

Department of Contracts  
Notre Dame Ravelin  
FLORIANA

To Permanent Secretaries  
Directors General  
Directors  
Heads of Public Sector Organisations

26 January 2024

## **OFFICIAL FINANCIAL THRESHOLDS RELATING TO PUBLIC PROCUREMENT, UTILITIES PROCUREMENT AND CONCESSION CONTRACTS EU DIRECTIVES**

The European Union establishes Minimum Standardised Rules for Procurement, the Monetary Estimated Value of which exceeds a certain Threshold<sup>1</sup>. Article 9 of Directive 2014/23/EU<sup>2</sup>, Article 6 of Directive 2014/24/EU<sup>3</sup> and Article 17 of Directive 2014/25/EU<sup>4</sup> empower the European Commission to adopt Delegated Acts, in accordance with Article 290 of the TFEU<sup>5</sup>, with respect to the Revision of the said Thresholds.

To this end, Article 8 of Directive 2014/23/EU, Article 4 of Directive 2014/24/EU and Article 15 of Directive 2014/25/EU have been amended so that the thresholds correspond to the thresholds established in the amended Agreement on Government Procurement<sup>6</sup>.

The calculation of the Thresholds of the Public / Utilities<sup>7</sup> Procurement and Concession Directives is based on the average daily value of the Euro in terms of the Special Drawing Rights, over a period of 24 months, terminating on 31 August preceding the revision<sup>8</sup>, with effect from 01 January. The said calculation, and thus the revision of thresholds, is carried out every two (2) years in accordance with the terms of the

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<sup>1</sup> The harmonised rules for procurement is presumed to be of cross-border interest. The EU rules ensure that the award of contracts of above EU threshold procurement must be fair, equitable, transparent and non-discriminatory. On the other hand, procurement which is below the EU threshold shall adhere to national rules, which nevertheless have to respect general principles of EU Legislation.

<sup>2</sup> Directive 2014/23/EU: Award of Concession Contracts.

<sup>3</sup> Directive 2014/24/EU: Public Procurement.

<sup>4</sup> Directive 2014/25/EU: Procurement by Entities Operating in the Water, Energy, Transport and Postal Services Sectors.

<sup>5</sup> TFEU - Treaty on the Functioning of the European Union.

<sup>6</sup> The amended Agreement on Government Procurement is a plurilateral instrument and its purpose is to mutually open Government Procurement markets among its parties.

<sup>7</sup> Utilities Procurement refers to Directive 2014/25/EU: Procurement by Entities Operating in the Water, Energy, Transport and Postal Services Sectors.

<sup>8</sup> The Calculation of the Thresholds cannot start earlier than 1<sup>st</sup> September due to Data Availability.

World Trade Organisation Agreement on Government Procurement (GPA)<sup>9</sup>. Therefore, the thresholds for the Years 2024 – 2025 shall apply as of 01 January 2024.

The said calculation is a mathematical technical exercise wherein the purpose of the adjustments is to correct any currency movements between the signatories which would affect the extent of their procurement markets which are open to competition from companies in other signatory countries.

The revised Thresholds in Euro and their corresponding values in other European Union Member States' national currencies have been published by the European Commission in the Official Journal of the European Union (OJEU).

### **Public / Utilities Procurement and Concession Contracts: EU Thresholds**

Further to the above, at Annex 1 [Sheet A], attached to this Contracts Circular, the Department of Contracts has prepared a table that portrays the new '*EU Financial Thresholds*', applicable to local Public Contracts, as of 01 January 2024.

Contracting Authorities<sup>10</sup> / Entities<sup>11</sup> are reminded that when the Estimated Procurement Value meets or exceeds the said thresholds a Contract Notice (through the new eForms Schema) must be published in the Official Journal of the European Union.

For ease of reference and perusal, at Annex I [Sheet B] the '*Local Financial Thresholds*' (specifying which authority is responsible for the procurement / concession process, thus, the publication of the relevant Procurement / Concession Call) applicable to local Public Contracts, as of 01 January 2024 is also displayed.

### **Public / Utilities Procurement and Concession Contracts: Local Thresholds**

In accordance with Regulation 9(3) of S.L. 601.03, Regulation 30(2) of S.L. 601.05 and Regulation 57 of S.L. 601.09, the Minister responsible for Finance shall revise the

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<sup>9</sup> The GPA has a mechanism for recalculating the equivalent value of its thresholds, which are fixed in SDRs, in the currencies of its parties every two years.

<sup>10</sup> Contracting Authorities in S.L. 601.03 and in S.L. 601.05 are defined as 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'. Contracting Authorities in S.L. 601.09 are defined as per S.L. 601.03 with the additional inclusion of ... 'other than those authorities, bodies or associations which pursue one of the activities referred to in Schedule 4 and award a concession for the pursuit of one of those activities'.

