



SME Advisory Group

Meeting 1 December 2021

By Video Conferencing

Attendees:

Minister of State Ossian Smyth - Chair	Aidan Sweeney – IBEC	
Ciarán McLoughlin – D/ETE	Eksteen Maritz - CCPC	Jonathan Small - CCPC
Joseph Walser - CCPC	Laura Byrne – D/ETE	Paul Maguire – EI
Sean Downey – CIF	Shane Conneely – Chambers Ireland	Síona Ryan - CCPC
Stephen Browne – SFA	Tanya Thompson – ISME	Tom Kelly – EI
Brendan Whelan - OGP	Fergal Grogan – OGP	Martin O’Gorman - OGP
OGP Secretariats		

Apologies:

Caroline Sweeney – InterTrade Ireland	Declan Hughes – D/ETE
Grant Gilmore – InterTrade Ireland	Neil McDonnell – ISME

1. Previous Minutes and Actions Arising

Minutes of the previous meeting of 13 September were agreed. The actions from the previous meeting were noted including;

- the circulation of the updated Information Note on Covid-19 (Coronavirus) and Public Procurement with the Group;
- with regard to the action on the technical specifications on the eTenders project it was confirmed that specification has been included to help reduce unnecessary duplication of data entry and the project is currently out for tender at present;
- on the action concerning the Private Members Bill - Quality in Public Procurement (Contract Preparation and Award Criteria) Bill 2021 a constructive meeting was held on 19 November with Senator Higgins, Minister Smyth and the Group’s industry representatives.

2. Presentation by the Competition and Consumer Protection Commission (CCPC)

Eksteen Maritz provided an overview of the CCPC’s role and responsibility with a discussion on collusive tendering, bid-rigging and forthcoming, and proposed, legislative change in that regard. Minister Smyth thanked the CCPC for their presentation and a general discussion followed concerning bid-rigging, in particular there was regard to the propensity for bid rigging alongside the relevant protection measures. The CCPC advised that they are happy to engage with the Group to facilitate a more focussed presentation on bid-rigging.

3. Circular 10/2014

Minister Smyth noted that Circular 10/2014 had been discussed a number of times at previous meetings. Minister Smyth outlined the benefits for SMEs and invited the Group to share their views on this matter also. The OGP provided a presentation on a working document to examine Circular



10/2014. There was a discussion regarding the proposed implementation of a Working Group to review Circular 10/2014.

IBEC reemphasised the importance of the Circular and how it was developed by the Group previously. IBEC highlighted the possibility of introducing further guidance that could support buyers in how they deal with SMEs alongside the possibility of re-exploring the below threshold advertisement value of €25,000.

Action – The OGP to circulate working document to the Group for observations and comments including any additional measures that should be considered as part of the review of Circular 10/14; The OGP to invite participants to a Working Group to progress Circular 10/14.

4. Private Members Bill – Quality in Public Procurement

Minister Smyth thanked the Group who participated in the meeting with Senator Higgins on 19 November. The Minister of State asked the Group if they had any further comments, to which none were received. Minister Smyth advised if any members had any questions or queries they could contact him directly and he would reach out to Senator Higgins on their behalf.

5. Strategic Public Procurement

The Minister of State highlighted that DETE suggested that the Environmental Protection Agency (EPA) present to the Group on their new Green Public Procurement Guidance. Unfortunately, the EPA were unavailable today to present but will present at the next meeting. The EPA did however, provide an update which Brendan Whelan relayed to the Group.

ISME discussed green solutions from an SME perspective, highlighting the need for buyers to ascertain as to what stage they will include criteria and to ensure that SMEs are not excluded unnecessarily. Minister Smyth noted that he does not want green public procurement to lead to SMEs being excluded or a reduction in competition. The Minister asked that members contact him directly if they were aware of certain competitions where SMEs have been affected.

CIF noted that they had inputted into the EPA Guidance once the document was out for consultation. CIF queried as to whether there was an overlap on the EPA Guidance and the OPW Green Procurement Guidance which is being worked on. CIF highlighted the need for the two documents to align rather than there being diversions of Policy. Minister Smyth acknowledged the point made by CIF and advised that an update would be requested from the OPW. Brendan Whelan noted that he would liaise with our colleagues in the Construction Policy section to advise the OPW that it has been raised in this forum.

IBEC highlighted the importance of such Guidance produced by the EPA. IBEC discussed the importance of early market engagement for buyers and category councils to be aware of products including innovative products that are available. Brendan Whelan made reference to recent discussions with EI in which this matter of supplier's bringing the innovative solutions to public buyers was highlighted, the challenges were noted including transparency and equal treatment. Minister Smyth asked for the possibility of an action in this sphere to be explored. EI highlighted that this would be engagement prior to the pre market engagement, EI noted that buyers are seeking innovative ideas and products required are not normally off the shelf solutions. EI put forward possible suggestions on how this could be progressed highlighting that a forum could be established which would allow companies to come forward and talk about their offerings and give a level of information to the buyers. EI highlighted that this would be a collaborative effort and made



reference to their PPE forum in which suppliers highlighted ideas/products to the contracting authorities.

Action – OGP to notify OGP Construction Policy on matters raised concerning the alignment of OPW Green Procurement Guidance and EPA Guidance; OGP to engage with EI on how to support SME's in bringing their innovative solutions to the attention of public buyers; OGP to circulate written update provided by the EPA and circulate link to the EPA [Green Public Procurement Guidance](#).

6. Covid-19 & Brexit

Minister Smyth highlighted recent changes in the areas of Covid-19 and Brexit. The Minister of State noted that the OGP circulated the updated Covid-19 Information Note published in September to members of the Group and asked the Group to put forward any concerns they had in the areas of Covid-19 and Brexit.

ISME highlighted that some organisations such as the HSE were still awarding contracts without competitive procedures. IBEC agreed with the points raised but noted that the HSE were very good at interacting with the companies prior to Covid-19. There was a general discussion regarding non-competitive procurement impacts on SMEs and Minister Smyth noted that he is working on this matter and he had recently been in discussions with the HSE and the Chief Procurement Officer Paul Quinn.

ISME referred to inflation and fixed price contracts, ISME highlighted that there needs to be a rethink of strategy and a flexible approach when dealing with tenderers. IBEC reemphasised the point on inflation and noted the matter needed to be looked at. Minister Smyth acknowledged the points raised and referred to recent guidance published concerning inflation.

ISME noted the utilisation of British Standards (BS) within Irish contracts and highlighted that as time goes on there will be a significant divergence. Brendan Whelan noted that the OGP had published Information Note's concerning Brexit with the most recent update published in July. The matter was discussed generally and challenges noted such as procurers reusing old tender documents where the standards would have been referenced.

IBEC raised the matter of companies losing out on business due to staff working from home and as such there is no drawdown of certain services. IBEC noted that some companies are unable to obtain restart grants and other associated grants. IBEC suggested that the OGP should review their current contracts and see how viable is their supply chain going to be in the future, given that companies are likely to reinvent themselves and likely will not come back in their current guise so how robust is the future supply chains going to be. Minister Smyth acknowledged the points raised.

Action – OGP to circulate current inflation policy.

7. AOB

The Minister advised of the suggested dates for next year's meetings which will be circulated to the Group.

Action – OGP to circulate 2022 meeting dates.