

Joint Oireachtas Committee on Finance, Public Expenditure and Reform and Taoiseach

Opening Statement by Anne Stewart

Assistant Secretary, Office of Government Procurement

Department of Public Expenditure, NDP Delivery and Reform

Good afternoon, my name is Anne Stewart and I am an Assistant Secretary in the Office of Government Procurement which is a Division of the Department of Public Expenditure, NDP Delivery and Reform. I have responsibility for Public Procurement Policy, Service Delivery and Digitalisation. I am joined by Mr Declan McCormack, Principal Officer and Mr David O'Brien, Principal Officer.

I would like to thank the Cathaoirleach and members of the Committee for the invitation to assist you in your consideration of the issue of bid rigging in relation to the public sector procurement process.

To do this, I think it helpful to set out the role and remit of the Office of Government Procurement.

The OGP was established in 2013 as a new division within the then Department of Public Expenditure and Reform to develop **procurement policy** and establish a **central procurement body**.

It also took over administration of **eTenders**, the national electronic public procurement platform, to become a 'one-stop-shop' providing a complete audit trail and transparency of electronic tendering activity. In May this year a new etenders platform was implemented, and the roll out of new eforms went live on the platform in October. While OGP manage the functioning and administration of the platform the data contained in the platform is owned by each Public Body as the individual contracting authority.

Policy function and EU Law

In Ireland public procurement is governed by legislation at a European and national level. The EU Treaty on the Functioning of the European Union promotes the fundamental principles of non-discrimination, free movement of goods and services and freedom of establishment. These principles are reinforced in the four EU Directives on public procurement:

- Directive on **public procurement (goods, services and works)** (2014/24/EU)
- **Utilities Directive** on procurement by entities operating in the water, energy, transport, and postal service sectors (2014/25/EU)
- Directive on the award of **Concession Contracts** (2014/23/EU)
- **Defence and Security** Directive (2009/81/EC)

The Directives were transposed into Irish law as statutory instruments. These rules govern the way public bodies and utility operators purchase goods, works and services for contracts valued over a determined [threshold](#). For tenders of lower value, [national rules](#) apply that also must respect the general principles of EU law.

Over recent years the OGP has taken into account EU priorities on public procurement which include the wider uptake of innovation, green and social procurement, increasing access to procurement markets, improving transparency, integrity and data, and boosting the digital transformation of procurement.

In addition to the directives, a list of the OGP's most important policy supports are:

- [Circulars](#)
- [Capital Works Management Framework for Public Works](#)
- [General Procurement Guidelines for Goods and Services](#) (updated 2023)
- [Technical guidelines, template documentation and information notes](#)

These emphasise that public procurement must be conducted in a fair and transparent manner that affords equal opportunities for competing suppliers.

OGP Central Procurement Body

The OGP is one of five Central Purchasing Bodies which collectively ensure 'one voice to the market' by sourcing common goods and services on behalf of the public sector. The other four are Education, Defence, Health and Local Government. In its function as a Central Purchasing Body, the OGP establishes framework agreements, dynamic purchasing systems, and conducts bespoke competitions. A key part of this function is the professional procurement expertise, consultancy, training and support it provides to all public sector bodies.

Competition and Consumer Protection Commission

The OGP properly relies on all statutory bodies in the State charged with regulation of laws to examine possible impact or effect on market irregularities where they consider investigation is warranted. Those areas are not confined to compliance of activity under the remit of the Competition and Consumer Protection Commission (CCPC) but also cover compliance by economic operators across the board in the areas of taxation, environmental regulation, labour law, social regulation, technical regulation and so forth.

The OGP has always had and continues to have an open and collaborative relationship with the CCPC. Tender documents insist on legal requirements with exclusion grounds as per article 57 of the Directive. The OGP Guidelines include information on bid-rigging or collusive tendering and advise contracting authorities to inform the CCPC if they suspect this behaviour when running a tender. The CCPC sit on the SME Advisory Group which is chaired by the Minister of State at the Department of Public Expenditure, NDP Delivery and Reform with special responsibility for Public Procurement and eGovernment, and is supported by the OGP.

The OGP is very conscious that the identification of market irregularity is a difficult issue to reveal let alone quantify. It welcomes initiatives from the CCPC to investigate market irregularities, is working with the CCPC, and will carefully consider any report emerging from such investigations as they relate to the public procurement market.