

**Ms. Sarah Cremin
 Committee Secretariat
 Committee of Public Accounts
 Leinster House
 Dublin 2 D02 XR20**

Date: 08th December 2021

Ref: S0606 PAC33

Dear Ms. Cremin,

I refer to your letter of 15th November 2021 and I now provide the information requested relating to non-compliant procurement contracts in the amount of €6.3 million (excluding VAT).

The contracts with a threshold greater than €25,000 (excluding VAT) and where no procurement competition was undertaken, were identified, and reviewed by the Audit and Risk Committee for 2020 and reported to the Comptroller and Auditor General (C&AG) and to DPER in line with the Dept. of Finance 40/02 Circular.

Tusla had a total procurable spend of €206m (excluding Vat) in 2020. Of this, €6.3m was reported as non-compliant with procurement regulations. In addition to this, €943k related to Covid-19 and we have supplied these details to you already in our letter of 19th November 2021.

The table below sets out the amount of non-compliant procurement expenditure for 2020 and the comparative position for 2019. The attached report (Appendix 1) sets out the details of these non-complaint procurement contracts and the reasons for their non-compliance.

Non-compliant procurement contracts entered into in 2020 without a valid competition:

Category of Non-Compliant Expenditure	2020	2019
	€'m	€'m
Total	€6.3m	€7.1m
Procurable Expenditure	€205.5m	€207.2m
As % of Procurable Expenditure	3.1%	3.4%

The Agency continues to improve its compliance with procurement regulations as set out in the 2016 Irish Regulations (EU Directive 2014/24) which is in line with internal policies and procedures.

The Agency provided a detailed report to the Public Accounts Committee in its letter of the 8th December 2020 in relation to the actions being taken to address weaknesses in compliance.

Overall, since the Agency was created in 2014, compliance has greatly been improved with procurement obligations and it continues to receive high priority by Tusla management.

The Agency has completed several major procurement exercises across 2020 and 2021. Principally, we completed the following procurements which cover multiple years contracted expenditure; Legal Services totalling €34m; Private Residential Child Care Services totalling €435m. We are currently completing a major procurement exercise in relation to Private Foster Care Services (€115m). The annual expenditure under these procurement contracts represents the largest portion of Tusla's annual procurable expenditure of €205.5m. It is important to stress that Tusla provides a higher standard of procurement than regulations might require for some of these services.

The Agency acknowledges that there are continuing issues with procurement compliance, and we continue to monitor processes and will focus on solving the following challenges over the next three years of our Corporate Plan:

- Public procurement is a high-risk activity for the Agency due to the complex nature of processes to procure specialised child and family support services for the Agency. There isn't one single approach to conducting procurements for these types of contracts and the Agency will continue to implement best practice in areas of weaknesses and limitations which have been acknowledged to the C&AG and reported in the annual 40/02 return
- The Agency has struggled to recruit enough qualified procurement officers over the past number of years, which has impacted on capacity to conduct sufficient procurement exercises across the Agency. Covid 19 has further impacted on staff availability as well reduced attractiveness due to the technical and litigious nature of the sector. We plan to recruit additional staff in 2022 to the dedicated procurement function to support the Agency with improved procurement compliance
- There is no single national ICT system in place for procurement and the Agency remains heavily dependent on self-reporting due to historical deficits in ICT systems. Due to this gap, there is no facility to implement real time controls and the Agency will continue to rely heavily on manual reviews. This limits the capacity to monitor expenditure on a timely basis against value limited contracts so that overruns on aggregated purchases at a national level exceeding €25k (excluding VAT) are managed in a timely manner
- Tusla is part of the overall Integrated Financial Management System (IFMS) project with the HSE to implement a new financial system to address some of the ICT deficits. The system is planned to be implemented in Tusla in 2023 which will provide a base for better management of the information relating to procurement.
- Dependency on both the Office for Government Procurement and HSE who assist with procurement processes remains limited due to resource constraints in these Agencies as well. Tusla will continue to prioritise procurement processes that pose the greatest risk from a compliance and value for money perspective.

If you require further information, please do not hesitate to contact me.

Yours faithfully,



Bernard Gloster

Chief Executive