

Department of Contracts
Notre Dame Ravelin
FLORIANA

To Permanent Secretaries
Directors General
Directors
Heads of Public Sector Organisations

25 July 2023

PUBLIC PROCUREMENT GUIDANCE DOCUMENTATION

A Guidance Document may be defined as a formal publication that conveys a communication of general and broad applicability, with the scope of fostering Transparency and Efficiency as well as Standardisation and Homogenisation. In fact, such documentation tends to have a reader-friendly style and format, thus, easier to understand.

In the Public Procurement field, a Guidance Document is an important tool which aims to inform, assist, and regulate Contracting Authorities / Entities in executing procurement duties. They may take a variety of forms such as Manuals, Guidelines, Working Papers, Depositories, Notices, and other similar material.

Public Procurement Guidance Documents may serve an array of functions such as providing advice, expertise, and information in complying with the relevant Regulations, Provisions and Policies as well as suggesting a possible Interpretation¹ and Applicability. Accordingly, such Guidance Documentation offers practical guidance, general recommendations, and best practices. Thus, facilitating the implementation of Procurement Procedures.

To this end, in line with the Department of Contracts' Regulatory Role and its drive towards enhancing Good Governance in the Public Procurement Procedure, in addition

¹ The Court of Justice of the European Union is competent to give a legally binding interpretation of European Union Legislation.

to the ‘Guidance Notes’², the Department shall endeavour to regularly provide Public Procurement ‘Guidance Publications’ published by relevant competent authorities and institutions.

The following Publications are the first set being made available:

- Identifying Conflicts of Interests in Public Procurement Procedures for Structural Actions: A Practical Guide for Managers
- Guidance on Innovation Procurement
- Dynamic Purchasing Systems: Use Guidelines
- Strategic Public Procurement
- Public Procurement Guidance for Practitioners³
- Guidelines for Fighting Bid Rigging in Public Procurement
- Beneficial Ownership of Legal Persons
- Public Procurement for a Circular Economy: Good Practice and Guidance
- Tools to fight collusion in Public Procurement and on Guidance on applying the related Exclusion Ground
- Buying Green: A Handbook on Green Public Procurement⁴

It is expected that the Contracting Authorities / Entities⁵ familiarise themselves with the said Public Procurement Guidance Publications. Thereafter, as and where applicable, depending on the exigencies of the Procurement / Concession Procedure as well as any related ancillary tasks and processes, apply the said guidelines in tandem with adherence to the relevant Procurement Regulations forming part of the umbrella of the Subsidiary Legislations under Chapter 601.

² Guidance Notes are published by the Department of Contracts in line with Contracts Circular N° 12/2019 and other subsequent Circulars published from time to time.

³ The Guidance for Practitioners on the avoidance of the Most Common Errors in Projects Funded by the European Structural and Investment Fund currently on ePPS is the 2015 and 2018 Versions.

⁴ The handbook on GPP currently on ePPS is the Third Edition.

⁵ Contracting Entities in S.L. 601.05 [Public Procurement of Entities operating in the Water, Energy, Transport and Postal Services Sectors Regulations] are entities which: (a) are contracting authorities or public undertakings and which pursue one of the activities referred to in Regulations 8 to 14; (b) when they are not contracting authorities or public undertakings, have as one of their activities any of the activities referred to in Regulations 7 to 13, or any combination thereof and operate on the basis of special or exclusive rights granted by a competent authority.

All Contracting Authorities / Entities are being notified that active ePPS account holders, when logged-in, may access the 'Public Procurement Guidance Documentation' (which incorporates the 'Guidance Publications' and the 'Guidance Notes') grouped in a zipped folder titled 'Standard Templates for CfTs (CAs)', through the 'Resources' section of Government's e-Procurement platform (Electronic Public Procurement System – ePPS).

Contact

Contracting Authorities may submit any queries to the Department of Contracts' Customer Care Service on info.contracts@gov.mt or +356 2378 1001.

Anthony Cachia

Director General (Contracts)