public Procurement process is being detailed. These guidelines are to be followed by all Ministerial Procurement 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** may 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** are not to be held until further instructions.
- **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 through the ePPS specifying that they are in agreement with the respective Report.
- The **Contract Agreement** will be replaced by a Letter of Intent (sample template is at Annex 1), followed by the customary signed contract in due course. Therefore, Contracting Authorities are advised that contracts are compiled and ready for eventual signatures in order to avoid backlog. With regard to Compliance Certificates, these are to be submitted and verified prior to issuing of such Letter of Intent.
- With regard to submission of **bank guarantees**:

- **Performance Guarantees** and **Pre-Financing Guarantees** (for EU-funded tenders, if applicable) are to be accepted in electronic format. The contractors are to be informed that the original guarantees will be requested upon actual commencement of the contract and not later than five days from such notification. Invariably, no payments are to be processed without the original guarantees in hand.
- **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 5 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 make arrangements on a case-by-case basis preferably via web conferencing and using 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 agree and approve the contents within, by return email as the case may be.

## **Remedies**

In the eventuality of a notification that a **Remedy before Closing Date of a Call for Competition** has been lodged, the Ministerial 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:

.....

*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](mailto: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](http://www.etenders.gov.mt).*

.....

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](mailto: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 Procurement Unit (MPU), 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	<a href="mailto:info.contracts@gov.mt">info.contracts@gov.mt</a>
Queries related to the electronic Public Procurement System (ePPS)	<a href="mailto:etenders@gov.mt">etenders@gov.mt</a>
Compliance matters including statistical returns	<a href="mailto:compliance.contracts@gov.mt">compliance.contracts@gov.mt</a>
Modifications	<a href="mailto:variations.contracts@gov.mt">variations.contracts@gov.mt</a>

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)

Encl

*Annex 1 – Sample Template of Letter of Intent*