

Road Safety Authority

Board Meeting Minutes & Action Tracker

Friday 07 June 2024

Present	In Attendance
Ms Liz O'Donnell, Chairperson	Mr Sam Waide, CEO
Ms Sarah Johnson	Mr Brendan Walsh, Chief Operations Officer
Mr Dave Montgomery	Mr Enda Gilvarry, DTT Projects & Processes Manager
Mr Derek Cawley	Ms Deirdre Horkan, RSA Solicitor
Apologies	Ms Vida Auksoirute, Head of Procurement & Contracts Management
Mr John Cronin	Ms Anna Marie Curren, A&L Goodbody
Ms Ashling Cunningham	Ms Sandra Kelly, HEO Driver Licensing Projects & Processes
Mr Dónall Curtin	Ms Laura Byrne, Executive Office

Board Minutes

1	Apologies and Introductions The members were welcomed to the meeting and the introductions were noted.
2.	Extension of the Driver Theory Test Contract • Safe harbour for contracts where they are needed for state service • Decision to offer driver theory test and NDLS service • Background of the contract provided to the Board Members. • Contract expires on 17 June 2024. • Building new model to target 90% online. • Recommendation to extend to 4 contracts. Board already have approved extension of the NDLS back office and Card Production Contracts to Feb 2027 under Safe Harbour 72(1)(b) to allow time for procurement of amalgamated contract. • This has been on the Corporate Risk Registry since January 2024 as Corp.0.8 and external legal advice was needed for the Board Paper. • Procurement exemption – contracts are substantial modifications – DTT value increase of [REDACTED] and [REDACTED] and [REDACTED]. • Safe Harbour – additional safe harbour allows to change to contracts if 4 conditions are met and these are outlined in the legal advice. • Value in the contract has increased due to demand. • Value in NDLS contract award notice was [REDACTED] with value originally of [REDACTED] and now of [REDACTED] due to extension. • Agreed should review the actual spend of the contract. Directive is the value of original contract is the value of the actual spend, modification notice to be published



	when contracts modified it discusses detail of price and price of medication and asked for updated total contract value. • Value of the extension is not greater of 50% of the contract • Residual risk of a challenge if it happened. • FOI request in relation to DTT Contract Renewal received in April 2024. Response issued on 7 May 2024. • 2 rounds of market soundings held in relation to the new DTT/NDLS service procurements. • Future contract timelines were discussed with potential bidders. • Original bidders of the contracts have been involved in the current market sounding. • Legal advice seeks to argue that the modification wouldn't be a breach of procurement legislation but what if it was and if so, could a DPER sanction be sought for the spend. This wouldn't be advisable. This is a sustainable modification and should be retendered. If an exemption is to be availed of there is a process that must be followed. • To maintain the position but in order to maintain the position you need to prove the position first. Analysis is available on why you may not go for tender at this stage. • Would need injunction relief to stop these contracts going ahead. Due to public interest a contract would not be successful here. Implications for road safety ensures RSA will not be prevented from making this change. • Position if we are not in a position to relate a temporary contract, could we tender for a short-term continuation of the contract while other work is underway. Current suppliers have 34 sites in Ireland, 34 independent leases and technology integration that would be necessary as well as staff training, own IT technology changes, if the contract is awarded elsewhere. The incumbent is happy to continue and part of the new bidding process. • Paper was provided for the first set of safe harbours in Dec 2022 and added to risk register in 2024 calling out paper for the board but the RSA was late with the paper. RSA have had to deal with an exhaustive phase to get to this process and will ensure this doesn't occur again. • Options analysis is ready to go. • Concern with reputable damage if a challenge is taken. FOI, general query and PQ replied too and no response since. There were not from a known source. All 3 queries had the same wording. Response confirmed contract awarded for 5 years with options to extend by 2 1 years and currently reviewing options analysis and seeking to extend under safe harbour by 30 months. Threshold for follow up has passed. • Contract needs to be approved to continue the service and reply on the exception. • 3 options for consideration with 3 option to modify under safe harbour discussed. • RSA funding pays for service and no funding from DPER. • To go to DPER with current contract to continue as is would still need to do so on the same legal basis. In order to meet safe harbour you need to meet all conditions and need to publish modification notice. • Presentation to board on new procurement procedures to ensure this doesn't occur again. • Secure legal position and taken appropriate advise on the position.
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	• Chair is happy to allow this after hearing the legal advice. Board has taken assurance from the legal advice. Risks are very high on technical and costs to not continue. • David Montgomery asks if this is a recommendation to the board from the leadership team and the CEO confirms that this is a recommendation from the Business & leadership. • The chair and Sarah agree and David agrees but states that he is not satisfied with the low level of risk to the reputational impact of the decision to seek safe harbour.
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Signed: _____
Chairperson

Date: _____

