

AMENDMENTS TO THE PUBLIC PROCUREMENT LEGISLATION

**Mr B. Dabeesing, Member
Procurement Policy Office**

- **Ever since its proclamation, the Public Procurement Act 2006 has been regularly amended with the objective to improve the effectiveness and efficiency in conducting public procurement in view to ensure transparency, fairness, accountability and achieving value for money.**
- **The amendments to the ACT ensures compliance with new Government policies.**
- **Furthermore, takes on board unexpected occurrences that are deterrent to the smooth running of Government procurement activities.**
- **The ultimate aim of reviewing the Legal Framework for Public Procurement is to ensure that there is fair competition.**
- **For the sake of this presentation, amendments brought to the legal framework over the last three years will be highlighted.**

**Amendments as per Finance (Miscellaneous provisions) Act
2022 -2024**

Section 2 of the Act – Interpretation has been amended in 2022 as follows:

Previous	Amended Version [<i>Amended as per Act 15 of 2022</i>]
Directives were not defined	“Directives” means such instructions as the policy office may, for the purposes of this act, issue
"Goods" means objects of every kind and description including commodities, raw materials, manufactured products and equipment, industrial plant, objects in solid, liquid or gaseous form, electricity, as well as services incidental to the supply of the goods such as freight and insurance.	"Goods" means objects of every kind and description including commodities, raw materials, manufactured products and equipment, industrial plant, objects in solid, liquid or gaseous form, electricity, as well as services incidental to the supply of the goods such as freight and insurance, but excludes immovable property.
"major contract" means a contract for the procurement of goods or services or the execution of works - a) To which a public body is or proposes to be a party; and b) The estimate of the fair and reasonable value which exceeds the prescribed amount.	"major contract" means a contract for the procurement of goods or services or the execution of works - a) To which a public body is or proposes to be a party; and b) The estimate of the fair and reasonable value which, or the value of the lowest evaluated substantially responsive bid, exceeds the prescribed amount.

Section 2 of the Act – Interpretation has been amended in 2023 as follows:

Previous	Amended Version [<i>Amended as per Act 12 of 2023</i>]
<p>“local authority” —</p> <p>(a) has the same meaning as in the Local Government Act; and</p> <p>(b) includes the Rodrigues Regional Assembly;</p>	<p>“local authority” has the same meaning as in the Local Government Act</p>
<p>“prescribed amount” “prescribed amount” means the amount specified in column 3 of the First Schedule corresponding to the public body specified in column 1 in relation to the type of contract specified in column 2 of that Schedule;</p>	<p>“prescribed amount” means such amount as may be prescribed</p>
<p>“public body” —</p> <p>(a) means any Ministry or Government department;</p> <p>(b) includes —</p> <p>(i) a local authority;</p> <p>(ii) a parastatal body; and</p> <p>(iii) such other bodies as may be specified in the Schedule;</p>	<p>“public body” —</p> <p>(a) means a Ministry, a Government department, the National Assembly, the Rodrigues Regional Assembly and a Department of the Rodrigues Regional Assembly; and</p> <p>(b) includes —</p> <p>(i) a local authority; and</p> <p>(ii) such statutory body and Government company as may be prescribed;</p>
<p>“statutory body” was not defined</p>	<p>“statutory body” means a body incorporated by an Act;</p>

First Schedule of the Act was amended with an increase in the prescribed amount for all contracts as per G.N No. 293 of 2022

Part	Previous prescribed amount	Amended Prescribed amount (2022)
I	<ul style="list-style-type: none"> -Local authorities 25 million -Mauritius Qualifications Authority 15 million -Rodrigues Regional Assembly 25 million -Other parastatal bodies not specified in Parts II, III, IV and V 15 million 	<ul style="list-style-type: none"> -Local authorities 35 million -Mauritius Qualifications Authority 20 million -Rodrigues Regional Assembly 35 million -Other parastatal bodies not specified in Parts II, III, IV and V 20 million
II	Ministries/Govt Dept. 50 million	Ministries/Govt Dept. 70 million

