

Department of Contracts
Notre Dame Ravelin
FLORIANA

To Permanent Secretaries
Directors General
Directors
Heads of Public Sector Organisations

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AWARD OF SERVICE CONTRACTS AND PEGGED RATES: 2024

Reference is being made to Contracts Circulars N° 27/2014, 04/2015, 20/2016, 01/2017, 07/2017, 08/2017, 20/2017, 20/2018, 17/2019, 20/2020, 21/2021, 04/2023 and 05/2023 published with the intent to establish the ‘Minimum Hourly Rates Payable to Contractor’ in relation to a set of specific services, with the scope of mitigating precarious work conditions, especially when such services are rendered to the Contracting Authorities¹ / Entities².

Nonetheless, it is important to clarify that the Concept of Pegged Rates stems from one of the European Union’s ideologies as depicted in Article 157 of the Treaty on the Functioning of the European Union (TFEU), which relates to the ‘*principle of equal pay for male and female workers for equal work or work of equal value*’. In addition, the purpose of Directive 2006/54/EC³ is to ensure the implementation of the principle of equal opportunities and equal treatment. In fact, Article 1(b) of Directive 2006/54/EC specifies that it ‘*contains provisions to implement the principle of equal treatment in relation to: working conditions, including pay*⁴’.

The concept of ‘Equal Pay for Equal Work or Work of Equal Value’⁵ is also in Malta’s legislation. In fact, Article 27 of the Employment & Industrial Relations Act of 2002

¹ Contracting Authorities in S.L. 601.03 and S.L. 601.05 are the State, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies governed by public law.

² Contracting Entities in S.L. 601.05 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.

³ Directive 2006/54/EC of the European Parliament and of The Council of 05 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast).

⁴ Article 2 of Directive 2006/54/EC defines pay as ‘the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his / her employment from his / her employer’.

⁵ Article 14 (Chapter 2, Declaration of Principles) of the Constitution of Malta relates to Equal rights of men and women. In fact, it specifies that ‘The State shall promote the equal right of men and women to enjoy all economic, social, cultural, civil and political rights and for this purpose shall take appropriate measures to eliminate all forms of discrimination between the sexes by any person, organisation or enterprise; the State shall in particular aim at ensuring that women workers enjoy equal rights and the same wages for the same work as men.’

(Chapter 452, Part IV) states that *‘Employees in the same class of employment are entitled to the same rate of remuneration for work of equal value: Provided that an employer and a worker or a union of workers as a result of negotiations for a collective agreement, may agree on different salary scales, annual increments and other conditions of employment that are different for those workers who are employed at different times, where such salary scales have a maximum that is achieved within a specified period of time; and provided further that any distinction between classes of employment based on discriminatory treatment otherwise than in accordance with the provisions of this Act or any other law shall be null and of no effect’.*

To this end, this Contracts Circular shall not only refer to Service Contracts deemed as precarious, but it shall also incorporate contracts related to services which tend to be associated with pay discrimination⁶, both from a gender perspective as well as from a generic holistic perspective, including economic and social rights.

Minimum Hourly Rates Payable to Contractor

The new ‘Minimum Hourly Rates Payable to Contractor’ for year 2024 which are based on the rates agreed upon in the Public Service Collective Agreement 2017-2024 as well as on any relevant arrangements announced by the Government of Malta, are enclosed as per Annex I to this Circular. Such rates are applicable and payable to all new Service Contracts entered between Public Service Contracting Authorities / Entities and Contractors, as of 01 January 2024.

Further to the above, it is important to note that the 2024 rates are subject to change throughout Year 2024 in accordance with amendments in the Public Service Salary Scales or associated increments. Accordingly, Contracting Authorities / Entities are instructed to apply the ‘Minimum Hourly Rates Payable to Contractor’, in line with Annex I, however, all relevant documentation (including the Procurement Document, particularly the Special Conditions and the Pegged Rates Financial Bid Form) shall include a proviso specifying that the said Rates are subject to be amended in line with the Cost-of-Living Adjustment (COLA) Entailment of the Budget and / or amendments in the Public Service Salary Scales and / or any associated Government Increments.

