



MINISTRY OF FINANCE AND ECONOMIC DEVELOPMENT
Procurement Policy Office
Level 8, Emmanuel Anquetil Building,
Port Louis, Mauritius

Ref : F/PPO/4/1/Vol 9

Circular No. 2 of 2017

From: Director, Procurement Policy Office

To : Heads of Public Bodies

Procurement Guidelines for Public Bodies exempt as per Part VI of the First Schedule of the Public Procurement Regulations 2008

1. The procurement rules under the Public Procurement Act 2006 (PPA) do not apply to any exempt public body for the type of procurement in Part VI of the First Schedule pursuant to amendment to the First Schedule of the Public Procurement Regulations 2008, by GN 8 of 2017
2. Section 3(2A) of the PPA requires every exempt organization to establish its own procurement rules in relation to such types of contract. The annexed guidelines, available on the website of Procurement Policy Office (ppo.govmu.org) are meant to assist such exempt organisation to establish its procurement rules taking into consideration other conditions imposed by the foreign state.
3. You are kindly requested to disseminate the content of this Circular to all those concerned within your organisation.

Procurement Policy Office
10 February 2017

***Note:** When undertaking a procurement exercise, please make sure you are using the latest version of the appropriate Standard Bidding Document available on the website of the Procurement Policy Office (ppo.govmu.org). You may also consult on the site the updated version of the Public Procurement Act and the Regulations made thereunder, as well as circulars issued by the Office.*

PROCUREMENT POLICY OFFICE

Level 8, Emmanuel Anquetil Building
Port Louis, Mauritius

Procurement Guidelines for public bodies exempt as per Part VI of the First Schedule of the Public Procurement Regulations 2008

1. Introduction

The procurement rules under the Public Procurement Act (PPA) 2006 do not apply to any exempt public body for the type of procurement in Part VI of the First Schedule pursuant to amendment to the First Schedule of the Public Procurement Regulation 2008, by GN 8 of 2017 (as at annex).

Section 3 (2A) of the PPA requires every exempt organization to establish its own procurement rules in relation to such types of contract.

These guidelines are meant to assist such exempt organization to establish its procurement rules taking into consideration any other conditions imposed by the foreign State.

2. Definitions

- i. “Implementing Agency ” means an agency responsible for implementing projects falling under this guideline;
- ii. “Project Management Consultant ” refers to the consultant who may undertake the preparation/vetting of the Feasibility Report/Detailed Project Report, preparation of bidding document, supervision of project execution, quality control, settlement of payments and project completion;
- iii. “Public body” means any Ministry or other agency of the Government and includes a local authority, a parastatal and such other bodies specified in the Schedule of the PPA;
- iv. “Suppliers” means any entity or person delivering goods, works, consultancy services or other services

3. Public Body/Implementation agency (PB/IA)

For projects falling under Part VI of the Regulation, the Public Body/Implementing Agency (PB/IA) responsible for executing the projects should set up a Project Team to oversee the smooth implementation of the project and communicate, in such manner and frequency as appropriate, with all stakeholders including the Project Management Consultant (PMC), the Steering Committee, the Joint Project Monitoring Committee (JPMC), where applicable.

4. Procurement Flowchart

Tasks	• Process
1. Public Body/ IA to Appoint Consultant	<ul style="list-style-type: none">• Consultant proposed by foreign State - PB/IA proceeds with assessment of the consultant's credentials and proposal• Shortlist of Consultant proposed - PB/IA proceeds with selection through a shortlist
2. Selection of Supplier(s)	<ul style="list-style-type: none">• Supplier proposed by foreign State - PB/IA proceeds with assessment of supplier's credentials and proposal• Shortlist of Suppliers proposed - PB/IA proceeds with selection through a shortlist• Shortlist of suppliers not proposed - PB/IA proceeds with restricted bidding
3. Seek Cabinet approval	<ul style="list-style-type: none">• To seek approval of Cabinet for award of contract to project management consultant/ supplier
4. Project Monitoring	<ul style="list-style-type: none">• Maintaining close monitoring and effective communication with stakeholders including Steering Committee and/or Joint Project Monitoring Committee (JPMC) as appropriate.
5. Taking over	<ul style="list-style-type: none">• Ensuring that the project meets the defined operational requirements including support in respect of training and service agreements.

5. Procurement Process

5.1 Public Body/ IA to Appoint Consultant

Appointment of the PMC may, depending on conditions imposed by the foreign State, be one consultant from the foreign State or be selected from a shortlist of consultants proposed by the foreign State.

