

## Frequently asked Questions

This FAQ has been developed to assist public bodies understand and implement Circular 05/2023. It has been broken down into sections that mirror the layout of the circular. This FAQ will be updated so please check the OGP website to ensure that you have downloaded the most recently published version.

### What is Circular 05/2023

Circular 05/2023 constitutes new Government guidance that sets on positive measures for contracting authorities to take to promote SME participation in public sector procurement. The circular includes measures that contracting authorities should consider taking. The circular also places a requirement on public bodies in relation to certain measures, that is, measures that they must take. These measures have been highlighted below.

Measure	Requirement
2.1	Contracting authorities are required to advertise all contracts for goods and services with a value of, or greater than, €50,000 (exclusive of VAT) on eTenders.
2.2	Contracting authorities are required to advertise all contracts for works with a value of, or greater, than €200,000 (exclusive of VAT) on eTenders.
2.3	Contracting authorities are required to publish contract award information for all procurements over €25,000 (exclusive of VAT) on eTenders.
3.13	Contracting authorities must not use arrangements where candidates/tenderers are required to pay to access competitions for public contracts.

### Why is the guidance changing?

Feedback from SMEs and public bodies has been that previous guidance (as set out in Circular 10/2014) had a tangible impact on improving access for SMEs by removing the primary barriers to their participation but that there is a need to reaffirm and update existing measures and consider the introduction of new measures. Circular 05/2023, which has been developed following an extensive consultation process with SMEs and public bodies, is designed to further enable SMEs to compete for public contracts, building on the work of previous circulars including Circular 10/2014.

### Do I still need to consider Circular 10/2014?

No, Circular 05/2023 replaces Circular 10/2014.

### What has changed since Circular 10/2014?

Circular 05/2023 includes a number of new and updated measures for public bodies to take to enable the participation of SMEs. The main changes for public bodies to note are requirements in relation to the advertising of contract opportunities and publishing contract award information. However, the circular includes further measures for public bodies to take to make public procurement more accessible to SMEs.

## General Measures (Section 1)

### **Does Circular 05/2023 apply to works contracts?**

Circular 05/2023 includes specific guidance for public bodies specifically related to the procurement of works and works related service contracts. This Circular should be read in conjunction with the Capital Works Management Framework (CWMF). The CWMF's suite of guidance, standard contracts and template documents will continue to apply to works and works related services as set out in Circular 06/2010.

### **Will the circular be kept under review?**

Yes, the measures included in Circular 05/2023 will be kept under review in light of their impact on SME participation and operational efficiency.

## Transparency (section 2)

### **What are the new national advertising thresholds?**

The threshold at which all contracts for goods and services must be advertised on eTenders is now €50,000 (exclusive of VAT).

The threshold at which all contracts for works must be advertised on eTenders is now €200,000 (exclusive of VAT).

### **Is the national advertising threshold for works-related services changing?**

No, the threshold at which contracting authorities are required to advertise all contracts for works-related services remains at €50,000 (exclusive of VAT). The national advertising threshold for works related services is now in line with the threshold for general services.

### **What is the new guidance for procuring goods and services?**

The new guidance for procuring Goods and Services is as follows:

- Buyers can award contracts that are valued below €5,000 (excluding VAT) on the basis of verbal or written quotes from at least one or more suppliers.
- For contracts valued between €5,000 and €50,000, buyers have multiple options. Contracts can be awarded based on the following competitive processes:
  - Responses to written specifications (including by email) that were sent to at least three suppliers,
  - Responses to at least three quotations obtained using the electronic request for quotes facility on eTenders, or
  - A more formal tendering process by advertising on eTenders.
- Contracts valued over €50,000 excluding VAT must be advertised on eTenders.

### **What is an electronic request for quotes?**

Circular 05/2023 promotes the use of eTenders to advertise low value purchases. eTenders facilitates the use of electronic requests for quotations (currently called Quick Quotes) for contracts below €50,000 (excluding VAT). Public bodies can use eTenders to search for suppliers who can provide the specific business they require. They can search for them based on the CPV codes they

have chosen, the key words they have entered on their Company Profile and based on their market coverage, i.e. where the supplier can provide business.

