

Department of Contracts
Notre Dame Ravelin
FLORIANA

To Permanent Secretaries
Directors General
Directors
Heads of Public Sector Organisations

22 January 2025

ANNUAL PROCUREMENT PLAN REPORT

Planning is fundamental to achieve better coordination, distribution of resources and operational efficiency.

The Department of Contracts, through the Operations Directorate and the Sectoral Procurement Directorate, carries out Public Procurement Procedures on behalf of Contracting Authorities / Entities. To this end, the Department requires that Contracting Authorities / Entities carry out an annual exercise to establish the Procurement / Concession¹ Procedures that shall be published and / or channelled through the Department of Contracts for each given year. Further to Contracts Circulars N° 13/2022 and N° 17/2022, such an exercise shall be documented in a structured Annual Procurement Plan (APP) Report.

To facilitate the compilation of the said Report, the Department of Contracts has digitised and accordingly integrated the said report on Government's e-Procurement Platform (Electronic Public Procurement System: ePPS). The online submission of the APP Report, through the ePPS, is compulsory.

Applicability of the Annual Procurement Plan Report

Contracting Authorities / Entities planning on pursuing a Procurement / Concession Procedure explicitly wherein the (i) Legislation² shall be S.L. 601.03 or S.L. 601.05 or S.L. 601.09 or S.L. 601.12 and the (ii) Estimated Value (including Potential Costs) equals or exceeds a

¹ The Department of Contracts doesn't publish or administer a Concession Call Award obo Contracting Authorities / Entities. However, in view of the complexity of Concession Calls, the Director of Contracts evaluates and approves requests in relation to Regulation 16(1)(b) of S.L. 601.09 with the reservation that the said Director may impose any conditions deemed fit.

² Procurement Calls ensued in line with Regulations 9(2) and 9(1)(a) of S.L. 601.03, Regulations 30(1)(a) and 30(1)(b)-[Specific Contracting Entities only]-of S.L. 601.05, Regulation 6(1)(a) of S.L. 601.12 and S.L.601.08 are not to be included in the APP.

specific threshold and such (iii) Procurement / Concession Calls shall be published / channelled through the Department of Contracts, are obliged to mandatorily compile the Annual Procurement Plan Report.

Therefore, for avoidance of doubt, it is being clarified that pursuant to Regulation 9(2) of the Public Procurement Regulations S.L. 601.03, Contracting Authorities / Entities categorised under Schedule 3 are not expected to include Procurement Calls ensued in line with S.L. 601.03 as part of the Annual Procurement Plan Report. In addition, in view that pursuant to Regulation 30(1)(b) of the Utilities³ Procurement Regulations S.L. 601.05, Public Contracts required by specific⁴ Contracting Entities shall publish, administer and determine such Procurement Calls on their own without the involvement of the Director of Contracts, Procurement Calls ensued in line with S.L. 601.05 are not expected to be part of the Annual Procurement Plan Report.

Online Annual Procurement Plan Report: Compilation and Submission

The Annual Procurement Plan Report shall be submitted electronically to the Department of Contracts through the ePPS. The Compliance and Monitoring Unit within the said Department shall oversee all tasks related to the APP.

Annual Procurement Plan Report: Nil Replies

It is pertinent to note that if no Procurement / Concession Calls are envisaged to take place in any given period by Contracting Authorities / Entities, the APP module on ePPS shall not be compiled. Instead, in such instances, Contracting Authorities / Entities shall communicate a NIL Report to the Compliance and Monitoring Unit on compliance.contracts@gov.mt.

Additional Information

To assist Contracting Authorities / Entities, at Annex I, the Department of Contracts has published an Outline of the Annual Procurement Plan Report, specifying the Legal Background, Scope, Applicability and Content. In addition, there is also additional information related to the Online Compilation and Submission of the APP.

³ Utilities Procurement refers to Contracting Entities operating under the Public Procurement of Entities operating in the Water, Energy, Transport and Postal Services Sectors Regulations S.L. 601.05.