⁶ Article 4 (Prohibition of Discrimination) of Directive 2006/54/EC states that *‘For the same work or for work to which equal value is attributed, direct and indirect discrimination on grounds of sex with regard to all aspects and conditions of remuneration shall be eliminated. In particular, where a job classification system is used for determining pay, it shall be based on the same criteria for both men and women and so drawn up as to exclude any discrimination on grounds of sex’.*

It is being emphasised that the awardee of a Public Contract in relation to specific services shall not be less than the rate indicated in the **‘Mon – Sat Total Rate payable to Contractor’** and the **‘Sunday Total Rate payable to Contractor’** columns, as outlined in Annex I. In addition, the Contractor’s employees shall not be paid less than the stipulated **‘Mon – Sat Basic Rate’** and **‘Sunday Basic Rate’** in line with the same Annex.

Furthermore, in order to ensure that all applicable remuneration (over and above the Basic Rate) due to the employees namely, overtime and Public Holidays as well as other arrangements are paid as per the provisions that arise from the Employment and Industrial Relations Act (CAP 452), its Subsidiary Legislations, relevant Wage Regulation Orders and any other subsequent Legal Notices that might come into effect after the date of the publication of this Circular, Contracting Authorities / Entities are encouraged to direct any queries raised by Contractors or their employees to the Department for Industrial and Employment Relations (DIER).

Minimum Hourly Rates: Weekday and Sunday Rates

Contracting Authorities / Entities are reminded that Contractors shall not be paid less than the **‘Mon – Sat Total Rate payable to Contractor’** in instances wherein one’s employees render their services only from Monday to Saturday. Accordingly, in such circumstances, the Contractor’s employees shall not be paid less than the **‘Mon – Sat Basic Rate’**.

On the other hand, any hours worked on Sundays shall not be remunerated less than the relevant **‘Sunday Rate’** as outlined in Annex I. For avoidance of doubt, it is being clarified that a Contractor shall not be paid less than the **‘Sunday Total Rate payable to Contractor’** in instances wherein one’s employees are engaged to render a service on a Sunday. Accordingly, in such circumstances, the Contractor’s employees shall not be paid less than the **‘Sunday Basic Rate’**.

It is to be noted that the rates indicated in Annex I are to be complied with by all relevant parties, unless more favourable rates are in place. Such rates are to be used as a basis for the computation of the Estimated Procurement Value.

Service Contracts: Different Nomenclature to the Contracts Circular

The Circular specifies the **‘Minimum Hourly Rates Payable to Contractor’** in relation to a Set of Specific Services as listed in Annex 1 of this Circular.

In the eventuality that Contracting Authorities / Entities would like to utilise a nomenclature which is different to the Services in Annex I, they shall liaise with the DIER.

In such circumstances, Contracting Authorities / Entities shall indicate in writing the nomenclature they are proposing, including the Duties and Tasks of the Service Operators in question; upon presentation of such information, DIER shall approve (or otherwise) the nomenclature and provide all applicable 'Minimum Hourly Rates'.

Contracting Authorities / Entities shall keep a copy of any written communication with the DIER for auditing purposes as well as for review by the Department of Contracts, as and when requested.

Applicability of the Minimum Hourly Rates

The Collective Agreement 2017-2024 relates to the Public Service⁷ of Malta employees. Therefore, the relevant 'Total Rate Payable to Contractor' applies to any Contractor awarded a Public Contract by a Contracting Authority / Entity forming part of the Public Service. Accordingly, such rates shall not necessarily apply to the Public Sector⁸ Contracting Authorities / Entities since the latter may be bound to other specific Collective Agreements.

In addition, it is to be noted that the contents of this Circular are also being extended to the Public Private Partnerships (Elderly Care) and Homes for the Elderly Renting out Beds to the Government of Malta.