Previous	Type of Contract	Amended Prescribed amount (2022)
<ul style="list-style-type: none"> ▪ Agricultural Marketing Board ▪ Mauritius Examinations Syndicate ▪ Mauritius Institute of Training and Development ▪ Outer Islands Development Corporation 	<ul style="list-style-type: none"> • Goods, Civil Engineering Works & Capital Goods • Consultancy Services • Other Services 	<p>50 million</p> <p>50 million</p> <p>50 million</p>
New		
<ul style="list-style-type: none"> ▪ Agricultural Marketing Board ▪ Mauritius Examinations Syndicate ▪ Mauritius Institute of Training and Development ▪ Outer Islands Development Corporation 	<p>All Contracts</p>	<p>70 million</p>

Part		Previous Prescribed Amt	Amended Prescribed Amt (2022)
4	Cargo Handling Corporation Ltd Central Water Authority Development Bank of Mauritius Ltd Information and Communication Technologies Authority Mauritius Cane Industry Authority Mauritius Housing Company Ltd Mauritius Ports Authority Mauritius Revenue Authority Mauritius Shipping Corporation Ltd National Housing Development Company Ltd National Transport Corporation Road Development Authority State Informatics Ltd State Investment Corporation Limited State Property Development Company Limited Waste Water Management Authority	100 million	135 million

Existing	Type of Contract	Prescribed amount
<ul style="list-style-type: none"> ▪ Central Electricity Board ▪ Mauritius Broadcasting Corporation ▪ State Trading Corporation 	<ul style="list-style-type: none"> • Goods, Civil Engineering Works & Capital Goods • Consultancy Services • Other Services 	<p>100 million</p> <p>100 million</p> <p>100 million</p>
New	Type of Contract	Amended Prescribed amount (2022)
<ul style="list-style-type: none"> ▪ Central Electricity Board ▪ Mauritius Broadcasting Corporation ▪ State Trading Corporation 	<p>All contracts</p>	<p>135 million</p>

2021

2022

3A. Non-application of Parts IV, V and VI
(1) Parts IV, V and VI of this Act shall not apply to the procurement of goods, works and services specified in the Second Schedule.

(2) Any procurement of goods, works and services specified in the Second Schedule shall be undertaken on such conditions as may be prescribed.

3A. Non-application of Parts III, IV, V and VI
(1) Parts III, IV, V and VI of this Act shall not apply to the procurement of goods, works and services specified in the Second Schedule.
[Amended as per Act 15 of 2022]

(2) Any procurement of goods, works and services specified in the Second Schedule shall be undertaken on such conditions as may be prescribed.

2023

3A. Non-application of Parts III, IV, V and VI
(1) Parts III, IV, V **except for section 28(3)** and VI shall not apply to –
(a) the procurement of such goods, works, consultancy or other services as may be prescribed;
(b) such public body, with regard to the procurement of such goods, works, consultancy or other services, as may be prescribed.

(2) **Where appropriate, a public body shall, for the purpose of subsection (1), establish its own procurement rules.**
[Amended as per Act 12 of 2023]

Previous version	Regulations have been amended in line with S3A (PPR 2023)
<p>2A. Application of Act to exempt organisations</p> <p>Nothing in these regulations shall be construed as excluding the application of the Act to a public body referred to in the First Schedule to these regulations and the Schedule to the Act in respect of a procurement contract to which the public body intends to be a party and which is specified in column 2 of the Schedule to the Act.</p>	<p>2A. Non-application of Act</p> <p>The Act shall not apply to a public body specified in the first column of the First Schedule with regard to such contract as specified in the second column of that Schedule.</p> <p><i>[Revoked and replaced by GN 149/2023]</i></p>
<p>2B. Guidelines</p> <p>The Policy Office may issue guidelines for the procurement of goods, works and other services specified in the Second Schedule to the Act.</p>	<p>2B. Application of Act</p> <p>(1) The Act shall apply to a public body specified in the first column of the Eighth Schedule.</p> <p>(2) The prescribed amount for a public body shall, in respect of a type of contract specified in the second column of the Eighth Schedule, be that specified in the third column of that Schedule. <i>[Revoked and replaced by GN 149/2023]</i></p>
<p>New subsection added</p>	<p>2C. Non- application of Parts III, IV, V and VI of Act</p> <p>Parts III, IV, V and VI of the Act shall not apply to the procurement of goods, works, consultancy services or other services specified in the Ninth Schedule.</p> <p><i>[Added by GN 149/2023]</i></p>