⁴ Pursuant to Regulation 30(1)(b) of the Utilities Procurement Regulations S.L. 601.05, 'public contracts required by Enemalta plc or by the Water Services Corporation shall be issued, administered and determined by it on their own without the involvement of the Director'. Hence, such CEs are not expected to include Procurement Calls ensued in line with Regulation 30(1)(b) of S.L. 601.05 in the APP Report, in view that the Procurement Calls shall not be channelled by the Department of Contracts.

Furthermore, the e-Procurement Unit within the Department of Contracts prepared a self-explanatory 'Annual Procurement Plan Guide' detailing the operational function of the digitised APP Report. The Guide was uploaded in the FAQ Section of the ePPS on 11 December 2023. Contracting Authorities / Entities are reminded that they may access, view and / or download documents from the FAQ Section through active log-in ePPS Accounts.

In case of difficulties, Contracting Authorities / Entities may contact the Compliance and Monitoring Unit on compliance.contracts@gov.mt and / or the e-Procurement Unit on etenders@gov.mt or epps.ca@gov.mt or by calling on +356 2378 1542.

Contact

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

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Annex I

OUTLINE: ANNUAL PROCUREMENT PLAN REPORT

Planning is fundamental in the managerial function of an institution, organisation and any other such business establishments because accurate planning achieves better coordination and increases operational efficiency.

Legal Background

Regulations 12(1)(e) and 12(3) of the Public Procurement Regulations S.L. 601.03¹ state that: *‘Unless otherwise provided for in these regulations, it shall be the duty of the Director [of Contracts] ... to provide support to contracting authorities with regard to planning and carrying out procurement procedures’.*

‘In order to ensure compliance with these regulations, the Director [of Contracts] may issue administrative orders establishing how procurement procedures, or public contracts, are to be issued, administered, determined and implemented, as the case may be. Inter alia such administrative orders may include instructions to the Sectoral Procurement Directorate and the obligation on contracting authorities to submit annual procurement plans’.

To this end, as part of the Professionalisation of Public Procurement, Contracting Authorities² / Entities³ should carry out a Needs Analysis to identify the Procurement / Concession Procedures that shall be undertaken in each given year. Thereafter, further to Contracts Circulars N° 13/2022⁴ and N° 17/2022⁵, such an exercise shall be documented in a structured Annual Procurement Plan (APP) Report. The submission of this Annual Procurement Plan Report is crucial to continue striving for High Quality Standards as well as to achieve a Service of Excellence approach in line with the Public Service Strategy.

¹ Regulation 33 of the Utilities Procurement Regulations S.L. 601.05 redirects to Regulation 12 of S.L. 601.03 since it states that ‘the provisions of regulations 10, 11, 12, 14 and 15 of the Public Procurement Regulations shall mutatis mutandis apply to these regulations’. Regulation 11(1)(i) of the Procurement of Property Regulations S.L. 601.12 states that ‘it shall be the duty of all contracting authorities to forward immediately to the Director any information which the latter may request’. Regulation 12(1)(g) of the Concession Contracts Regulations S.L. 601.09 states that ‘For the purposes of these regulations it shall be the function of the Director to identify and implement appropriate means to enable him to monitor the proper execution of contracts awarded under these regulations. Furthermore, Regulation 15 of S.L. 601.09 states that ‘The Director has the power to request from any contracting authority or entity any information and documentation he might deem necessary in the execution of his tasks’.

² Contracting Authorities in S.L. 601.03, S.L. 601.05 and in S.L. 601.12 is 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 is 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’.

³ 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.

⁴ Contracts Circular No 13/2022 (dated 02 September 2022): Procurement Plan Report.

⁵ Contracts Circular No 17/2022 (dated 07 October 2022): Procurement Plan Report.

Scope of the Annual Procurement Plan Report

Annual Procurement Planning portrays a holistic outline of all Procurement / Concession Procedures distributed across a year, pursuant to the exigencies of the Contracting Authorities / Entities.

