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**Submission from the Irish School Art Supply Federation
to the
Public Accounts Committee
on the
Problems Facing Our Industry due to Public Procurement**



ISASF Members Geographic Spread

ISASF:

The ISASF represents the indigenous Irish Art School Supply industry and, at present, represents 70 Micro-Businesses. The industry is comprised entirely of geographically dispersed Micro-Businesses serving their local schools and directly employs approximately 1600 people.

Ours is a highly competitive industry, which helps keep margins tight and value high. When transport costs are taken into account our prices are currently lower than our UK counterparts (as per an Economic Impact statement which we commissioned from Mario MacBlain of the Dundalk Institute of Technology).

Our industry is under threat of extinction, not from outside competition or industry forces (we have survived the worst recession this country has ever known), but from our own Government.

The Government is our only customer; if we cannot supply schools then we will have to close.

CURRENT THREAT

Our business is being eroded as the Government grants more aggregate contracts for products used in schools such as ICT consumables, paper, janitorial supplies and stationery supplies.

Once products are the subject of centralised contracts, purchasers in schools are **afraid to purchase from any other supplier for fear of losing central funding**. This is the case even **when the local supplier is cheaper**.

Schools feel compelled to purchase not just the core items but **all the products** in the product category from the successful tender applicant. Once the contract has been awarded, there is no procedure to check for excessive pricing by the successful tender applicant on non-core items. The total bill to the schools of a mix of core and non-core items can end up considerably higher than before the aggregate contract.

The situation also gives rise to the following problems:

- There is little safeguard against product substitution.
- There is no credible complaints procedure in place if a school is dissatisfied with the products purchased from tender contracts.
- Principals are worried that they will be legally liable for injurious products they feel compelled to purchase from aggregate contracts. This worry has come to the fore since products which come under the Toy Directive were included in a Stationery Contract RFT without safety specifications.
- We were a one-stop-shop but now even small schools must purchase from multiple firms – this places an administrative burden on Principals.

The situation is exacerbated by the legal limbo of the mandatory status of such contracts. Mandatory status was granted for the Managed Print Services contract by Circular 06/12, which was then successfully challenged in the High Court and deemed Ultra Vires. Circular 16/13 followed, allowing Government bodies to purchase off-contract if they could demonstrate Value for Money. The High Court case has been referred to the Supreme Court and the status of centralised contracts remains at best unclear. The Minister for Small Business, Mr John Perry, helped us by issuing a letter stating that School Principals could buy off-

contract if another supplier offers Value for Money in light of the **price and service** provided to the school. However, despite this assurance, our members have found that schools remain wary of having payment requests denied if they buy off-contract. As recent events have shown “Whistleblowers” are not lauded but lambasted.

SOLUTION

We feel that the Department of Finance and the Department of Education need to **contact schools directly**, to give them the peace of mind that they can buy from their local suppliers if they are getting Value for Money.

The definition of Value for Money has to go deeper than price and include cost-in-use, safety standards, quality and service. **The Social value in buying local must be factored in.**

If, however, the reporting requirements needed to satisfy the Department of Finance prove too onerous, then Principals will be effectively excluded from purchasing locally.

We are confident that, if they feel secure in so doing, schools will choose the excellent price/value ratio offered by their local suppliers (see below).

FUTURE THREAT

Should Art and Graphic supplies to schools become the subject of an aggregate public procurement tender, our industry will be wiped out overnight for the following reasons:

1. **Micro-Businesses can't tender for aggregate contracts.**
2. **There is virtually no price policing.**
3. **The entry barriers are too high for Micro-Businesses.**

Micro-Businesses' Exclusion from Aggregate Contracts

There is no conceivable way an industry composed of Micro-Businesses can come together to tender for a large centralised contract.

While the Government welcomes the participation of SMEs in Public Procurement (there is no differentiation for Micro-Businesses), the reality of these contracts effectively excludes participation for the following reasons:

- Group applications must have a principal tender applicant and **the ability to invoice centrally**. This makes it **logistically impossible** for a group of Micro-Businesses to tender.
- The use of a **Special Purpose Vehicle** for the tender is not allowed. This means that a group of small businesses can't form a company to fulfill a tender.
- All responsibility falls entirely on the **principal tender applicant**. That company is then fully responsible if the terms of the contract are not met.
- It is entirely up to the principal applicant to vet any subcontractors, to make the subcontractors liable and to pay the subcontractors.
- Where a sector, such as ours, is comprised of Micro-Businesses and there is no company large enough to act as the principal tender applicant, tendering is absolutely **impossible**.
- If you can't service the whole contract you can't service **ANY OF IT**. For example, schools are part of the NPS group 4 in the RFT for the Supply of Stationery. This excludes school suppliers from tendering as they would have to be able to supply not

only all schools in the state but also **every other client in group 4** including Central Government and Local Authorities.

Policing Pricing

The problem of large companies with deep pockets tendering is exacerbated by the hopelessly inadequate protections currently in place against unusually low bids or predatory pricing. The Stationery contract is a case in point:

When our committee met with the Seamus O'Neill of the NPS, we pointed out that some of the prices listed on the successful office supply contract seemed to us, as experienced stationery purchasers, to be abnormally low. For instance, a magnetic whiteboard - reference no. 1405A - had an NPS contract price of €6.10, versus the regular catalogue price (2012/2013) of €203.82.

We were told *only a difference between tender prices of 15-20%* will trigger an investigation. We pointed out that this system is hopelessly inadequate.

