



An Roinn Gnóthaí Eachtracha
Department of Foreign Affairs

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

13 January 2023

Your Ref: S1143 PAC33

Dear Ms. Cremin,

I refer to your letter dated 30 December 2022 requesting information on non-compliant procurement in our Appropriation Accounts for 2021.

The Department of Foreign Affairs seeks to ensure procurement of goods, services and works that are suitable and acquired at the best possible cost to meet requirements in terms of quality and quantity, time, and location.

Procurement in the Department operates in compliance with relevant European, National and overseas Procurement Legislation and Guidelines. The Departments procurement rules and procedures are governed by;

- **Directive 2014/24/EU** covering the award of works, supplies and services contracts (the “**Classical**”) implemented in Ireland by National Regulations entitled **S.I. No. 284 of 2016 European Union (Award of Public Authority Contracts) Regulations 2016**
- **Directive 89/665/EEC** as amended by **Directive 2007/66/EC** outlining the avenues open to unsuccessful tenderers to challenge the decision made by a Contracting Authority (the “**Remedies Directive**”) implemented in Ireland by National Regulations entitled **European Communities (Public Authorities’ Contracts) (Review Procedures) Regulations 2010 (S.I. No. 130 of 2010)**

These Directives apply to contracts that are above the relevant EU advertising thresholds. For Supplies and Services Contracts, the 2021 EU threshold was €139,000 (excluding VAT) and for Works the 2021 threshold was €5,350,000 (excluding VAT).

Procurement in the Department below the relevant EU threshold is subject to National procurement rules that are set out in National Guidelines (**Public Procurement Guidelines** - published by the Office of Government Procurement (OGP) in 2019). These national rules also apply the general principles of EU procurement law and Directives.

The Department regularly publishes competitive tenders on the Irish Government website www.etenders.gov.ie in addition to advertising in the Official Journal of the European Union (OJEU) for larger value contracts. The Department also utilises OGP central procurement frameworks and contracts.

Circular 40/02 Return

Under Department of Finance Circular 40/02, the Department is required to complete and submit an annual report, signed off by the Accounting Officer, to the Comptroller and Auditor General in regard to contracts in excess of €25,000, exclusive of VAT, that were awarded without a competitive process.

Below is the information requested on the procurements that were *non-compliant* with procurement guidelines in the 2021 Appropriation Accounts, the amounts for each and the reasons for the non-compliance and the current status.

Non-compliant Procurements

The Vote 28 Appropriation Account 2021 for The Department of Foreign Affairs noted that there were seven contracts with a value of €1,326,926 included in Section 40/02 in respect of contracts awarded without a competitive process.

As requested in your letter details of the *non-compliant* procurements are listed below:

Non-complaint Procurements

	Contract Details	Amount	Current Position – January 2023
1	Department HQ Telephonist Service	€122,682	Department Telephonic Services. A tender process commenced in Q1 2021. However, due to operational challenges associated with COVID-19, the Department did not progress with the tender and the current contract was extended. The Department has commenced the tender planning process and expect a new compliant contract to be in place by end of June 2023.
2	Security Services Contract	€309,465	The Department has a contract for static security services, which was awarded following a procurement process under a central OGP framework. This contract was extended in 2021 for operational reasons. The Department will utilise an OGP Framework to procure this service and put in place a new compliant contract by end of June 2023.

3	Dublin Offices Cleaning Contract	€500,382	This contract is now fully compliant. The Department extended the previous cleaning contract to await the publication of the new OGP Framework for Commercial Cleaning and Window Cleaning Services in September 2020. The new DFA cleaning contract commenced in January 2022 following the conclusion of a tender process utilising the new OGP Framework.
4	Cork Offices Cleaning Contract	€52,706	This contract is now fully compliant. The Department extended the previous cleaning contract to await the publication of the new OGP Framework for Commercial Cleaning and Window Cleaning Services in September 2020. The new DFA cleaning contract commenced in January 2022 following the conclusion of a tender process utilising the new OGP Framework.
5	Limerick Offices Cleaning Contract	€61,647	This contract is now fully compliant. The Department extended the previous cleaning contract to await the publication of the new OGP Framework for Commercial Cleaning and Window Cleaning Services in September 2020. The new DFA cleaning contract commenced in January 2022 following the conclusion of a tender process utilising the new OGP Framework.
6	Perspex desk screens and signage	€254,122	Once-off Procurement – Emergency Circumstances. Contract Concluded. Due to the COVID -19 outbreak the Department single sourced these goods under emergency circumstances to facilitate the attendance of Passport Services staff and to allow the continued delivery of the essential Passport Service. The contract was concluded following the delivery of these goods.
7	Mobile Phone Services – Embassy Washington, United States.	€25,922	Mobile phone service provider for Embassy Washington. Cost increase unexpectedly exceeded the procurement threshold in 2021. The Embassy has scheduled a review on the completion of current service contract by June 2023.
	Total Contract Value	€1,326,926	

As you can see, the Department is actively working to address these *non-compliant procurements* and has tendered/is in the process of tendering the various services.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Joe Hackett", with a long horizontal stroke extending to the right.

Joe Hackett

Secretary General