Previous	Amended version (2023)
5. Staff of Policy Office	
<p>(1) The Policy Office shall appoint on contract terms and conditions its professional staff composed of persons of high integrity and substantial experience in the field of procurement, with a strong background in legal, financial and administrative matters.</p>	<p>(1) The Ministry shall recruit on, contract basis, the professional staff for the Policy Office composed of persons of high integrity, with substantial experience in the field of procurement, including legal, financial, engineering, information technology or administrative matters.</p> <p><i>[Repealed and replaced by Act 12 of 2023]</i></p>

Previous	Amended Version (PPA 2022)
<p>7. Functions of Policy Office</p> <p>The Policy Office shall -</p> <ul style="list-style-type: none">(a) issue instructions to public bodies concerning the coordination of their actions with the Policy Office, the Board and the Review Panel;(aa) where appropriate, designate a public body to enter into and manage a framework agreement on its own behalf and that of other public bodies, or on behalf of other public bodies;(b) formulate policies relating to procurement, including directives, procedures, instructions, technical notes and manuals, for the implementation of this Act;	<p>7. Functions of Policy Office</p> <p>The Policy Office shall—</p> <ul style="list-style-type: none">(a) issue instructions to public bodies concerning the coordination of their actions with the Policy Office, the Board and the Review Panel;(aa) where appropriate, designate a public body to enter into and manage a framework agreement on its own behalf and that of other public bodies, or on behalf of other public bodies;(b) formulate policies relating to procurement and issue directives, procedures, technical notes and manuals, for the implementation of this Act; <p><i>[Amended by Act 15 of 2022]</i></p>

In section 11. Functions of Board
two new sub-section were added as per Act 15 of 2022:

New Sub-section

- (1B) The Board shall, as far as reasonably possible, ensure that a bid evaluation committee includes qualified persons from the public body concerned.**
- (1C) Where a bidding exercise is completed, the Board shall share such information as may be prescribed with the public body (Regulation 3A)**

Regulation 3A. Sharing of Information by Board has been added in 2022

3A. Sharing of information by Board

- (1) The Board shall, following the conclusion of a bidding exercise, provide to the public body a copy of –
 - (a) the executive summary of the Bid Evaluation Report; and
 - (b) all the bids received.
- (2) The public body shall ensure the safe custody of the documents received under paragraph (1) and limit their use to get an update about the evolution of the market and solutions available.
- (3) No proprietary information from the documents shall be disclosed to any other party.
- (4) The Board may share any other document, which it deems appropriate, with the public body.

[Added by GN 292/2022]

Previous

Version (PPA 2022)

12. Powers of Board
(3) Where—
(a) any variation in a contract price subsequent to the conclusion of a procurement contract entered into by a public body causes the total contract amount to exceed the prescribed amount by more than 20 per cent; or
(b) the lowest bid submitted in response to an invitation made by a public body exceeds the prescribed amount,

12. Powers of Board
(3) Where—
(a) any variation in a contract price subsequent to the conclusion of a procurement contract entered into by a public body causes the total contract amount to exceed the prescribed amount by more than 20 per cent; or
(b) the lowest bid submitted **or the lowest evaluated substantially responsive bid** in response to an invitation made by a public body exceeds the prescribed amount,
[Amended by Act 15 of 2022]
the matter together with all the bidding documents and the contract documents, if any, shall be referred to the Board for approval.

Section 15(1)(a) was amended by adding the following new paragraph

15. Choice of procurement method

(1) Subject to subsection (2), the choice of procurement methods available to a public body shall be—

(a) for the procurement of goods, other services and works, by—

- (i) open advertised bidding;
- (ii) restricted bidding;
- (iii) request for sealed quotations;
- (iv) direct procurement;
- (v) community or end-user participation;
- (vi) departmental execution;
- (vii) competitive negotiations; or
- (viii) electronic reverse auction; and ...

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(a) for the procurement of goods, other services and works, by—

- (i) open advertised bidding;
- (ii) restricted bidding;
- (iii) request for sealed quotations;
- (iv) direct procurement;
- (v) community or end-user participation;
- (vi) departmental execution;
- (vii) competitive negotiations;
- (viii) electronic reverse auction; or
- (ix) **low value procurement**; and ...

[Amended by Act 12 of 2023]

Previous

Amende Version (PPA 2022, a new subsection (ba) was added)

24. Request for proposals

- (9) (a) The contract may be negotiated with the winning consultant with regard to the terms of the request for proposals, the scope of the proposed services, deliverables, progress reports, facilities to be provided by Government and, subject to paragraph (b), the financial proposal.
- (b) Where price has been a factor, the fee for services shall not be subject to negotiation and only the cost of reimbursable items may be negotiated.
- (c) Where the negotiations fail to result in an acceptable contract, the public body shall notify the consultant accordingly and proceed to the next ranked bidder, and so on.

