

Department of Contracts
Notre Dame Ravelin
FLORIANA

To Permanent Secretaries
Directors General
Directors
Heads of Public Sector Organisations

02 September 2022

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.

Regulations 12(1)(e) and 12(3) of the Public Procurement Regulations S.L. 601.03¹ state that:

12(1)(e): *‘Unless otherwise provided for in these regulations, it shall be the duty of the Director [of Contracts] to carry out the following functions: to provide support to contracting authorities with regard to planning and carrying out procurement Procedures’.*

12(3): *‘In order to ensure compliance with these regulations, the Director 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*

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’.

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 Authorities / Entities should carry out a Needs Analysis to identify the Procurement Procedures that shall be undertaken in each given year. Thereafter, such an exercise shall be documented in a structured Procurement Plan Report that will allow better planning and distribution of resources, the scope of which shall be efficient managerial and administrative decisions by the Department of Contracts (DoC).

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.

The submission of this Procurement Plan Report is compulsory and crucial to continue striving for High Quality Standards in the Professionalisation of Public Procurement as well as to achieve a Service of Excellence approach in line with the Public Service Strategy.

Procurement Plan Report

The Department of Contracts (DoC), through the Operations Directorate and the Sectoral Procurement Directorate, carries out procurement procedures on behalf of Contracting Authorities / Entities wherein the Procurement / Concession Call equals or exceeds a specific Estimated Value² Threshold.

In such instances, the Department of Contracts requires that Contracting Authorities / Entities carry out an annual exercise to establish the Procurement Procedures that shall be undertaken during the relevant year.

² 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.

This Procurement Plan Report shall incorporate all Procurement Procedures that shall be published by the Department of Contracts.

Accordingly, Contracting Authorities shall not only include the default Procurement Procedure (namely the Open Procedure) but also any other Procurement / Concession Procedure in line with the following regulations:

- Public Procurement Regulations S.L. 601.03
- Public Procurement of Entities operating in the Water, Energy, Transport and Postal Services Sectors Regulations S.L. 601.05
- Concession Contracts Regulations S.L. 601.09
- Procurement of Property Regulations S.L. 601. 12

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, such shall also be included in this report.

Content of the Procurement Plan Report

The Procurement Plan Report shall incorporate only Procurement/Concession Calls wherein the Estimated Value (including Potential Costs) equals or exceeds the following thresholds³.

Public Procurement Regulations – S.L. 601.03: The Procurement Plan Report shall include Procurement Procedures in relation to Procurement Documents prepared by Contracting Authorities classified under the following Schedules:

- Schedule 2 – Procurement Estimated Value equals or exceeds €140,000 excluding VAT
- Schedule 16 – Procurement Estimated Value exceeds €10,000 excluding VAT

Utilities⁴ Procurement Regulations – S.L. 601.05: The Procurement Plan Report shall include Procurement Procedures in relation to Procurement Documents

³ 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'.

⁴ Contracting Entities operating under the Public Procurement of Entities operating in the Water, Energy, Transport and Postal Services Sectors Regulations S.L. 601.05.

prepared by Contracting Entities⁵ wherein the Procurement Estimated Value equals or exceeds €431,000 excluding VAT.

Concession Contracts Regulations – S.L. 601.09: The Procurement Plan Report shall include Procurement Procedures in relation to Concession Documents prepared (but not necessarily published) by Contracting Authorities / Entities classified under Schedule 1.

Procurement of Property Regulations – S.L. 601.12: The Procurement Plan Report shall include Procurement Procedures in relation to Procurement Documents prepared by Contracting Authorities classified under Schedule 1 of the Public Procurement Regulations S.L. 601.03, specifically wherein the Procurement Estimated Value exceeds €500,000 excluding VAT.

Compilation of the Procurement Plan Report

To facilitate the collation of the Procurement Plan Report and assist Contracting Authorities / Entities with the compilation of this information, the Department of Contracts (DoC) is establishing the content of the said report as well as the Modus Operandi to be adopted by Ministries and Contracting Authorities.

Each Ministry shall receive the Procurement Plan Report compiled by the respective Contracting Authorities / Entities within their remit. Accordingly, the Ministry is expected to collect, collate, and validate all the plans received. Thereafter, it shall submit them collectively, in one (1) single consolidated document to the Department of Contracts.

Pursuant to the above, at Annex I, the Department, is providing a Procurement Plan Report Template; the content is structured in such a way to harmonise reporting across all Contracting Authorities / Entities and Ministries. Accordingly, it would be appreciated if the compilation of the information

⁵ Contracting entities 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.

Regulations 7 to 14 relate to various activities as follows: Reg 7 – Gas and Heat. Reg 8 – Electricity. Reg 9 – Water. Reg 10 – Transport Services. Reg 11 – Ports and Airports. Reg 12 – Postal Services. Reg 13 – Extraction of Oil and Gas Exploration or Extraction of Coal or other Solid Fuels. Reg 14 – Tenders Comprising Products Originating in Third Countries.

adheres to the format provided, thus, facilitating the integration of each submission by its respective Ministry into a comprehensive all-inclusive report.

Procurement Plan Report Template: The template consists of one (1) spreadsheet Template composed of two (2) sheets, as follows:

- Sheet 1 titled **Oct - Dec 2022**
- Sheet 2 titled **Jan - Dec 2023**

To simplify and standardise the compilation of the Procurement Plan Report, at Annex II, the Department of Contracts has prepared a self-explanatory ‘Guidance Sheet’ detailing the requirements to be completed.

It is pertinent to note that if no Procurement / Concession Calls are envisaged to take place in any given period by Contracting Authorities / Entities, a nil reply should be communicated to the relevant Ministry.

Submission of the Procurement Plan Report

Each Ministry shall submit the Procurement Plan Report (of the Contracting Authorities / Entities under its remit⁶) to compliance.contracts@gov.mt adhering to the deadline stipulated in the table below.

Planned Publication of Procurement Procedure	Submission to DoC
October 2022 till December 2022	30 September 2022
January 2023 till December 2023	30 November 2022

For avoidance of doubt, it is reiterated that Contracting Authorities / Entities are not to send the Procurement Plan Report directly to the Department of Contracts.

⁶ For avoidance of doubt, it is to be noted that Contracting Authorities listed under Schedule 3 of the Public Procurement Regulations S.L. 601.03 are not expected to submit a Procurement Plan Report since Regulation 9(2) states that ‘Public contracts required by those contracting authorities listed in Schedule 3 shall be issued, administered and determined by these contracting authorities on their own without the need to involve the Director [of Contracts], subject to the provisions set out in these regulations including but not limited to the right of appeal’.

Contact

Contracting Authorities may submit any queries to the Department of Contracts' Customer Care service on info.contracts@gov.mt or by calling on +356 21220212.

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Director General (Contracts)