Specific Collective Agreements applicable to particular Contracting Authorities / Entities

Further to the above, in the circumstance where a specific service requested by a Contracting Authority / Entity is not regulated by the Collective Agreement 2017-2024 for the Public Service of Malta Employees, Contracting Authorities / Entities shall make a note to this effect in the Procurement Document (including in the Pegged Rates Financial Bid Form). Consequently, prior to the publication of a Procurement Call, Contracting Authorities / Entities are bound to adjust the said Financial Bid Form to reflect the applicable rates.

⁷ Public Service consists of Ministries and Departments of Government, thus, the core and integral components of the Government of Malta's administrative machinery – Public Service Official Website.

⁸ Public Sector refers to all Government Organisations and their Employees, as distinct from the private sector. Entities in the wider Public Sector, namely Statutory Authorities and Agencies, Government Foundations, and companies with a Government majority shareholding, although belonging to the Government, they are not part of Government – Public Service Official Website.

Accordingly, the relevant 'Total Rate Payable to Contractor' and the applicable 'Basic Rate' for the Contractors' employees shall be in accordance with the rates published in the respective Collective Agreement of that particular Contracting Authority / Entity. In absence of a Collective Agreement, the concerned Contracting Authority / Entity shall contact the DIER for any relevant guidance.

In any such circumstance, Contracting Authorities / Entities shall liaise with the DIER to attain in writing all necessary assistance in relation to applicable Nomenclatures and Minimum Hourly Rates. A copy of any communication with DIER shall be retained in file for auditing purposes as well as for presentation to the Department of Contracts, as and when requested.

Public Contracts at different Stages of the Procurement Procedure: Modus Operandi
Services Procurement Procedures published after the Date of this Circular shall invariably adhere to the relevant 'Total Rate Payable to Contractor', as established in Annex I of this Contacts Circular. Thus, prior Publication, the Procurement Document, specifically the Financial Bid Form shall include the new rates for 2024.

With regard to Public Contracts which have already been awarded and shall be / continue to be implemented in 2024, Contracting Authorities / Entities shall prepare an Addendum and adhere to the pertinent Modus Operandi in line with the relevant scenarios depicted below. Contracting Authorities / Entities are reminded that the new rates are also applicable to any extension periods of already Awarded Contracts.

An Addendum shall also apply to any Procurement Procedures at the Publication and Evaluation Stages as well as Contracts not yet signed by both parties, as long as the Contract Agreement shall primarily be drawn up using the procurement conditions and specifications as published.

For avoidance of doubt, it is being specified that the above-mentioned Addendum Request is required for the 'Mon-Sat Total Rate Payable to Contractor' and 'Sunday Total Rate Payable to Contractor'.

Modifications and Addendum: Further to an Approved Modification Request sought through the applicable channels, an addendum reflecting the new rates as detailed in the 'Mon-Sat Total Rate Payable to Contractor' and in the 'Sunday Total Rate Payable to Contractor, covering 2024 shall be drawn up. Therefore, irrespective of the bidding rate

and awarded rate to any given Contractor, the difference between the 2024 and the 2023 relevant 'Total Rate Payable to Contractor' shall be paid as a modification to the Contractor.

In addition to any customary documentation to be presented to the relevant Competent Authority, the Request for an Approval of a Modification in relation to the aforementioned services shall specify the Estimated increase in the new Total Awarded Contract Value.

In view that throughout Year 2024 Rates in Annex I are susceptible to change in accordance with the COLA Entailment of the Budget and / or amendments in the Public Service Salary Scales and / or any Associated Government Increments, the above Modus Operandi shall also be applied in such scenarios.

Backdated Modifications: All Contracting Authorities / Entities paying backdated modifications to Contractors shall inform the DIER to be provided with any applicable guidance.

Modus Operandi: Procurement Procedure Published but not yet Awarded

Procurement Procedures published before the Date of this Circular and are not yet awarded, including procurement at the Publication and Evaluation Stage as well as Contracts not yet signed by both parties, the contract shall be drawn up using the procurement conditions and specifications as published. However, Contracting Authorities / Entities shall request and issue an Addendum to the Contract reflecting the new relevant 'Total Rate Payable to Contractor' Rates.