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- (9) (a) The contract may be negotiated with the winning consultant with regard to the terms of the request for proposals, the scope of the proposed services, deliverables, progress reports, facilities to be provided by Government and, subject to paragraph (b), the financial proposal.
- (b) Where price has been a factor, the fee for services shall not be subject to negotiation and only the cost of reimbursable items may be negotiated.
- (ba) Notwithstanding paragraph (b), the fee may be exceptionally negotiated where the proposal of the only responsive consultant substantially exceeds the estimated cost and a re-bid exercise is not considered practical.**
[Added by Act 15 of 2022]
- (c) Where the negotiations fail to result in an acceptable contract, the public body shall notify the consultant accordingly and proceed to the next ranked bidder, and so on.

In 2022, section 25 was amended as follows:

Previous	Amended Version (PPA 2022)
<p>25. Direct procurement</p> <p>(1) The direct procurement method allows a public body to purchase goods, other services or works from a single source without competition. (2021)</p>	<p>25. Direct procurement</p> <p>(1) The direct procurement method allows a public body to purchase goods, consultancy services, other services or works from a single source without competition.</p> <p><i>[Added by Act 15 of 2022]</i></p>

Previous	Amended Version (PPA 2023)
<p>25. Direct procurement</p> <p>(2) Direct procurement shall be permitted—</p> <p>(a) where the value of the procurement does not exceed the prescribed threshold;</p> <p>(Repealed and replaced)</p>	<p>25. Direct procurement</p> <p>(2) Direct procurement shall be permitted—</p> <p>(a) where the value of the procurement does not exceed the prescribed threshold and the procurement is in respect of-</p> <p>(i) small amounts of consumable goods;</p> <p>(ii) small consultancy services; or</p> <p>(iii) small works, repairs and maintenance services;</p> <p><i>[Repealed and Replaced by Act 12 of 2023]</i></p>

New Version (PPA 2024)
<p>25. Direct procurement (PPA 2024)</p> <p>(1) The direct procurement method allows a public body to purchase goods, consultancy services other services or works from a single source without competition</p> <p>(2) Direct procurement shall be permitted—</p> <p>(a) where the value of the procurement does not exceed the prescribed threshold and the procurement is in respect of—</p> <p>(i) small amounts of non-recurrent goods;</p> <p>(ii) small consultancy services; or</p> <p>(iii) small works, repairs and maintenance services;</p> <p><i>[Amended by Act 11 of 2024]</i></p>

Previous	Amended version (PPR 2023)
<p>Regulation 44. Direct Procurement</p> <p>(1) For the purpose of section 25(2)(a) of the Act, a public body may resort to direct procurement –</p> <ul style="list-style-type: none">(a) in the case of procurement of goods, where the value does not exceed 500,000 rupees provided that the total cost per single item does not exceed 100,000 rupees;(b) in the case of procurement of works, consultancy services or other services, the value does not exceed 500,000 rupees. <i>[Revoked by GN 115/2023]</i>	<p>(1) For the purpose of section 25(2)(a) of the Act, a public body may resort to direct procurement for –</p> <ul style="list-style-type: none">(a) small amounts of consumable goods not exceeding 25,000 rupees;(b) small works, repairs and maintenance services not exceeding 50,000 rupees; or(c) small consultancy services not exceeding 250,000 rupees; <p><i>[Revoked and Replaced by GN 115/2023]</i></p>

New version (PPR 2024)

44. Direct Procurement

(1) For the purpose of section 25(2)(a) of the Act, a public body may resort to direct procurement for –

- (a) small amounts **of non-recurrent** consumable goods not exceeding 25,000 rupees;
- (b) small works, repairs and maintenance services not exceeding 50,000 rupees; or
- (c) small consultancy services not exceeding 250,000 rupees;

(2) A public body shall maintain records showing details of oral or informal quotations sought from suppliers prior to the award of the contract **in respect of paragraph (1)(b) and (c).**

(3) For the purposes of section 25(2)(c) and 25(2)(d) of the Act the limit shall be fifty percent and thirty percent respectively of the initial contract value.

