



Department of Communications, Energy and Natural Resources
Roinn Cumarsáide, Fuinnimh agus Acmhainní Nádurtha

25/10/2007

Mr Paul Caffrey
Public Service Executive Union
30 Merrion Square
Dublin 2

FOI/0078/2007

Dear Mr. Caffrey,

I refer to the Freedom of Information request received in this office on 18th October, 2007 along with the associated fee.

The officer handling your request will be Mr. Garry Purcell, Communications (Development) and Electronic Commerce Division, Department of Communications, Energy & Natural Resources, 29 -31 Adelaide Road, Dublin 2. He can be contacted at 01 6782553.

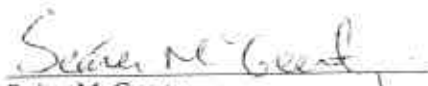
A final decision on your request will normally be sent to you within 4 weeks of receipt of your request. This means that you can expect to receive your decision by the 16th November, 2007.

If you have not heard from us when the time allocated has expired, you are automatically entitled to appeal to the Department for a review of the matter. This review proceeds on the legal basis that the initial request is considered to be refused once the specified time for responding to it has expired.

You should also be aware that you are entitled to a review of the decision if your request is refused, or if you are for any reason dissatisfied with the outcome of your request. The review is a full and new examination of the matter carried out by a more senior member of staff of this Department. In the event that you need to make an appeal, you can do so by writing to Mr. Frank O'Brien, FOI Unit, Department of Communications, Energy & Natural Resources, Elm House, Earlsvale Road, Cavan. Please note that there is a charge for all appeals of FOI requests. This charge is currently €75.00. A reduced fee of €25.00 applies if you are the holder of a Medical Card.

Please note that the Department of Communications, Energy & Natural Resources has a policy of posting a summary of your request, your name and address and the subsequent reply on the Department's website for reference purposes.

Yours sincerely,


Seána McGearty
FOI Unit
PH: 01 6782902



08/10/2007

Mr Paul Caffrey
Public Service Executive Union
30 Merrion Square
Dublin 2

*Fee received 10/10/07
Seána*

Dear Mr. Caffrey,

I refer to your request under Section 7 of the Freedom of Information Acts concerning records detailing the hiring of [REDACTED]. This request was received in the FOI Unit on the 08/10/2007.

I am to advise you that an application fee must accompany all FOI requests for non-personal records, and your request cannot be processed until the fee has been submitted. The application fee is currently €15.00 and a reduced fee of €10.00 applies if you are covered by a Medical Card.

If claiming a reduced application fee, the request must also be accompanied by

- The Medical Card registration number
- The name of the issuing Health Board
- Your consent to the verification of these details with that Health Board.

Payment should be made by way of bank draft, money postal order, or personal cheque made payable to "The Department of Communications, Energy & Natural Resources".

On receipt of the fee, an acknowledgement letter will be sent to you outlining details of when you can expect a decision on your request, and the contact details of the person handling the application.

Please note that the Department of Communications, Energy & Natural Resources has a policy of posting a summary of your request, your name and address and the subsequent reply on the Department's website for reference purposes.

Yours sincerely,

Seána McGearty
FOI Unit
PH: 01 6782902

D. MURPHY
General Secretary

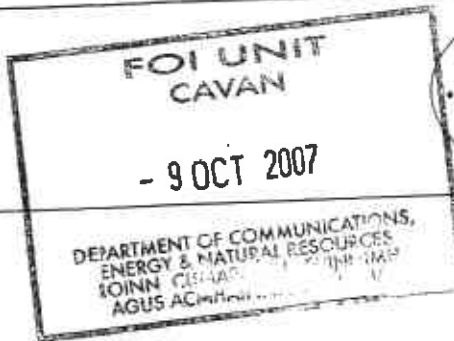
T. GERAGHTY
Deputy General Secretary

B. HANNIGAN, P. BEHAN
G. MAYBURY, E. QUINN
P. CAFFREY
Assistant General Secretaries

PUBLIC SERVICE EXECUTIVE UNION

30 MERRION SQUARE, DUBLIN 2

Phone: 6767271 Fax: 6615777
<http://www.pseu.ie>
E Mail: info@pseu.ie



5th October 2007

Dear Ms Rabbitte,

Under section 7 of the FOI Act 1997, as amended, I would like access to all records relating to the hiring of [REDACTED]. In particular I would like access to records detailing:

- 1) When and where the position was advertised.
- 2) The experience and expertise required as set out in advertisement.
- 3) The evaluation criteria used to select the successful candidate.
- 4) The duration of the contract.
- 5) The value of the contract.

