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17 June 2011

To Heads of Departments / Offices ¹

**Department of Public Expenditure & Reform Circular 1/11:
Model Tender and Contract Documents for Public Service and Supplies Contracts**

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1. The Minister for Public Expenditure and Reform is concerned to ensure that contracting authorities conduct their public procurement function efficiently and economically and in a manner that is compliant with EU procurement law. Where the appropriate structures, procedures and practices are not in place, significant problems and risks can arise for the State. This may result in delays in awarding contracts, financial exposure and potential litigation in the national Courts or the Court of Justice of the European Union.

New Model Tender and Contract Documents

2. Since its establishment in 2009, the National Procurement Service (NPS) has been working closely with all areas of the public sector to promote efficiencies and economies in the procurement of supplies and services. One of its priorities was the development of standardised documentation to regularise and streamline the exercise of the public procurement function for the benefit of buyers and suppliers.

In this regard, the NPS has, in collaboration with the Chief State Solicitor's Office (CSSO) and the Office of the Attorney General (AGO), produced model Request for Tenders (RFT) and model contract documents for use in public procurement competitions for certain supplies and services. These documents were completed following a consultation process with the Government Contracts Committee (GCC), the Department of Finance, as well as representatives of business and industry. This Suite of Template Documents is available on www.procurement.ie or www.eTenders.gov.ie websites. The set comprises of:

- (i) a model template of a Request for Tenders (RFT) for supplies which incorporates a model template contract for supplies;
- (ii) a model template of a Request for Tenders (RFT) for services which incorporates a model template contract for services.

¹ In this letter, the term "Department" encompasses Departments and Offices.

3. The documents are designed for use in the procurement of routine, non-bespoke and low to medium risk supplies and services. Contracting authorities should complete the model documents by inserting the details / specifications of the supplies or services they are procuring; any pricing matrix or payment conditions (not already contained in the model contract); the qualification and award criteria and any special conditions. The website versions of the documents are published in an editable user-friendly format for ease of completion. If the supplies or services are bespoke, or if the contracting authority has any concerns regarding any aspect of the subject matter, legal or other appropriate advice should be sought.

To assist buyers in the use and completion of the documents, the Suite also includes:

- (i) Guidance Note on the Use of the Model Goods Request for Tender;
- (ii) Guidance Note on the Use of the Model Goods Contract;
- (iii) Guidance Note on the Use of the Model Services Request for Tender;
- (iv) Guidance Note on the Use of the Model Services Contract ².

4. The documents have been drafted by the CSSO and the AGO from the perspective of Government Departments and Offices. However, the generic nature and modular structure of the documents are such that they can be adopted for use by any sector of the public service. It is expected that significant benefits, such as buyer efficiencies and reduction of risk of breach of EU procurement law, will be achieved by the proper use of the model documents.

Accordingly these documents should be used in all routine procurements as set out above ³.

Dissemination of Documents

5. You are requested to bring this circular and the relevant documents to the attention of:
- (i) all staff in your Department who could be involved in placing contracts and
 - (ii) all contracting authorities under the aegis of your Department.

Enquiries

6. Enquiries in regard to this Circular and the related documents can be addressed to the National Procurement Service, telephone: (046) 9426000: email: nps@opw.ie

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John Burke
Principal
National Public Procurement Policy Unit

² The Guidance Notes assume a familiarity with and knowledge of the public procurement process.

³ While these documents are provided as an aid to contracting authorities and their use is recommended as good practice, the provisions of this Circular are not intended to confer rights on third parties.