[Amended by GN 95/2024]

25D. Low value procurement

- (1) A public body may use the low value procurement method, provided that –
 - (a) it is procuring low value items which are not procured on a regular or frequent basis and are not covered in any framework agreement;
 - (b) no benefit would accrue to the public body in respect of time or cost implications where it uses requests for sealed quotations or any other procurement method; and
 - (c) the value of the goods, works, consultancy or other services does not exceed the prescribed threshold.
- (2) A public body shall, as far as reasonably possible, invite quotations from at least 3 suppliers through the electronic procurement system.
- (3) Notwithstanding subsection (2), quotations may be invited and received by fax, email or paper-based if there is no registered supplier for such specific type of procurement.
- (4) A public body shall, on receipt of quotations, secure them in a manner that prohibits access to them before the deadline for submission.
- (5) A public body shall maintain a record of quotations invited, received and approved.
- (6) The chief executive officer of a public body shall assign responsibilities and duties for low value procurement with due regard to segregation of duties and responsibilities.

New Regulation 44A was added

44A. Low value procurement

- (1) For the purpose of section 25D(1) of the Act, the threshold for the procurement of goods, works, consultancy services or other services shall be 500,000 rupees.
- (2) A public body shall maintain records showing details of quotations sought from suppliers prior to the award of the contract.

[Added GN 115/2023]

Directive No. 70

(Issued Pursuant to section 7(b) of the Public Procurement Act 2006)

Low Value Procurement

1. The purpose of this directive is to ensure that public bodies comply with section 25D of the Public Procurement Act 2006 and to regulations 44A of the Public Procurement Regulations 2008.
2. The chief executive officer must assign responsibilities for the conduct of the bidding process by ensuring that:
 - a. There is a preparer, a reviewer and an approver for preparation of bidding documents and invitation for bids; and
 - b. Opening of bids is done by the preparer in the presence of the reviewer.
3. Low value procurement does not require a bid evaluation committee, as price is the determining factor. However, where a technical assessment is necessary, a technically competent person may be assigned to do so.
4. The recommendations for the award of the contract must then be made jointly by the preparer and the reviewer to the chief executive officer.
5. The chief executive officer may delegate the responsibility for the approval of the award of the contract to a senior officer, not below the rank of a Deputy Permanent Secretary.
6. Public bodies must ensure that the conditions for use of the low value procurement method are strictly complied with, and it is not used for the purchase of recurrent items

The following sections were amended by adding new subsections as follows:

26A. Electronic bidding process

- (1) There shall be an electronic bidding system to receive and process bidding documents for evaluation, and for the award of any procurement contract, in accordance with such regulations as may be made.
- (1A) The electronic bidding system under subsection (1) may include the planning, pre-bidding and post-award activities and tasks.**
- (2) Any reference in this Act to a document which has to be submitted in writing shall include reference to a document submitted electronically under the electronic bidding system referred to in subsection (1).

[Amended by Act 12 of 2023]

28. Bidding documents

- (1) A public body shall provide the bidding documents to all bidders that respond to an invitation to bid or, if pre-qualification proceedings have taken place, to all bidders that have been pre-qualified.
- (2) In appropriate cases and subject to regulations to that effect, a bidding document may provide for –
 - (a) an advantage or preference to a bidder;
 - (b) qualifications and evaluation criteria based on life cycle costing.

28. Bidding documents

- (3) For procurements of a significant value, the bidding documents shall provide for the preferred bidder, in the case of a company, to disclose the ultimate owner or main shareholders of the company for the purpose of carrying out a due diligence exercise.
[a new subsection *added by Act 12 of 2023*]

New Version (PPA 2024)**28. Bidding documents (2024)**

- (3) For procurements **above the prescribed threshold**, the bidding documents shall provide for the preferred bidder, in the case of a company, to disclose the ultimate owner or main shareholders of the company for the purpose of carrying out a due diligence exercise.
[*amended by Act 11 of 2024*]

Previous

Amended Version (PPA 2023)

35. Disqualification of bidders and suppliers

(1A) (a) A public body may, in a bidding exercise, exclude a bidder –

- (i) whose performance in a previous public contract has been deficient; or
- (ii) who has failed to deliver goods, works or services satisfactorily, and has caused prejudice to the public body with regard to contractual requirements notwithstanding that the bidder is not disqualified.