<sup>11</sup> 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. Schedule 4 of S.L. 601.09 also makes reference to the activities exercised by Contracting Entities.

applicable thresholds, which shall be equal to, and categorised in the same manner, as the thresholds established pursuant to the relevant European Union Directives. Accordingly, through the publication of a Legal Notice, the corresponding thresholds shall be reflected in the Public Procurement Regulations S.L. 601.03<sup>12</sup>, Utilities<sup>13</sup> Procurement Regulations S.L. 601.05<sup>14</sup> and Concession Contracts Regulations S.L. 601.09<sup>15</sup>.

Furthermore, any other applicable Local Threshold shall also be revised as necessary. To this effect, a Departmental Procurement<sup>16</sup> shall be deemed to be procurement in line with the below Estimated Procurement Values.

- Public Procurement Regulations S.L. 601.03: Less than €143,000 excl. VAT.
- Utilities Procurement Regulations S.L. 601.05: Less than €443,000 excl. VAT.

#### Department of Contracts: Publication of Procurement Calls

As of 01 January 2024, the *Operations Directorate* at the Department of Contracts shall publish and administer procurement on behalf of the Contracting Authorities / Entities, in line with the details and Estimated Procurement Values as specified in the Table below.

<b>Contracting Authority / Entity Classification</b>	<b>Estimated Procurement Value Threshold excl. VAT</b>
Contracting Authorities classified under Schedule 2 of S.L. 601.03	Equal to or Exceeding €143,000
Contracting Authorities classified under Schedule 16 of S.L. 601.03	Exceeding €750,000
Contracting Authorities classified under Schedule 16 of S.L. 601.03 ( <i>specifically for Procurement Procedures which are <u>not</u> the Open or Restricted</i> )	Equal to or Exceeding €143,000
Contracting Entities pursuing activities in line with S.L. 601.05	Equal to or Exceeding €443,000

As of 01 January 2024, the *Sectoral Procurement Directorate* forming part of the Department of Contracts shall publish and administer procurement on behalf of the Contracting Authorities / Entities, in line with the details and Estimated Procurement Values as specified in the Table overleaf.

<sup>12</sup> Schedule 5: Values of Thresholds pursuant to Regulation 9 of S.L. 601.03.

<sup>13</sup> Utilities Procurement: Public Procurement of Entities operating in the Water, Energy, Transport and Postal Services Sectors.

<sup>14</sup> Schedule 5: Values of Thresholds pursuant to Regulation 30 of S.L. 601.05.

<sup>15</sup> Schedule 3: Values of thresholds pursuant to Regulation 57 of S.L. 601.09.

<sup>16</sup> Departmental Tender is defined as tenders published by Contracting Authorities/Entities with an Estimated Value which is less than the threshold established under Regulation 9(1)(a) of S.L. 601.03/Regulation 30(1)(a) of S.L. 601.05.

<b>Contracting Authority Classification</b>	<b>Estimated Procurement Value Threshold excl. VAT</b>
Contracting Authorities classified under Schedule 16 of S.L. 601.03 ( <i>specifically for Procurement Procedures which <u>are</u> the Open or Restricted</i> )	Exceeding €10,000 but not exceeding €750,000

### e-Procurement Templates

Contracting Authorities / Entities shall utilise the ‘Above Threshold’ e-Procurement Template when drafting and compiling the Procurement Document whenever the Estimated Procurement Value of the Services / Supplies / Works Equals or Exceeds the Thresholds displayed in the Table below.

	<b>Authority responsible for publishing Procurement Calls</b>	<b>Estimated Procurement Value Threshold excl. VAT</b>
S.L. 601.03	Department of Contracts ( <i>Operations Directorate and the Sectoral Procurement Directorate</i> )	€143,000
	Schedule 3 Contracting Authorities (excluding Local Councils)	€143,000
	Sub-Central Contracting Authorities (i.e. Local Councils)	€221,000
S.L. 601.05	Department of Contracts ( <i>Operations Directorate</i> )	€443,000
	Specific Contracting Authorities / Entities [as specified in Regulation 30(1)(b)]	€443,000

In line with the above, the relevant Authority responsible for publishing Procurement Calls shall distinguish between ‘Below’ and ‘Above’ Local and EU Threshold Procurement, thus, administering the Procurement Process according to the applicable Regulations, Policies and Modus Operandi.

### **Contact**

Contracting Authorities / Entities may submit any queries to the Department of Contracts’ Customer Care service on [info.contracts@gov.mt](mailto:info.contracts@gov.mt) or by calling on +356 2378 1001.

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