Procurement / Concession Procedures that shall be published / channelled by the Department of Contracts (DoC) obo Contracting Authorities / Entities: The Department of Contracts, through the Operations Directorate and the Sectoral Procurement Directorate, carries out Public Procurement Procedures on behalf of Contracting Authorities / Entities. To this end, the Department requires that Contracting Authorities / Entities carry out an annual exercise to establish the Procurement / Concession⁶ Procedures that shall be published and / or channelled through the Department of Contracts. Such an approach shall allow better planning, coordination, and distribution of resources, the scope of which shall be efficient managerial and administrative decisions.

Public Contracts published by Contracting Authorities / Entities: In line with the relevant Subsidiary Legislations, whenever Contracting Authorities / Entities publish, administer and determine Procurement Procedures on their own⁶, without the involvement / channelling of the Department of Contracts, it is recommended that an Internal Annual Procurement Plan is carried out, thus displaying a structured summary for the internal management of resources.

Applicability of the Annual Procurement Plan Report

Contracting Authorities / Entities planning on pursuing a Procurement / Concession Procedure in line with the applicable Subsidiary Legislations, explicitly wherein the (i) Estimated Value⁷ (including Potential Costs) equals or exceeds a specific threshold, and (ii) Such Procurement / Concession Calls shall be published and / or channelled through the Department of Contracts, are obliged to mandatorily compile the Annual Procurement Plan Report.

⁶ The Department of Contracts does not publish or administer a Concession Call Award on behalf of Contracting Authorities / Entities. However, in view of the complexity of Concession Calls, the Director of Contracts evaluates and approves requests in relation to Regulation 16(1)(b) of S.L. 601.09 with the reservation that the said Director may impose any conditions deemed fit. Pursuant to Regulation 9(2) of S.L. 601.03, Schedule 3 Contracting Authorities (including Local Councils) publish and administer Public Contracts on their own, without the need to involve the Department of Contracts. Thus, for this exercise, Schedule 3 CAs are not expected to include the Procurement Calls ensued in line with S.L. 601.03 as part of the Annual Procurement Plan Report. Likewise, Procurement Calls ensued in line with Regulation 9(1)(a) of S.L. 601.03, Regulation 30(1)(a) of S.L. 601.05 and Regulation 6(1)(a) of S.L. 601.12 shall not form part of the APP in view that such Calls are published by the CAs / CEs themselves without any channelling from the Department of Contracts. Similarly, Procurement Calls ensued in line with the Emergency Procurement Regulations S.L.601.08 shall not be included in the APP. Pursuant to Regulation 30(1)(b) of S.L. 601.05, 'public contracts required by Enemalta plc or by the Water Services Corporation shall be issued, administered and determined by it on their own without the involvement of the Director'. Hence, such Procurement Calls are not to be in the APP.

⁷ The calculation of the estimated value of a procurement procedure shall be based on the total amount payable, net of VAT, as estimated by the contracting authority / entity, including any form of option and any renewals of the contracts as explicitly set out in the procurement documents.

The Annual Procurement Plan Report shall include all the Procurement / Concession Procedures⁸ planned to be ensued in line with the following regulations:

- Public Procurement Regulations S.L. 601.03⁹
- Public Procurement of Entities operating in the Water, Energy, Transport and Postal Services Sectors Regulations S.L. 601.05¹⁰
- Concession Contracts Regulations S.L. 601.09¹¹
- Procurement of Property Regulations S.L. 601.12¹²

In addition, if a procedure shall be making use of a Procurement Tool such as, but not limited to, a Framework Agreement / Contract or a Dynamic Purchasing System (including any envisaged Call-Offs / Mini-Competitions or Specific Contracts, as applicable), such shall also be included in this Annual Procurement Plan Report.

With specific reference to Procurement Calls wherein the Works, Services or Supplies to be procured are of a recurrent nature, it is imperative that Contracting Authorities / Entities plan well ahead the publication of such Procurement Calls, thus, ascertaining a smooth transition of the relevant operational processes. To this end, Contracting Authorities / Entities shall strive to plan the awarding of any recurrent Public Contracts before the expiration of current ongoing contracts.