While I would welcome the above records, my request relates to all records relating to the hiring of [REDACTED]

Yours Sincerely

Paul Caffrey
Assistant General Secretary



An Roinn Cumarsáide,
Fuinnimh agus Acmhainní Nádurtha,
Baile Átha Cliath 2.

Department of Communications,
Energy and Natural Resources,
Dublin 2.

16 November 2007

Mr Paul Caffrey
Public Service Executive Union
30 Merrion Square
Dublin 2

FOI 78/2007

Dear Mr Caffrey,

I refer to the request which you made under the Freedom of Information Acts 1997 and 2003 for records held by this Department:

All records relating to the hiring of [REDACTED] as a consultant by this Department, detailing:

- 1. When and where the position was advertised**
- 2. The experience and expertise required as set out in advertisement**
- 3. The evaluation criteria used to select the successful candidate**
- 4. The duration of the contract**
- 5. The value of the contract**

I have made a final decision to part grant your request on 16 November 2007. If you have any queries regarding this correspondence you can contact me by telephone at 01 6782553.

The purpose of this letter is to explain that decision. This explanation has the following parts:

1. a schedule of all of the records covered by your request
2. concerning records to which access is granted, an explanation and a statement of the arrangements for this access, its form and the fee required to be paid
3. concerning records to which access is denied, an explanation of the relevant findings; and
4. a statement of how you can appeal this decision should you wish to do so.

This letter addresses each of these four parts in turn.

1. Schedule of records

A schedule is attached at the end of this letter. It shows the documents that this Department considers relevant to your request. It also gives you a summary and overview of the decision as a whole. The schedule describes each document, and indicates whether the document is released in full, released with deletions or not released. The schedule refers to the sections of the FOI Act which apply to prevent release.

2. Access Arrangements

As your preferred means of access to the records has not been specified, I am releasing them by means of photocopies, as I consider this an appropriate form of access in this case. Accordingly, the records described as released in full or released with deletion are now enclosed.

3. Findings, particulars and reasons for decisions to deny access.

Certain parts of records 1-4 and 6 have been withheld by blackening out part of the records. The blackened out parts relate to two types of information.

The first type of information relates to the commercial rate charged by [REDACTED]. This information is being withheld under Section 21 (c) (attached) as disclosing the fee might give other potential future contractors an unfair advantage in a negotiating process with the Department.

The second type of information I am withholding is personal information such as [REDACTED] name, address and bank details, along with the name of a Comreg staff member who is on secondment to this Department. This information is being withheld under Section 28 (attached).

4. Rights of appeal

You may appeal this decision. In the event that you need to make such an appeal, you can do so by writing to the Freedom of Information Unit, FOI Unit, Dept. Communications, Energy & Natural Resources, Elm House, Earlsvale Road, Co. Cavan.

Your correspondence should include a fee of €75 for processing the appeal. Payment should be made by way of bank draft, money order, postal order or personal cheque made payable to Dept. Communications, Energy & Natural Resources.

You should make your appeal within 4 weeks from the date of this notification. However, the making of a late appeal may be permitted in appropriate circumstances. *A week is defined in the Act to mean 5 consecutive weekdays, excluding Saturdays and public holidays (Sundays are also excluded, as they are not weekdays).* The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of this Department.

Yours sincerely,



Garry Purcell

Communications Development Division
Adelaide Road
Dublin 2



Consulting

Proposal to



Department of Communications, Marine and Natural Resources
Roinn Cumarsaide, Mara agus Acmhainní Nádurtha

June 2007

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1. Introduction

This document outlines details of [REDACTED] Consulting's proposed provision of advice and support in relation to the National Broadband Scheme (NBS) to the Department of Communications, Marine and Natural Resources (DCMNR).

2. Objectives

Our understanding of the requirements of the DCMNR in relation to the above mentioned projects are as follows:

1. To provide assistance and support in relation to the NBS design.
2. To provide assistance and support in relation to the procurement of the NBS provider.
3. To provide assistance and support in relation to the NBS implementation.
4. To provide advice and assistance in relation to other emerging tasks in relation to the management of the above projects.

