

Information and Communications Technology – Guidance on use of Generic Technical Specifications

1. Introduction

Public procurement Directives require that in the award of public contracts, contracting authorities must avoid the use of restrictive technical specifications. The Directives provide that, unless justified by the subject - matter of the contract, technical specifications must not refer to a specific brand, source, trade mark, patent or particular process which would have the effect of favouring or eliminating certain undertakings or certain products.

The use of such references is permitted, on an exceptional basis, where a sufficiently precise and intelligible description of the subject - matter of the contract is not possible. In such cases a provision must be made for acceptance of “equivalents”.

2. Practice in the ICT Sector

In the Information and Communications Technology (ICT) sector, it has been common practice to describe technical specifications using certain brand names e.g. “Pentium 4 or equivalent” or “Intel or equivalent” when describing microprocessors. Up to recently this was regarded as acceptable and permissible within the limits set out in the EU procurement rules. However, it is being brought to attention that in the current market, reference to such brand names is not necessary in specifying requirements and is, therefore, in breach of EU law. Similarly, specifications for microprocessors with a clock rate above a certain speed which indirectly favour one manufacturer’s product are also deemed to be discriminatory.

3. Developments at EU Level

The EU Commission has been examining this issue in the light of specifications being used for ICT contracts being advertised by contracting authorities throughout Member States. On the basis of the examination, it is concluded that Member States need to take appropriate measures to ensure that contracting authorities are not being discriminatory by using of technical specifications along the lines set out at 2 above. The purpose of this note is to bring this issue to the attention of all contracting authorities in the State and provide guidance and clarification on how breaches of procurement law can be avoided.

4. Avoiding use of Brand or Trade Names

The following guidance on avoidance of reference to manufacturer or brand names and generically describing requirements is provided for contracting authorities when specifying requirements in tender documents and publishing notices for supply of ICT equipment.

4.1 Personal Computers

Specifications should indicate that each PC must be capable of competent performance in either a Windows XP Professional or an open source environment or equivalent. In that regard a statement must be provided confirming that the proposed PC meets or exceeds an overall performance rating using the BAPCo SYSmark 2004 benchmark. In this regard, a current minimum of “168” has been suggested. This minimum will be kept under review by the ICT Managers Forum. The testing that determines the performance rating must be carried out by an independent party using BAPCo prescribed instructions. The configuration of the PCs used for testing must be the same as those that will fill the order. It should be noted that specifying benchmark performance in this way precludes the specification of bus speeds, cache sizes, etc.

4.2 Servers

For general purpose servers, it may be appropriate to use the BAPCo SYSmark 2004 suite as described above (albeit with a different minimum rating). However, this benchmark may not be suitable for specific server purposes. In such cases, the type of benchmark used should be both easily available and appropriate to the intended use of the server platform (e.g., database management, transaction processing, web-serving, etc.).

4.3 Other Technologies

In keeping with procurement requirements, every effort should be made to avoid specifying actual technologies when preparing tender documents. Consequently, tender documents should detail the specific qualities and requirements sought, and any appropriate available benchmarking methodologies that will be applied when comparing offerings, rather than names or types of technologies.

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