Content of the Annual Procurement Plan Report

The Annual Procurement Plan Report shall incorporate only Procurement / Concession Calls wherein the Estimated Value (including Potential Costs) is in line with the following Thresholds¹³, as well as applicable to the appropriate classification of the Contracting Authorities / Entities.

⁸ The Public Procurement Procedures shall not only include the default Open Procedures.

⁹ Procurement Calls ensued in line with Regulation 9(1)(a) of S.L. 601.03 and Regulation 9(2) of S.L. 601.03 shall not form part of the APP Report in view that such Calls are published by the CAs / CEs themselves without any channelling from the DoC.

¹⁰ Procurement Calls ensued in line with Regulation 30(1)(a) and 30(1)(b)-[Specific Contracting Entities only]-of S.L. 601.05 shall not form part of the APP.

¹¹ DoC does not publish a Concession Call Award obo CAs / CEs. In view of the complexity of Concession Calls, DG Contracts approves requests in relation to Regulation 16(1)(b) of S.L. 601.09 with the reservation that one may impose any conditions deemed fit.

¹² Procurement Calls ensued in line with Regulation 6(1)(a) of S.L. 601.12 shall not form part of the APP.

¹³ In accordance with Regulation 9(3) S.L. 601.03 and Regulation 30(2) of S.L. 601.05, the Minister responsible for Finance shall, from time to time, revise the applicable thresholds, which shall be equal to, and categorised in the same manner, as the thresholds established pursuant to the relevant European Union Directives. Likewise, Regulation 57 of S.L. 601.09 and Regulation 6(2) of S.L. 601.12 state that 'the Minister shall, from time to time, by regulations determine the thresholds applicable under these regulations'.

Subsidiary Legislation	Contracting Authorities / Entities Classification & Thresholds
Public Procurement Regulations: S.L. 601.03	<ul style="list-style-type: none"> ● Schedule 2 Contracting Authorities: Total Estimated Procurement Value equals or exceeds the Threshold as specified in Regulation 9(1)(b). ● Schedule 16 Contracting Authorities: Total Estimated Procurement Value in line with Regulation 9(1)(b) and Regulation 9(1)(c). <p><i>Contracting Authorities / Entities categorised under Schedule 3 of S.L. 601.03 are not expected to include Procurement Calls ensued in line with S.L. 601.03 as part of the Annual Procurement Plan Report.</i></p>
Utilities Procurement Regulations ¹⁴ : S.L. 601.05	<ul style="list-style-type: none"> ● Contracting Entities¹⁵: Total Estimated Procurement Value equals or exceeds the Threshold as specified in Regulation 30(1)(b). <p><i>Contracting Authorities / Entities specified in Regulation 30(1)(b) of S.L. 601.05 are not expected to include Procurement Calls ensued in line with S.L. 601.05 as part of the Annual Procurement Plan Report.</i></p>
Concession Contracts Regulations: S.L. 601.09	<ul style="list-style-type: none"> ● Contracting Authorities/Entities classified under Schedule 1¹⁶ of S.L. 601.09.
Procurement of Property Regulations: S.L. 601.12	<ul style="list-style-type: none"> ● Contracting Authorities/Entities¹⁷: Total Estimated Procurement Value in line with Regulation 6(1)(b) of S.L. 601.12.

Pursuant to Regulation 9(3) S.L. 601.03, Regulation 30(2) of S.L. 601.05, Regulation 57 of S.L. 601.09 and Regulation 6(2) of S.L. 601.12, the Minister responsible for Finance shall, from time to time, revise the above local thresholds. Accordingly, the submission of the Annual Procurement Plan Report shall always reflect the applicable, latest thresholds.

¹⁴ Utilities Procurement refers to Contracting Entities operating under the Public Procurement of Entities operating in the Water, Energy, Transport and Postal Services Sectors Regulations S.L. 601.05.