3. Benefits of Selecting [REDACTED]

Following consideration of the DCMNR's requirements, I am confident that I can fully address these requirements and believe I am well qualified to provide this service.

Technical Expertise

[REDACTED] previously assisted DCMNR's in the initial planning and design phases of the NBS project. This work included support in scoping the scheme, preparation of the project plan, development of the NBS requirements, preparation of indicative broadband coverage maps and participating in meetings with service providers and Regional Authorities in the initial stages of the NBS project. This involved cooperation with the NBS Working Group, the Steering Committee as well as overseeing the work and liaising with the NBS technical and legal consultants.

Therefore I already have an inherent knowledge of the NBS project, the key players involved as well as the key issues relative to the scheme.

Market knowledge

I have an extensive knowledge of the ICT and telecommunications sectors, having worked previously on the Departments' Metropolitan Area Network (MANs) and NBS projects as well as having administered Broadband Information website.

This knowledge would be of value when assisting in NBS procurement and rollout as well as in complex state aid considerations.

4. Approach

The scope of [REDACTED] approach to manage the NBS design, procurement and implementation are broadly outlined as follows:

4.1. NBS Design

A primary objective will be to finalise the NBS requirements and broadband coverage maps. It is envisaged that this stage will run in parallel with the procurement stage.

The main tasks identified:

- To ensure that the final NBS requirements as agreed with the winning provider are in line with the government's broadband policy objectives
- To liaise with service providers in order to complete the indicative broadband coverage maps
- To advise in relation to any dealings with the EU DG Competition in respect of the NBS project to ensure that the scheme is in line with the

EU state aid regulation

- To facilitate development of the state aid notification and to seek the state aid approval.

4.2. Procurement of NBS Provider

A primary objective will be to oversee and facilitate the tendering process and contract development leading to the award of the NBS contract. The main tasks:

- To support the Steering Committee and the Working Group in management and administration of the tender process
- To attend and record the outcomes of meetings with prospective tenderers along with the Steering Committee
- To assist the Steering Committee and Working Group in any contract negotiations with tenderers for the NBS and the provision of advice to the Steering Committee as appropriate
- To support the Steering Committee and Working Group in preparation of schedules and other relevant documentation for the contract
- To assist the Steering Committee and Working Group in responding to tenderers' issues and queries
- To assist with debriefing the unsuccessful bidders.

4.3. NBS Implementation

A primary objective will be to oversee the implementation of the NBS services. The main tasks:

- To ensure that the winning provider is rolling out services in line with the contract requirements and according to the specified timelines

- To ensure that grant payments are made according to agreed schedule

4.4. Ongoing Activities

- To assist in the administration of NBS documents
- To attend and record the outcomes of Steering Committee meetings
- To liaise with technical and legal advisors as appropriate
- To prepare NBS related briefing material, PQs and press coverage
- To assist in briefing the general public on the NBS issues.

5. Commercial Offer

Consultancy for Primary Services

The fixed fee for the assignment for the period of 12 months will be a daily rate of [REDACTED] per day excluding VAT and expenses.

Expenses

Miscellaneous expenses have not been included in the above figure. Expenses will be capped at the discretion of the Department.

VAT

The above fee excludes VAT, which will be charged at the rate prevailing at the time of invoicing.

Programme of Work

Work can begin at the discretion of the Department and agreement of Contract terms.

Conflicts of Interest

No conflict of interest identified.

6. Appendix 1 – Curriculum Vitae



Education:

2005 – 2007 MBS in Electronic Commerce, National University of Ireland, Galway. Expected to graduate November 2007 with First Class Honours.

Subjects: E-Commerce Strategy, Business Policy, System Analysis and Design, Database Systems & Languages, Internet & Multimedia Development, Interactive Programming, Internet Technologies, IS Innovation

2003 - 2005 Bachelor of Business Studies (Honours) in Business Information Systems, Letterkenny Institute of Technology, Ireland. Graduated in June 2005 with First Class Honours.

Subjects: Financial Management, Management and Organisational Behaviour, Logistics, HRM, Quality Management, Management Support Systems.

Experience:

08/2006 Department of Communications, Marine and Natural Resources

05/2007 Experience:

- Support in management and administration of the Metropolitan Area Network Programme
- Support in management and administration of the National Broadband Scheme

Capabilities:

- An in-depth knowledge of Government and its system in Ireland at the policy level, particularly from the communications perspective
- A comprehensive understanding of the telecommunications sector, as well as emerging technologies
- Strong Project Management Skills
- Excellent written, verbal, communication and analytical skills.