TOR for the assignment

- (a) In drawing the TOR for negotiation with the proposed Consultant or requesting proposals from a shortlist of consultants proposed by the foreign state, the PB/IA should make all efforts to have the Consultant to integrate any preliminary tasks that might have been completed to the extent it is technically possible.

Assessment by PB/IA for selection of PMC

- (b) Where the PMC is proposed by the foreign State, the PB/IA should conduct an assessment *inter alia* of :
 - (i) the credentials of the PMC with respect to its competence for the project;
 - (ii) debarment of the PMC by the World Bank, Asian Development Bank, European Bank for Reconstruction and Development, Inter-American Development Bank, and African Development Bank;
 - (iii) written undertaking from the PMC that it is not and will not be in a position of conflict of interest in the execution of this assignment;
 - (iv) methodology proposed by the PMC to deliver the services;
 - (v) resource profile /resource plan proposed by PMC in terms of composition of team, time allocation for execution of the assignment, rate for each team member and other expenses; and
 - (vi) litigation history
- (c) Where no PMC is proposed by the foreign State, the PB/IA may proceed with appointment from a shortlist of consultants mutually agreed with the foreign State, if required.

Fee payable to the PMC

- (d) In assessing the fee payable, the PB/IA should ensure that the fee is fair and reasonable.

- (e) The fee payable to the PMC should preferably be on a fixed price basis for the whole assignment.

5.2 Selection of Supplier (s)

Suppliers proposed by foreign State

- (a) Supplier proposed by the foreign State:

The PB/IA should proceed with the assessment of the credentials of the supplier as per para (d) and its proposal as per para (e) hereunder.

- (b) Shortlist of Suppliers proposed by the foreign State – Restricted bidding

The PB/IA should proceed with the assessment of the credentials of the suppliers in the shortlist as per para (d) hereunder. The shortlist should as far as possible include suppliers having worked in countries other than the foreign State.

The PB/IA should proceed with a restricted bidding from those retained from the shortlist.

- (c) No shortlist of suppliers is proposed – Restricted bidding

Where no shortlist of suppliers is proposed, the selection of suppliers is drawn from a shortlist identified by the PB/IA in consultation with PMC or from Contractors Association, Chamber of Commerce or any similar institution of the foreign State. The PB/IA should proceed with a restricted bidding.

- (d) For appointment of the sole supplier or finalizing the shortlist of suppliers, the PB/IA should examine *inter alia*:

- (i) the legal status of the suppliers,
- (ii) litigation history,
- (iii) financial situations and capacity,
- (iv) general experience and specific experiences in respect of the same nature and complexity of works,
- (v) past performance and experience in respect of supplies or services, and
- (vi) debarment of the supplier by the World Bank, Asian Development Bank, European Bank for Reconstruction and Development, Inter-American Development Bank, and African Development Bank.

- (e) For assessment of the sole supplier's proposal, the PB/IA should examine *inter alia*:

- (i) the methodology proposed by the supplier for execution of works; and

- (ii) the resource profile /resource plan proposed by the supplier in terms of composition of team, time allocation for execution of works, and breakdown of cost structure of the proposal amongst others to deliver on the project requirement

5.3 Cabinet approval

The Public body should seek approval of cabinet for award of contract to the Consultant/ Supplier by giving a brief of the procurement process followed and the strength on which the Consultant/Supplier has been selected.

5.4 Project Monitoring

It is important for the PB/IA to maintain close monitoring of the project with the support of the Project Team and carry out effective communication with stakeholders and the JPMC set up by the Governments, where applicable.

5.5 Taking over

The PB/IA should ensure that there is an effective post award process to monitor and manage deliveries with respect to the scope defined in the contract, and for the Project Team to coordinate with the PMC in the assessment, testing and commissioning of deliveries including support in respect of training and service agreements.

The taking over from the supplier should be subject to making good any defect during deliveries, defect liability time and warranty period in the manner defined in the contract.

THE PUBLIC PROCUREMENT ACT

Regulations made by the Minister, on the recommendation of the Procurement Policy Office, under section 61 of the Public Procurement Act

1. These regulations may be cited as the Public Procurement (Amendment) Regulations 2017.
2. In these regulations –

“principal regulations” means the Public Procurement Regulations 2008.
3. The First Schedule to the principal regulations is amended by adding the following new Part –

PART VI

Any public body

Procurement of goods, works, consultancy services or other services funded by at least 50 per cent of the estimated project value, from grant, or concessional financing as may be approved by the Minister, from a foreign State, where the condition imposed by that State in respect of the grant or concessional financing specifies that the supplier of goods, works, consultancy services or other services shall be from that State
