



## SME Advisory Group

Meeting 11 December 2023

### Attendees:

Minister of State Ossian Smyth - Chair	Anne Stewart - OGP	Edwina Steele - OGP
Fergal Grogan - OGP	Joan Grogan - OGP	Aidan Sweeney - Ibec
Jonathan Small - CCPC	Paul Maguire - EI	Ross Church - DETE
Fran Atkinson - DETE	Adam Weatherley - ISME	

### Apologies:

Deirdre McPartlin - EI	Patrick Sinnott - DETE	Fiona Costelloe - OGP
Gillian Ross - CIF	Pauline Mulligan - DETE	Grant Gilmore – InterTrade Ireland
Caroline Sweeney – InterTrade Ireland		

#### 1. Previous Minutes and Actions Arising

The Minister welcomed the group to the meeting and apologised that the scheduled date for the meeting of 5 December had to be put back a week due to conflicting commitments. The Minister asked the group if they had any comments on the minutes of the previous meeting. As there were no comments arising, the minutes were taken as agreed.

#### Actions from the previous meeting as below were completed:

- Pre Market Consultation was added to the Agenda for this meeting.
- Links to the public consultation on the new GPP Strategy and Action Plan and EPA's GPP guidance were circulated to the group. It was noted that one link was not working which was later resolved.
- A link to the revised National Public Procurement Guidelines for Goods and Services on the OGP website had been circulated to the group.

#### 2. Competition (Amendment) Act 2022

- The CCPC provided an update on the Competition (Amendment) Act 2022, which came into force in September 2023.
- The aim of the Act is to strengthen the powers of the CCPC to challenge anti-competitive practices. The Act includes a distinct offence of 'bid-rigging', which stemmed from a recommendation in the Hamilton Report. The CCPC advised of guidance on the new Act on their



website.

- It was mentioned that on 6 December, the CCPC and the OGP attended the Joint Oireachtas Committee on Finance, Public Expenditure and Reform, and Taoiseach to discuss preventing bid-rigging in the public procurement process.
- The matter of leniency for those involved in bid-rigging coming forward as whistle-blowers forming part of the Act was discussed.

### **3. EU Proposed Regulation on Late Payments**

- This item was added to the Agenda on Ibec's request.
- DETE provided an update on the background to, and progress of, the proposed Regulation. The Regulation is expected to be finalised in mid-2025 with a further twelve months for implementation. An enforcement body will be set up to oversee the enforcement of the Regulation. A public consultation on the Regulation had been held in tandem with bilaterals with industry representative groups and other member states who have also expressed concerns regarding this proposal.
- DETE invited the group to bring forward any comments or concerns on the Regulations.
- Ibec raised concerns about Article 4 and the impact it could have on SMEs forming consortia and the impact on the market place. They stated the evidence is not there to support turning the Directive into a Regulation as the procurement Directives currently allow for the with-holding of payment to prime contractors and for payment to be made directly to sub-contractors.
- EI questioned how sub-contractors could raise a problem of late payments without going to the prime contractor. DETE advised enforcement could be through mediation. It was noted that sub-contractors are not seeking interest or compensation at present for fear of losing future work.

### **4. eTenders**

- OGP provided a general update on the new eTenders platform. Over 5,000 competitions have been published since go-live.
- A Digital Team has been stood up to look at, amongst other projects, the next iteration of the platform which will be due in around seven years.
- ISME advised general feedback from users was not great and the language on the platform is very technical. The Minister asked if they could provide specific examples of issues.
- OGP advised they could request a colleague from the Operational Excellence unit of the OGP to attend one of the meetings to speak to the group.

**Action** - OGP to look at arranging for a member of the OGP Operational Excellence team to



attend one of the meetings to speak with the group.

#### **5. Strategic Public Procurement**

- OGP advised the group that the GPP Criteria Search tool is now a year old and has received positive feedback. It is dynamic in nature and as new GPP criteria are made available they will be added to the system. The tool has also been translated into Irish.

#### **6. Macroeconomic Issues**

- EI raised the matter of the report by the European Court of Auditors (ECA) on Public Procurement and the figures with regard to single bidders. Ibec recommended that the ECA be invited to attend a meeting of the group.
- OGP advised that the EU Commission has signalled a possible revision of the 2014 Directives. OGP will keep the group updated on any developments.

**Action** - OGP and Ibec to discuss the possibility of a meeting with the European Court of Auditors and to see if they could address the group at a future meeting.

#### **7. Preliminary Market Consultation**

- Due to time constraints at the meeting, it was suggested to defer this item to the next meeting. Ibec suggested that OGP engage with other member states to ascertain what is being done across the EU in this space.

#### **8. A.O.B.**

- The Minister confirmed the revised EU thresholds had been circulated to the group.
- EI advised the Uisce Éireann Meet the Buyer event took place in October and was well received with between 600 to 700 1:1 meetings taken place. The event will be rolled out to other bodies.
- OGP to circulate SME Advisory Group meeting schedule for 2024.

**Meeting concluded**