1 July 2007

[Redacted]

Re: Consultancy in NBS Scheme

Dear [Redacted]

The Minister for Communications is proposing a new broadband scheme entitled the National Broadband Scheme (the NBS). The scheme aims to address the remaining 10%-15% of the Irish population that cannot avail of any broadband services. Tender process inviting service providers to tender for the provision of broadband services in the unserved areas of Ireland commenced in May 2007.

The Agreement

This agreement is made, BETWEEN the Department of Communications, Energy and Natural Resources, Adelaide Road, Dublin 2, Ireland (hereinafter referred to as "the Department") AND [Redacted] (hereinafter referred to as "the Consultant").

Definition

In this agreement:

"The Consultancy" shall mean assistance in relation to the final stages of the NBS design, support in relation to the procurement of the NBS provider, assistance in relation to the NBS implementation, or tasks to be undertaken and delivered by the Consultant in accordance with this Agreement or any subsidiary agreements.

"Department" means the Department of Communications, Energy and Natural Resources.

"Confidential Information" means any information, acquired by the Consultant in the course of or in connection with the Consultancy which is not publicly available, but does not include information already lawfully in the possession of the Consultant, or information legally acquired by the Consultant from a third party, otherwise than in the course of the Consultancy.

"Working Day" means a period of 8 hours (whether consecutive or not) expended by the Consultant hereunder.

"Consultancy Services" means, advice and assistance to the Department, at the request of the Department, as more particularly defined within this agreement.

Engagement

1. Consultant's role

The consultant will oversee finalisation of the NBS requirements and broadband coverage maps.

The consultant will assist in dealings with the EU DG Competition in respect of the NBS project and will facilitate development of the state aid notification.

The consultant will oversee and facilitate the tendering process and contract development leading to the award of the NBS contract.

The consultant will oversee rollout of services by the winning provider.

The consultant will support the Steering Committee and Working Group in preparation and administration of documentation relevant to the NBS.

2. Duration of the consultancy

The effective duration of this Agreement is 12 months, which may be provided in half-day or full-day units. Additional assignments and further days beyond the initial one 12 months are subject to prior approval by the Department. The remuneration agreed for this consultancy is set at [REDACTED] per day (excluding VAT). The agreement will terminate on 1 July 2008 or such earlier date as may be agreed between the Department and the Consultant. It is recognised that the completion of the consultancy will depend on the availability of Department of Communications, Energy and Natural Resources staff.

3. Validity of instructions

All instructions will be communicated by [REDACTED] or by a party nominated by her.

4. Intellectual Property Rights

All reports and any printed material resulting from the Consultancy shall be the property of the Minister for Communications, Energy and Natural Resources.

5. Conflicts of Interest

Any potential or actual conflicts of interest that may arise during the Consultancy involving the Consultant must be immediately and fully disclosed to the Minister for Communications, Energy and Natural Resources and resolved to the satisfaction of the Minister for Communications, Energy and Natural Resources.

6. Tax Clearance Certificate

This offer is subject, under the terms and conditions governing Government contracts, to compliance by the Consultant with the tax clearance requirement of Irish public sector contracts, procedures and relevant statutory taxation requirements in relation to taxation of professional services provided to the public sector. In this regards, the Consultant shall provide the Minister for Communications, Energy and Natural Resources, within thirty working days of acceptance of this contract, a current, valid Tax Clearance Certificate.

7. Revision or Abandonment of Consultancy

Where the terms of the Consultancy must be revised or where the Minister for Communications, Energy and Natural Resources determines that the Consultancy should be abandoned, the Minister for Communications, Energy and Natural Resources will not incur undue costs or liabilities.

8. Confidentiality

The Consultant undertakes to the Minister: -

- (i) To keep absolutely confidential all information received or obtained in connection with this Agreement or arising from the arrangements contemplated by this Agreement during the period leading up to or during the duration of this Agreement and without prejudice to the generality of the foregoing to include all information of a commercial, business, economic, technical or policy nature concerning the operation of the telecommunications sector in Ireland.
- (ii) Not without the Minister's prior consent in writing to disclose any confidential information governed by the provisions of the Official Secrets Act 1963 in whole or in part to any other person or party save those necessarily involved in the performance of services under this Agreement.
- (iii) To use such confidential information solely for the performance of the services and for no other purposes or use whatsoever.
- (iv) Not to engage in any form of publicity not absolutely necessary for the performance of the services under this Agreement, save in connection with applications or tenders to supply services of a related or similar nature in future.

