

## Memo 7/2018

**To** Project Leaders: Pre-defined Projects – EEA & Norway Grants 2014-2021  
**From** Financial Control Unit, Funds and Programmes Division, MEAE  
**Date** 2<sup>nd</sup> January 2019  
**Subject** Financial Guarantees in Procurement Procedures

The Project Promoters of the pre-defined projects awarded grants under the EEA and Norway Grants 2014-2021 are reminded to follow the Public Procurement Policy Notes issued by the Department of Contracts in relation to Pre-financing and Performance Guarantees for all EU Funded Procurement.

Pre-financing is a short-term advance payment to the contractor to enable him/her to finance the initial purchases or investment connected with the execution of a contract. Such advance payment is backed up by a **pre-financing bank guarantee**, for the same amount, from the contractor.

Procurement Policy Note #34, issued in September 2017<sup>1</sup>, stipulates that, in respect of EU-Funded Call for Tenders (CfTs), whose estimate value exceeds €100,000 (excluding VAT) and/or whose implementation is longer than four (4) weeks, pre-financing shall no longer remain an option.

To this effect, such procurement shall have a mandatory clause for the payment of an advance payment against a pre-financing bank guarantee. This guarantee shall be retained until it is fully amortized through the achievement of a clearly indicated milestone or activity, or until the financial equivalent of works, supplies or services have been carried out/provided, and certified correct. This is a Government-wide policy. It shall apply to all Ministries/Departments/Entities falling under Schedule 1, 2 and 3 of the Public Procurement Regulations.

The **Performance Guarantee** is a written guarantee from a third party guarantor (usually a bank or an insurance company) submitted to a Contracting Authority by a contractor on winning the bid in order to guarantee the full and proper performance of the contract. It secures performance and fulfilment of the contractor's obligations under the contract, and, if in default, the guarantee is forfeited in favour of the Government. Through this guarantee, the Government is protected from financial losses should the contractor fail to perform in accordance with the conditions of the contract. The Performance Guarantee for all contracts with a value above €10,000 but below €500,000 exclusive of VAT shall be of 4%, while for all contracts with a value above €500,000 exclusive of VAT, it shall remain at 10%. Procurement Policy Notes Nos 21 and 22 refer.

The Pre-Financing and Performance Guarantees are to remain valid in line with the terms stipulated in the contract and release letters are to be issued in line with contract obligations.



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DG and Head NFP

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<sup>1</sup> [https://contracts.gov.mt/en/ProcurementPolicyNotes/Documents/PPN34%20\(Updated\).pdf](https://contracts.gov.mt/en/ProcurementPolicyNotes/Documents/PPN34%20(Updated).pdf)