Modus Operandi: Contracts in Implementation Stage – Awarded after 01 January 2015

Contracts in relation to the aforementioned services which are at present in the Implementation Stage and which contracts were pegged to the rates stipulated through Contracts Circulars N° 27/2014, 04/2015, 20/2016, 01/2017, 07/2017, 08/2017, 20/2017, 20/2018, 17/2019, 20/2020, 21/2021, 04/2023 and 05/2023 necessitate an Addendum to the Contract reflecting the new relevant 'Total Rate Payable to Contractor' Rates. Thus, Contracting Authorities / Entities shall request and issue the said Addendum accordingly.

Duration of Public Contracts

In line with Contracts Circular N° 06/2016 (dated 28 April 2016) Contracting Authorities / Entities are reminded that any awarded Public Contract in relation to the Provision of Pegged Rate Services shall not be for a period of less than one (1) year.

Transfer of Business

Contractors being awarded a Public Contract are bound to the Transfer of Business (Protection of Employment) Regulations S.L. 452.85. Accordingly, it is the responsibility of any Economic Operator submitting a bid for a Public Contract in relation to the aforementioned services to ascertain that the offer submitted is in conformity to the conditions stipulated in the Employment and Industrial Relations Act (CAP.452).

Further to the above, if the current Contractor is being paid a rate which is higher than the established relevant 'Total Rate Payable to Contractor', Contracting Authorities / Entities are bound to adjust the Pegged Rates Financial Bid Form prior to the publication of a Procurement Call. Therefore, the said form shall reflect the higher rates.

Contact

Contracting Authorities / Entities may submit any queries in relation to the generic content of this Circular to the Department of Contracts' Customer Care service on info.contracts@gov.mt or by calling on +356 2378 1001.

However, regarding specific queries vis-a-vis the relevant 'Basic Rates' payable to the Contractor's Employees all interested parties (including Contracting Authorities / Entities and Contractors) are to contact the DIER on info.dier@gov.mt or +356 21224245/6.

Adrian Dalli

Director General (Contracts)

Annex I

The following tables are the Minimum Hourly Rates Payable to Contrators (excl. VAT) for Year 2024
It is important to note that the rates are subject to be amended in line with the COLA entailment of the Budget and/or amendments in the Public Service Salary Scales and/or any Associated Government Increments.