The Consultant may disclose confidential information to the extent required by law provided that it shall give to the Minister prior written notice of and the legal reasons for such disclosure unless prohibited by law from so doing.

The undertakings given do not apply to confidential information (i) which at any time is lawfully or comes lawfully into the public domain; (ii) which was lawfully in the Consultant possession prior to disclosure; (iii) which at any time after the Agreement commences comes lawfully into the Consultant's possession from a third party and over which the third party is entitled to give and has given permission for the disclosure of the information or (iv) which of necessity must be disclosed to its insurers subject to its insurers' undertaking as to the confidentiality thereof.

The Minister owns all confidential information. The Consultant shall not attempt to obtain any advantage or unjust benefit therefrom.


Without prejudice to the right of the Consultant to retain such files and documentation as may be reasonably necessary and solely for professional indemnity purposes or as required by law, the Consultant undertakes to expunge and delete, on completion of the services or the date upon which this Agreement terminates, all confidential information stored on any media maintained thereby.

Yours sincerely,



1 July 2007

Ken Spratt
Department of Communications, Energy and Natural Resources



2 July 2007

1. Mr. Ken Spratt

Re: Atypical contract awarded to [REDACTED]

Please see the attached correspondence from the PSEU Branch Committee regarding the appointment of [REDACTED]

As you will see from the correspondence, the PSEU are requesting details of the procurement process undertaken for this appointment. I would appreciate if you could provide the information requested in order to reply to the PSEU.

Kind regards,

CB
Ciara Bates
Human Resources Division
Tel - 6782600

13th September 2007

Mr. Eamonn Molloy,
Head of Procurement

Re: Atypical contract awarded to [REDACTED]

30 August 2007

Dear Eamonn,

The PSEU Branch Committee would like to enquire as to the process for the appointment of [REDACTED], previously employed as a Stagiaire in Communications (Development) Division.

We understand that [REDACTED] contract expired in May 2007. She is now however working once again in Communications (Development) Division, we believe as a consultant.

in accordance with the Public Procurement Guidelines 2004:-

- supplies and services less than €5000 may be secured on the basis of verbal quotes from one or more competitive suppliers;
- supplies or service contracts between €5000 to €50,000 may be awarded on the basis of responses to specifications sent to at least 3 service providers;
- Contracts above €50,000 and up to the value of EU thresholds should be advertised as part of a formal tendering process.

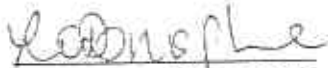
The Branch Committee requests details of which of the above procurement processes were undertaken leading to [REDACTED] appointment, including the number of tenders sought, the experience and expertise set out in the specification, the duration of the contract in question and the remuneration attaching to the position.

It is the understanding of the PSEU Branch Committee that the main purpose of establishing the Stagiaire Scheme throughout the Civil Service was to recruit third level students and recent graduates to recognised administrative grades in the Civil Service through short – term work experience. Re-employment of Stagiaires either as consultants or in any other atypical capacity totally undermines this fundamental intention of the Stagiaire Scheme.

We would also reiterate the PSEU Head Office query concerning the employment of a former Stagiaire immediately subsequent to the expiry of a Stagiaire contract. Could you clarify please, on what basis can this Department award a consultancy contract to someone who has just completed a work experience programme in the Department?

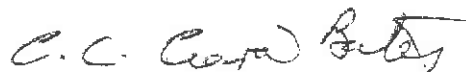
The PSEU Branch Committee would appreciate an early response in this matter please.

Yours sincerely,


Lorraine O'Donoghue
PSEU Branch Secretary

c.c Orla Ryan, PSEU Branch Chairperson
Paul Caffrey PSEU Head Office

Mr. Denis Maher, P.O.
Mr. D. Hanley, Personnel Officer



3 October 2007

Ken Spratt
Department of Energy, Marine and Natural Resources
29-31 Adelaide Road
Dublin 2

Invoice: National Broadband Scheme

Dear Ken, ✓ RA 4/10/7

I enclose an invoice with respect to work carried out in relation to the National Broadband Scheme. The invoice covers the period September 1st – September 31st 2007.