Other serious barriers to entry:

- The **size** of the centralised contracts - it has been shown that the size of a contract is the single biggest barrier to the participation of Micro-Businesses.
- When assessing bids, some RFTs use **price** as the only criterion, rather than cost-in-use or **value for money**. This excludes Micro-Businesses that may have excellent, innovative products to offer.
- **Complexity** and lack of clarity acts as a barrier to tendering. These barriers are disproportionately high for Micro-Businesses.
- The **cost**, at €4,500 for a €25,000 contract, is prohibitive.

If an aggregate contract for Art and Graphic supplies to schools goes ahead then only a large company from outside the State has any chance of winning it.

The result of putting School Art and Graphic Supplies out to tender will be the extinction of the indigenous School Supply Business.

The loss of the Indigenous School Supply industry would have the following negative effects:

- 1. It will harm local communities**
- 2. The customer will lose rather than gain**

It will harm local communities:

Schools are at the heart of local communities; our members' geographic spread reflects that. If we are wiped out then the fallout to local communities will be as follows:

1. We directly employ 1,600 people. It would cost the IDA approx. €21 million to find new jobs for us.
2. We pay Rates to our local councils.
3. We sustain other jobs in the community by purchasing our goods and services locally (e.g. printing and vehicle costs), thereby sustaining the local economy.
4. We pay rent locally.
5. We give work experience to local schoolchildren.

6. Our children attend local schools. The MacBlain report found that 89% of Irish school suppliers have family members who attend or have attended schools to which they supply Art and Graphic materials.
7. The majority of the funds for Art and Graphic products are raised through parent contributions and community fundraising events (which our members frequently sponsor). Surely these funds should be used to sustain the local economy where possible.
8. Deliveries are within the local area, cutting down on carbon emissions, road surface damage, traffic congestion, etc. due to transport, particularly when compared with shipping from the UK.
9. Irish school suppliers offer products with added environmental benefits, e.g. pencils sourced from FSC approved forests.
10. At present, almost 17% of 16-20 year olds are unemployed; the best chance of employment for this age group comes from their local small businesses.
11. The MacBlain report found that these negative effects would be most clearly seen within the more rural communities in the West and South of the Country.

The MacBlain report reached the following conclusion:

With the potential loss of jobs within these school supply organisations, such strategic national policy must be considered carefully with a full appreciation of impact studies, in particular a critique of the demographic, economic, cultural, environmental and community perspectives.

In conclusion we are Micro-Businesses who are inextricably linked to the health and vibrancy of our local communities.

The Customer Will Suffer

We also offer the following benefits which are not reflected in a price-only competition:

1. We have **expert knowledge** of our products. This provides a valuable resource to art teachers, the loss of which would be difficult and expensive to replace. The MacBlain report found that 85% of Irish school suppliers provide a professional after-sales and technical service to their customers.
2. We offer an **outstanding service**. This is particularly important for small rural schools, for which delivery charges and minimum order levels are problematic. They can't afford to keep resources tied up in stock.
3. We offer an excellent **price/quality ratio**.
4. Our products comply with **EU Regulations** on safety for children and are long-lasting.
5. We offer generous credit terms which have bridged the gap for many schools.
6. When surveyed for the MacBlain report, 98% of Schools were satisfied with the quality and value for money offered by their local school suppliers.

SOLUTION

The solution is to adopt the new EU rules on public procurement as soon as possible.

The Office of Government Procurement is new and affords an excellent opportunity to realise the maximum benefits of Public Procurement to our society.

The award criteria in the new rules are based on the principle of Most Economically Advantageous Tender (MEAT), which aims to ensure quality and best value for money by putting more emphasis on environmental considerations, social aspects or innovative characteristics, the experience of the staff performing the contract or offers of after-sale service and technical assistance, while still taking into account the price or life-cycle costs of the work, goods or services procured.

Contracting authorities shall require economic operation to explain the price of costs proposed in the tender where tenders appear to be **abnormally low** in relation to the works, supplier or services.

Job retention and creation must be a core value of the Office of Government Procurement. It is not currently required to consider the job losses which may result from their purchasing decisions.

When enacting this Directive, we would recommend the inclusion of the following provisions:

1. The EU Directive only applies to contracts whose value exceeds the EU threshold. We would recommend **the application of the principles to all Public Procurement contracts** as far as practicable. This is particularly important for the inclusion of Micro-Businesses.
2. Where there is a potential **Heath and Safety** risk, particularly where children may be the end users, protection should be included in the form of product specifications.
3. The EU wants Member States to assess the involvement of SMEs for the purpose of reporting on Procurement; **Irish analysis should include the participation of Micro-Businesses.**
4. Clients should have the facility to **report their levels of dis-satisfaction** directly to the OGP to ensure a **focus on client needs** and therefore enhanced effectiveness.
5. Provisions should be included to **monitor existing contracts** in order to prevent product substitution or excessive charges on non-core products.
6. The directive allows the OGP to **assess the market prior to RFTs** and the existing market structure should be taken into account at this stage. This is particularly important for industries where the Government is the sole client. In these instances, a failure to secure a contract will inevitably lead to business closures.
7. While the directive will help to make the procurement process easier for SMEs, it does not go far enough. In the Irish context, which is dominated by Micro-Businesses, the **barriers to entry need to be removed**. Micro-Businesses have been shown to be more vulnerable to overall administrative burdens than other organisations.

The Office of Government Procurement, with its current remit, is the single biggest threat to Irish Micro-Businesses.

The Government saved €39 million on procurement in 2012 (0.26% of the total spend), spent €37 million doing so and made hundreds of people redundant in the process. They gave 28% of the Public Procurement spend to other countries in 2013, a sum which could have generated €16 BILLION for the Irish economy.

Why should we, a competitive industry with high levels of customer satisfaction, be annihilated by this organisation?