¹⁵ Pursuant to Regulation 30(1)(b) of S.L. 601.05, Public Contracts required by the Contracting Entities specified in the said Regulation shall publish, administer and determine such Procurement Calls on their own without the involvement of the Director of Contract. Hence, such specific Contracting Authorities / Entities are not expected to include Procurement Calls ensued in line with Regulation 30(1)(b) S.L. 601.05 as part of the Annual Procurement Plan Report.

¹⁶ The APP Report shall include Procedures in relation to Concession Documents prepared by Contracting Authorities / Entities classified under Schedule 1 of S.L. 601.09. Pursuant to Regulation 16(3) of S.L. 601.09, 'Where a Contracting Authority or Contracting Entity is not listed under any schedule it shall have the same obligations of an authority listed under Schedule 1'.

¹⁷ The Schedule of S.L. 601.12 refers to Schedule 1 (List of Contracting Authorities) which is annexed to the Public Procurement Regulations SL 601.03. Pursuant to Regulation 14(2) of S.L. 601.12, a Body Governed by Public Law or a Contracting Authority, which is not listed under the Schedule, shall have the same obligations of an authority listed under the said Schedule.

Contracting Authorities / Entities are reminded that although APP Reports are being submitted to the Department of Contracts, the preparation and drafting of Procurement / Concessions Documents is the sole responsibility of Contracting Authorities / Entities.

Online Annual Procurement Plan Report: Compilation and Submission

The Annual Procurement Plan Report shall be submitted electronically to the Department of Contracts through the ePPS. In view that the APP Module is tied to the role of CAPC/A¹⁸ on ePPS, the Department of Contracts recommends that Contracting Authorities / Entities assign a specific officer/s to compile the APP Report.

Furthermore, in view that each relevant Contracting Authority / Entity shall be individually submitting the Annual Procurement Plan Report to the Department of Contracts, the direct involvement of Line Ministries¹⁹ is no longer required. However, the Department of Contracts would appreciate that Ministries encourage and motivate the Contracting Authorities / Entities under their remit to submit the APP and adhere to the stipulated deadlines.

The Compliance and Monitoring Unit within the Department of Contracts shall oversee all tasks related to the APP. Thus, it shall endeavour to follow-up with Contracting Authorities / Entities to ascertain that all set timeframes for the submission of the APP are strictly respected.

Brief Synopsis of the Functionality of the APP

The new module 'Annual Procurement Plan' (APP) on the ePPS includes a new role, namely the 'APP Manager'. Accordingly, a CAPC/A user, in an APP Manager role shall be able to initiate an Annual Procurement Plan Request. The APP Manager shall primarily set the 'Deadline of Response'. Thereafter, the Contracting Authorities / Entities shall be expected to submit their Annual Procurement Plan Report adhering to the timeframe provided.

Once the Annual Procurement Plan has been submitted to the APP Manager²⁰, it will be reviewed; it shall either be 'Acknowledged' or 'Rejected'. In the eventuality that it is rejected, the officer/s in charge of the APP shall be required to amend as necessary and re-send via ePPS. Upon correct completion, the system shall send an email notification, by way of Final Acknowledgement.

¹⁸ CAPC/A: Contracting Authority Procurement Coordinator / Assistant.

¹⁹ Line Ministries are no longer required to validate and submit in one (1) single consolidated document the Annual Procurement Plan Reports of the Contracting Authorities / Entities under their remit.

²⁰ The APP Manager Role shall be entrusted to an Officer forming part of the Compliance and Monitoring Unit at the Department of Contracts.

Additional Information on the operational function of the digitised APP Report may be viewed from the self-explanatory 'Annual Procurement Plan Guide' uploaded on the FAQ Section of the ePPS on 11 December 2023.

Annual Procurement Plan Report: Nil Replies

It is pertinent to note that if no Procurement / Concession Calls are envisaged to take place in any given period by Contracting Authorities / Entities, the APP module on ePPS shall not be compiled. Instead, in such instances, Contracting Authorities / Entities shall communicate a NIL Report to the Compliance and Monitoring Unit on compliance.contracts@gov.mt.