2024 Minimum Hourly Rates Payable to Contractors (excl VAT)											
Government Salary Scale											
		Mon-Sat Basic Rate	Sunday Basic Rate	Vacation Leave	Bonus/Weekly Allowance	Public Holidays	National Insurance	Sick Leave	Maternity Leave Fund	Mon-Sat Total Rate Payable to Contractor	Sunday Total Rate Payable to Contractor
Cleaners (Offices)	20	€ 5.67	€ 11.34	€ 0.90	€ 0.25	€ 0.45	€ 0.57	€ 0.20	€ 0.03	€ 8.07	€ 13.74
Street Sweepers	20	€ 5.67	€ 11.34	€ 0.90	€ 0.25	€ 0.45	€ 0.57	€ 0.20	€ 0.03	€ 8.07	€ 13.74
Waste Collectors	20	€ 5.67	€ 11.34	€ 0.90	€ 0.25	€ 0.45	€ 0.57	€ 0.20	€ 0.03	€ 8.07	€ 13.74
Health Attendants (Public Convenience)	20	€ 5.67	€ 11.34	€ 0.90	€ 0.25	€ 0.45	€ 0.57	€ 0.20	€ 0.03	€ 8.07	€ 13.74
Cleaners (Hospitals and Elderly Homes)	18	€ 6.65	€ 13.30	€ 1.05	€ 0.25	€ 0.53	€ 0.67	€ 0.23	€ 0.03	€ 9.41	€ 16.06
Assistant Clerical Workers	18	€ 6.65	€ 13.30	€ 1.05	€ 0.25	€ 0.53	€ 0.67	€ 0.23	€ 0.03	€ 9.41	€ 16.06
Home Helpers	18	€ 6.65	€ 13.30	€ 1.05	€ 0.25	€ 0.53	€ 0.67	€ 0.23	€ 0.03	€ 9.41	€ 16.06
Care Workers	17	€ 7.20	€ 14.40	€ 1.14	€ 0.25	€ 0.57	€ 0.72	€ 0.25	€ 0.04	€ 10.17	€ 17.37
Clerical Workers	16	€ 7.76	€ 15.52	€ 1.23	€ 0.25	€ 0.62	€ 0.78	€ 0.27	€ 0.04	€ 10.95	€ 18.71
Receptionists	16	€ 7.76	€ 15.52	€ 1.23	€ 0.25	€ 0.62	€ 0.78	€ 0.27	€ 0.04	€ 10.95	€ 18.71
Security Guards	16	€ 7.76	€ 15.52	€ 1.23	€ 0.25	€ 0.62	€ 0.78	€ 0.27	€ 0.04	€ 10.95	€ 18.71
Tradesman	16	€ 7.76	€ 15.52	€ 1.23	€ 0.25	€ 0.62	€ 0.78	€ 0.27	€ 0.04	€ 10.95	€ 18.71
Customer Care Support Officers	15	€ 8.31	€ 16.62	€ 1.31	€ 0.25	€ 0.66	€ 0.84	€ 0.29	€ 0.04	€ 11.70	€ 20.01
Nursing Aide	15	€ 8.31	€ 16.62	€ 1.31	€ 0.25	€ 0.66	€ 0.84	€ 0.29	€ 0.04	€ 11.70	€ 20.01
Senior Clerks	14	€ 8.92	€ 17.84	€ 1.41	€ 0.25	€ 0.71	€ 0.90	€ 0.31	€ 0.04	€ 12.54	€ 21.46
Senior Tradesman	14	€ 8.92	€ 17.84	€ 1.41	€ 0.25	€ 0.71	€ 0.90	€ 0.31	€ 0.04	€ 12.54	€ 21.46
Staff Nurse (with Diploma)	12	€ 10.21	€ 20.42	€ 1.61	€ 0.25	€ 0.81	€ 1.03	€ 0.35	€ 0.05	€ 14.31	€ 24.52
Staff Nurse (with Degree)	10	€ 11.58	€ 23.16	€ 1.83	€ 0.25	€ 0.92	€ 1.16	€ 0.40	€ 0.06	€ 16.20	€ 27.78

Contracting Authorities/Entities are to take note that the 'Mon-Sat Total Rate Payable to Contractor' and the 'Sunday Total Rate payable to Contractor' may be revised if the Government of Malta amends the applicable legislation such as the annual vacation leave entitlement and other entitlement as per the respective annual budget.

In addition, rates are subject to be amended in line with the COLA entailment of the Budget and/or amendments in the Public Service Salary Scales and/or any Associated Government Increments.

It is to be noted that the 'Mon-Sat Total Rate Payable to Contractor' is not inclusive of the 'Sunday Total Rate payable to Contractor' rate. Any hours worked on Sundays shall not be remunerated at a rate less than the rates identified in the column titled 'Sunday Total Rate payable to Contractor'. Accordingly, in such circumstances, the Contractor's employees shall not be paid less than the rates indicted in the column titled 'Sunday Basic Rate'. Likewise, any hours worked between Monday and Saturday shall not be remunerated at a rate less than the rates identified in the column titled 'Mon – Sat Total Rate payable to Contractor'. In such instances, the Contractor's employees shall not be paid less than the rates indicted in the column titled 'Mon – Sat Basic Rate'.

It is to be noted that all Service Contracts falling under Salary Scales 19 and 20 (regardless of the nomenclature used) already include a COLA entitlement of €0.04 and €0.07 respectively.

Contractors are to note that their employees are to receive the Government Weekly Allowances and Government Bonuses in their appropriate month.