

Ref: S9/10/00

20 December 2002

Circular 40/02: Public Procurement Guidelines – revision of existing procedures for approval of certain contracts in the Central Government sector

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1. I am directed by the Minister for Finance to inform you that revised procedures are being put in place *with effect from 1 January 2003* for the award of certain contracts.

Current Role of the Government Contracts Committee

2. Existing guidelines in *Public Procurement - 1994 Edition* require that certain contracts above prescribed thresholds must be submitted to the GCC for approval. This requirement applies where it is proposed for exceptional reasons not to have a competitive process, where only one tender was received in response to an advertisement or invitation to tender or where it is proposed not to accept the lowest priced tender.

3. Overall responsibility for ensuring compliance with all national and EU procurement rules and procedures rests with contracting or purchasing Departments and public agencies. The onus is on evaluation teams assessing tenders to be satisfied that the evaluation and award process is conducted appropriately and that best value for money is achieved. The present work of the GCC is heavily focused on examining contracts deemed to be awarded under exceptional circumstances which are submitted to it for approval.

4. Currently, almost all submissions to the GCC relate to contracts awarded on the basis of the most economically advantageous tender (MEAT). Assessment of the most economically advantageous tenders involves evaluating proposals under a range of weighted criteria, one of which is price. An objective and transparent MEAT contract award procedure is fully in line with the EU Public Procurement Directives and it is considered that there should be no need in future to seek GCC approval for the award of these contracts.

5. Accordingly it has been decided to dispense with the requirement for Departments/Offices to seek GCC approval for contract award procedures. However, in future all procurement contracts which a Department proposes to award without a

competitive process, which exceed €25,000 in value (exclusive of VAT), should be reviewed within the Department, preferably by the Internal Audit Unit or alternatively by an appropriate senior officer who is not part of the procurement process.

6. For Departments/Offices with Administrative Budget Agreements, the conditions for delegated sanction relating to GCC approval procedures are superseded by this circular. A separate communication will issue to those Departments/Offices outlining the necessary amendments to the Administrative Budget Agreement.

Revised reporting procedures

7. Under current arrangements, details of contracts submitted to the GCC are forwarded to the Comptroller and Auditor General's Office (C&AG) by the secretariat of the GCC following approval.

8. It has been decided, following consultation with the C&AG, that in future, each Department should complete an Annual Report (signed off by the Accounting Officer) in respect of contracts above a €25,000 threshold (exclusive of VAT) which have been awarded without a competitive process. These Annual Reports should be forwarded to the C&AG by the 31 March of the year following that being reported on, with a copy being sent to the National Public Procurement Policy Unit of this Department at the same time.

9. In order to support the new reporting arrangements and facilitate audit inspection, each Department should maintain a central up-to-date register of such exceptional purchases and contracts. Responsibility for collating the information in each Department/Office and relevant body should be assigned to a designated Procurement Officer (see paragraph 15 below). A template for the Annual Report is attached at Appendix A for the assistance of Departments/Offices.

Composition of the Government Contracts Committee

10. The new arrangements will allow the GCC to concentrate on advising on public procurement issues of general concern to the State sector. It will also have a role in developing, in conjunction with this Department's National Public Procurement Policy Unit, best practice guidance for supplies, services and construction procurement. Departments / Offices will be provided with the necessary guidance material to enable them to comply with fair and transparent public procurement rules and to secure value for money. Maximum use will be made of the national public procurement website (www.etenders.gov.ie) and electronic mail in providing guidance and disseminating relevant procurement information.

11. To ensure that the composition of the GCC reflects the balance of interests across Departments/Offices and to retain the considerable experience in construction procurement which already exists within the existing GCC, it has been decided to reconfigure the GCC into two distinct Committees, with separate membership, as follows:

- (i) one dealing with general procurement issues including Supplies and Services Procurement; and
- (ii) one dealing with Works Procurement and related issues.

12. In order to make the GCC more widely representative, it is intended that the core membership of the Supplies and Services Committee will be drawn from a pool comprising designated Procurement Officers (see paragraph 15 below) from the main spending Departments with rotating membership from among the remaining Department/Offices. This Committee will play an important role in developing, in conjunction with this Department's Procurement Unit, procurement guidance and procedures. It will also have a role in disseminating guidance and best practice to Departments/Offices and the wider public sector.

13. There is also a need to develop Public Works Procurement guidance to assist public bodies in achieving value for money in this important area. The Works Committee will draw on existing expertise in relation to construction across Government Departments/Offices. It will help develop, in conjunction with this Department's Procurement Unit, guidance to underpin construction procurement. The approval of this Committee will continue to be required for any changes to the Standard Forms of Contract or to the use of once-off Conditions of Contract.

14. Both Committees will be consulted during the transposition of the amended EU Procurement Directives.

Nomination of Procurement Officer

15. Each Department/Office should appoint a designated Procurement Officer - a role currently recommended in the *Public Procurement – 1994 Edition*. It is envisaged that the Procurement Officer will be the direct contact point between the GCC and the Department/Office concerned in regard to all procurement matters. In order to ensure a smooth transition to the revised arrangements could you please forward the name and email address of the designated Procurement Officer (with a nominated substitute if considered necessary) for your Department/Office to Carol Coughlan, Secretary of the GCC by email: Carol.Coughlan@finance.gov.ie.

16. If you have any queries on the content of this circular please contact Billy Noone at 639 6216 or Carol Coughlan at 639 6285.

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Michael Scanlan
Assistant Secretary

To: all Accounting Officers; all Finance Officers