Yours Sincerely,





INVOICE

In order for payment.

[Signature] 4/10/7.



Ireland

VAT No.: IE [Redacted]

Invoice No.: DC003

Invoice Date: 03/10/2007

Please find below details of costing for advisory services on the NBS scheme on behalf of the Department of Communications, Energy & Natural Resources for the period September 1st - September 31st 2007.

Billing Details

<i>Billing period September 1st - September 31st 2007</i>	
<i>Activity</i>	<i>Cost</i>
<i>September 3-7 ✓ (5)</i>	
1.0 DCENR Day	[Redacted]
1.0 DCENR Day	[Redacted]
1.0 DCENR Day	[Redacted]
1.0 DCENR Day	[Redacted]
1.0 DCENR Day	[Redacted]
<i>September 10-14 ✓ (5)</i>	
1.0 DCENR Day	[Redacted]
1.0 DCENR Day	[Redacted]
1.0 DCENR Day	[Redacted]
1.0 DCENR Day	[Redacted]
1.0 DCENR Day	[Redacted]
<i>September 17-21 ✓ (2)</i>	
1.0 DCENR Day	[Redacted]
1.0 DCENR Day	[Redacted]

<i>Activity</i>	<i>Cost</i>
September 24-28 ✓ (5)	
1.0 DCENR Day	[REDACTED]
1.0 DCENR Day	[REDACTED]
1.0 DCENR Day	[REDACTED]
1.0 DCENR Day	[REDACTED]
1.0 DCENR Day	[REDACTED]
Expenses	
N/A	€0
Total (EX VAT)	[REDACTED]
VAT @ 21% + Expenses	[REDACTED]
Total Due	[REDACTED]

✓ (5) 4/19/7

Full day rate, as per contract, is [REDACTED] per day. Half-day services, as above, are charged at the rate of [REDACTED]

Payment Details

Please ensure the total amount due is paid **directly to the following account:**

Account Name: [REDACTED]
 Account number: [REDACTED]
 Sort Code: [REDACTED]
 Bank and Branch:
 [REDACTED]

Kenneth Spratt

From: Kevin O'Brien
Sent: 09 October 2007 15:43
To: Kenneth Spratt
Subject: FW:

Attachments: df_circ40reGCC.doc

Previous e-mail below

The circular that has happened since attached - see para 8



df_circ40reGCC.doc
(51 KB)

From: Kevin O'Brien
Sent: 31 October 2006 11:11
To: Kenneth Spratt
Subject:

Ken

the rules are all at this link, but see the text below from the guidelines - with my underlining

<http://www.finance.gov.ie/documents/publications/other/pubprocguidejuly04.pdf>

5.1 For contracts or purchases below the EU threshold values and not part of a 'draw down' or framework contract, less formal procedures may be appropriate. For example:

- supplies or services **less than €5,000** in value might be purchased on the basis of verbal quotes from one or more competitive suppliers;
- supplies or services contracts between **€5,000 and to €50,000** in value might be awarded on the basis of responses to specifications sent by fax or email to at least three suppliers or service providers.

Values and procedures outlined above are indicative only and should be adapted as appropriate to suit the type of contracting authority and the nature and scale of the project. Reasons for procedures adopted, including procedures where a competitive process was not deemed appropriate, should be clearly recorded. All contract award procedures should include a verifiable audit trail. While contracting authorities are not required to advertise on the national public procurement website www.etenders.gov.ie for requirements below €50,000 they are encouraged to do so if the anticipated response would not be disproportionate, having regard to the value of the requirement.

5.2 Contracts **above €50,000** and up to the value of EU thresholds for advertising in OJEU (see Appendix I), not part of a 'draw down' or framework contract, should normally be advertised as part of a formal tendering process. Publication on the *etenders* website generally meets national advertising and publicity requirements and significantly reduces the need for expenditure on advertising. Notices can be placed by registering online. The

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

A Dhuine Uasail

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 2002* 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, of which one 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 which exceed €25,000 in value (exclusive of VAT) and where no competitive process took place 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 and superseded by this circular. A separate communication will issue to those Departments/Offices outlining the necessary amendments to the Administrative Budget Agreements.

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 are 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 Procurement 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 the 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 new 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 Procurement 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 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 issued 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 Departments/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 604 5786 or Carol Coughlan at 604 5787.