A User Guide on this existing Quick Quotes functionality can be found [here](#). Guidance on the use of electronic requests for quotations in the new eTenders platform will be published in advance of the go live date.

### **What impact does the increase to the national advertising thresholds for goods and services have on Circular 40/2002?**

As set out above, public bodies can now follow a more simplified competitive process for purchasing up to the national advertising thresholds. The increases in the advertising threshold will not impact on the obligations for Government Departments and Offices to report to the Office of the Comptroller & Auditor General on any contracts above €25,000 awarded without a competitive process (as set out in Circular 40/2002).

### **What impact does Circular 05/2023 have on Circular 14/2021: *Arrangements for Oversight of Digital and ICT-related Initiatives in the Civil and Public Service*?**

In accordance with Circular 05/2023, the threshold at which all goods and services must be advertised on eTenders is €50,000 (exclusive of VAT). This is a separate and unrelated requirement to that included in [Circular 14/2021](#) (which superseded Circular 2/2016) which states that specific approval must be sought for *'all new digital and ICT-related initiatives which may give rise to expenditure in excess of €25,000, excluding VAT and internal staff costs'*.

Enquiries regarding Circular 05/2023 can be addressed to [support@ogp.gov.ie](mailto:support@ogp.gov.ie) or [construction@per.gov.ie](mailto:construction@per.gov.ie). Enquiries in relation to Circular 14/2021 can be addressed to the Digital Government Oversight Unit at [DGOU@per.gov.ie](mailto:DGOU@per.gov.ie).

### **What is the new guidance for publishing contract award information on eTenders?**

Contracting authorities are required to publish contract award information for all procurements over €25,000 (exclusive of VAT), including any contract awarded under a Framework Agreement, on the eTenders website on completion of the award whether the procurement was advertised on eTenders or not (for example, via email).

Contracting authorities do not need to take any additional actions to fulfil this requirement for all contracts awarded from competitions managed on eTenders (including through the Quick Quotes functionality) once the contract finalisation management module has been concluded.

In situations where the procurement competition was managed outside of eTenders, contracting authorities are required to manually create a record of the award on eTenders and complete all relevant fields for contracts over €25,000 (exclusive of VAT).

## **Measures to Promote SME Participation (Section 3)**

### **What changes are there to guidance on turnover requirements?**

The new guidance encourages consideration of the risks associated with the contract prior to setting a turnover requirement. The minimum yearly turnover required of an economic operator shall not exceed twice the estimated contract value, except in duly justified cases. The circular highlights that turnover requirements can be lower than twice the estimated contract value. Preliminary market

consultations can help contracting authorities to understand the specific capabilities of SMEs in the market.

Guidance on turnover requirements for works contracts may be found under the Capital Works Management Framework – Guidance note [GN 2.3.1.3](#)

Guidance on turnover requirements for works-related service contracts may be found under the Capital Works Management Framework – Guidance note [GN 1.6.3](#)

### **What advice is there regarding insurance requirements for public bodies not covered by the State Claims Agency?**

Public bodies not covered by the State Claims Agency are asked to contact their risk management department or relevant insurance advisor to determine the appropriate levels of cover.

### Central Arrangements (Section 4)

#### **Is there any change to guidance regarding the use of central arrangements?**

There is no change to Government policy, as set out in Circular 16/13, that contracting authorities should continue to make use of all such central arrangements, where they are available.

### eTenders (Section 5)

#### **What is the new guidance regarding closing the tender on eTenders?**

Contracting authorities are obliged to send contract award notices to the OJEU via eTenders within 30 days of the award of the contract. For below EU threshold contracts, contracting authorities should ensure that all tender notices and any relevant fields on eTenders, including relating to contract award, have been completed in a timely manner.

### Enquiries (Section 6)

#### **Who should I contact with any queries regarding the circular?**

Any queries in relation to the operation of this Circular regarding goods and general services can be addressed to [support@ogp.gov.ie](mailto:support@ogp.gov.ie).

Queries in relation to works and works related services should be emailed to [construction@per.gov.ie](mailto:construction@per.gov.ie).