

laaS Services Contract

Response from the American Chamber of Commerce
Ireland (AmCham) to the Office of Government
Procurement's public consultation.

February 2023

The American Chamber of Commerce Ireland

The Voice of US-Ireland Business

The American Chamber of Commerce Ireland (AmCham) is the collective voice of US companies in Ireland and the leading international business organisation supporting the Transatlantic business relationship. Our members are the Irish operations of all the major US companies in every sector present here, Irish companies with operations in the United States and organisations with close linkages to US-Ireland trade and investment.

IAAS Services Contract

AmCham welcomes the opportunity to submit to the Office of Government Procurement (OGP) on the proposed IAAS Services Contract.

Digitalisation is an essential tool for the advancement of an Irish public service that prioritises efficiency and empowers both the service itself and the individual using it. The Irish population grew to exceed 5 million people in 2022 for the first time since 1841. As the population of Ireland continues to grow, investment in public services to meet the needs of that population is critical. Undoubtedly, the solution to meeting those needs is the increased investment, on a cross-departmental basis, in an increasingly digitised public service. This is needed to empower the individual utilising it and allow for greater effectiveness in the delivery of services.

Many initiatives under Ireland's digital agenda demand the adoption and availability of cloud services. AmCham welcomes the progress that is being made on the Programme for Government's promise to direct the OGP to support the adoption of new technologies through the development of new public service frameworks.

Shared Responsibility Model

The proposed IaaS Services Contract does not appear to acknowledge the principle of the shared responsibility model. Cloud Service Providers (CSPs) offer their services on the basis of collective responsibility. In this regard, CSPs are responsible for protecting the core infrastructure underpinning the cloud, the customer then manages their data within the cloud and securely configures the services they choose to use. As such, security and compliance are shared responsibilities.

Given the shared responsibility which exists, security cannot be delegated entirely to CSPs in an IaaS model. On that basis, the absence of this model within the consultation would present a barrier to a CSP entering into a framework agreement, and this should be taken into consideration by the OGP.

One to many Model

The approach in the Consultation indicates that the OGP is seeking considerable divergence from the standard CSP terms and conditions. In this regard, a core issue is that the bespoke nature of the framework may present a barrier for many CSPs as they work on a 'one-to-many-model'.

CSPs have millions of active customers and the services offered are perpetually improved and updated to meet customers' needs. CSPs are able to deliver value and innovation for their customers by having one set of terms and conditions for all of their customers. Minor

amendments can be made to terms and conditions to reflect the realities of different jurisdictions, however significant changes to the respective approaches taken by CSPs may not be feasible, and as such may act as a disincentive in terms of engagement with the procurement framework.

The 'one-to-many-model' is used in the equivalent procurement frameworks in other countries, namely, Italy, the UK, and the US. Failure to implement the same here would make Ireland an outlier in comparison with its international peers and, importantly, would likely prevent any CSPs from being able to participate in the framework itself.

Exclusion of URLs

The prohibition on the use of URLs within the consultation itself and in the contract that is to be the final result of this process is problematic for CSPs for numerous reasons. CSPs offer hundreds of different services, with different terms attached to each that reflect the scope of the services in question. It is not possible to set out all the terms for each respective service within the contract. URLs enable automatic updates which allow customers to benefit from the latest content and modifications to services. Prohibiting them is impractical, and in contrast with the model of the cloud itself.

Binding Specifications

The inclusion of requests for proposal (RFP) as part of contractually binding terms elevates the bidder's response to any RFP as being binding specifications that link into the warranties. This deviates from the standard approach which includes an RFP response for information purposes only, with any contractually binding elements specifically called out.