Mise le meas

Michael Scanlan
Assistant Secretary

To: all Accounting Officers; all Finance Officers

Appendix A

Department/Office..... Year Ended.....

1.	Subject of Contract Purchase	Value €	Reason for not having a Competitive Process
2.			
3.			
4.			

I confirm that for all procurements appropriate national and EU procedures were followed, the contract prices were fair and reasonable and represented best value for money.

Signed: _____
Accounting Officer

6**Kenneth Spratt**

From: Kenneth Spratt
Sent: 10 October 2007 15:41
To: Ciara Bates
Cc: Peter O'Neill; Eamonn Molloy; Dave Hanley
Subject: [REDACTED] - PSEU Enquiry
Attachments: [REDACTED] - PSEU enquiry.pdf

Ciara,

I apologise for the delay in replying to you on this matter. We've had a number of pressing issues over the past couple of weeks.

Please see my response attached. I would be happy to meet with CSD to discuss.

Ken.

Ken Spratt
Principal
Communications Development Division
Department of Communications, Energy and Natural Resources
29 - 31 Adelaide Rd
Dublin 2

Direct: + 353 1 6783177
Mobile: + 353 87 9882119
Fax: + 353 1 678 2126

To: Ms. Ciara Bates

Cc: Mr. Peter O'Neill
Mr. Eamonn Molloy
Mr. Dave Hanley

From: Ken Spratt

Date: 10 October 2007

Re: National Broadband Scheme Resources - [REDACTED]

1. The PSEU recently wrote to Mr. Molloy enquiring about the employment of [REDACTED] on the National Broadband Scheme (NBS). The following facts may be useful in considering an appropriate reply to the PSEU.
2. In October 2006, Minister Dempsey directed that a NBS be put in train. Given the complexities involved, Minister Dempsey felt that ComReg's telecommunications expertise should facilitate the implementation of the NBS. The Minister decided that the NBS was the main priority for the Communications area for 2007/2008 and agreed that the Department would meet the cost of any outside consultants required by either ComReg or the Department to deliver the NBS.
3. On 16 October 2007 I met with Mr. Hanley and Mr. O'Neill to discuss (i) the lack of resources in my area to handle existing priorities and (ii) the need for additional resources for the NBS (1 AP and 1 AO/HEO). It was explained to me that the general shortage of resources meant that all divisions in the Department were under resourced and that no further resources would be made available to me. I explained that this was disappointing, unacceptable and un-sustainable and that I would have to explore other avenues for securing the resources required to meet the demands of the section.
4. Later in October 2006, in order to address the lack of resources I re-assigned [REDACTED] (Analyst on secondment from ComReg) and [REDACTED] to the new NBS. Their previous briefs were, with difficulty, re-assigned to other members of my Division.
5. Both [REDACTED] and [REDACTED] have built up considerable expertise that is critical to the smooth running of the NBS procurement project. In December 2006, I was faced with the prospect of [REDACTED] returning to ComReg. Thankfully, we were able to extend her secondment to the end of 2007. (This date now looming and will need to be addressed. I will contact you separately in this regard.)
6. In April 2006, I advised Mr. O'Neill that [REDACTED] was due to finish on 23 May 2006. It was not possible to extend her Stagiaire contract. I advised Mr. O'Neill that, given the lack of a replacement resource, I would like to find some way of retaining [REDACTED]. I highlighted that I intended to hire her as a consultant and that, in accordance with section 5.1 of the Public Procurement Guidelines, I wished to record that a competitive process would not be

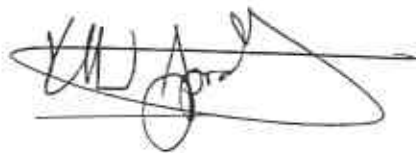
appropriate. Going to procurement would not have resulted in securing a resource with the required knowledge of the NBS. In any event, the rate negotiated with [REDACTED] was excellent value for money.

7. In summary:

- The NBS is the key priority (multi-million € project) in my Division during 2007/2008;
- Minister Dempsey directed that the required budget for consultants required to deliver the project should be secured and that such consultants should be engaged;
- The required resources were not available within the Department;
- A competitive process was not deemed to be appropriate;
- The Public Procurement Guidelines recognise that competitive processes are not always appropriate.

8. I would be happy to meet with you to discuss.

Regards,

A handwritten signature in black ink, appearing to be 'M. J. [unclear]', written over a horizontal line.