(2) The Policy Office shall, by regulations, make provision concerning the disqualification standards and procedures for suppliers, contractors and consultants

35. Disqualification of bidders and suppliers

(1A) (a) A public body may, in a bidding exercise, exclude a bidder –

- (i) whose performance in a previous public contract has been deficient; or
- (ii) who has failed to deliver goods, works or services satisfactorily, and has caused prejudice to **another** public body with regard to contractual requirements notwithstanding that the bidder is not disqualified.

(b) The Policy Office may issue directives on procedures to be followed by public bodies for the exclusion of a bidder.

(2) The Minister may, by regulations, provide for procedures and standards for the performance rating of suppliers, contractors and consultants.

(3) The performance rating in subsection (2) shall be made after the suppliers, contractors and consultants have been given opportunity to comment and make representations to the public body concerned.

(4) The performance rating of suppliers, contractors and consultants shall be accessible to public bodies through a portal designated by the Policy Office.

**Section 35 of the Act was repealed and replaced by
Act 11 of 2024 as follows:**

New Version (PPA 2024)

35. Performance rating of suppliers, contractors and consultants

- (1) The Minister may, by regulations, provide for procedures and standards for the performance rating of suppliers, contractors and consultants.
- (2) The performance rating in subsection (1) shall be made after the suppliers, contractors and consultants have been given an opportunity to comment and make representations to the public body concerned.
- (3) The performance rating of suppliers, contractors and consultants shall be accessible to public bodies through a portal designated by the Policy Office.

Regulation 9A. Performance rating of suppliers [Added GN. 292/2022]

- 1) Every public body shall set up a Performance Review Committee, which shall comprise –**
 - (a) a senior officer, not below the rank of Deputy Permanent Secretary, as chairperson; and**
 - (b) at least 2 other officers who are well conversant with project and contract management procedures.**

- (2) The committee shall –**
 - (a) review the performance of suppliers and contractors in accordance with guidelines issued by the Policy Office;**
 - (b) assess cases of poor performance of suppliers and make recommendations to the Chief Executive Officer of the public body; and**
 - (c) review on-going projects, submit reports for works contracts above the threshold of 300 million rupees on a monthly basis to the Chief Executive Officer.**

- (3) Every contract shall be managed by persons who have been assigned such responsibility and where there is more than one person, a lead person shall be appointed, who shall –**
 - (a) during the implementation, report to the committee any serious breach by the supplier where it becomes necessary to initiate any action against the supplier; and**
 - (b) on completion of the contract, submit a report to the committee after evaluating and rating the performance of the supplier as per criteria set, and guidelines issued, by the Policy Office.**

Regulation 9A. Performance rating of suppliers (contd..)

- (4) The report on the performance and rating of the supplier shall be submitted to the supplier for any comment and representation, which shall be considered and, if required, changes made before it is submitted to the committee.
- (5) The committee may make any change it deems appropriate after reviewing the recommendations of the lead person and the comments of the supplier before submitting its report to the Chief Executive Officer.
- (6) Every public body shall post the performance rating of suppliers in a portal designated by the Policy Office for access limited to public bodies.
- (7) Any supplier who has been poorly rated may not be awarded a contract by a public body where, after having obtained relevant details from the public body which has rated the supplier, sufficient evidence is available to reasonably indicate that the award of the contract to that bidder may pose high risks of deficient performance.
- (8) For the purpose of paragraph (7), any poor performance rating older than 12 months shall not be considered.

Directive No. 64A

(Issued Pursuant to Section 7 (b) of the Public Procurement Act 2006)

Setting Up of Performance Review Committee

This directive supersedes Directive 64 to reflect changes in the frequency of review of projects in hand and submission of reports to the Chief Executive.

1. Public bodies shall set up a Performance Review Committee (Committee), which shall be chaired by a Senior Officer, not below the rank of a Deputy Permanent Secretary and comprising at least two members who are well conversant with contract management procedures.
2. The Committee shall:
 - (i) review the performance of suppliers and contractors on current as well as forthcoming contracts;
 - (ii) deal with cases of poor performance of suppliers and make recommendations to the Chief Executive of the public body as per Directive 35; and
 - (iii) review progress of projects in hand on a monthly basis, as provided under regulation 9A, in respect of works contracts above the threshold of Rs 300 million and submit monthly reports to the Chief Executive for onward transmission to the Policy Office.

09 November 2023

Directive No. 69

(Issued Pursuant to Section 7 (b) of the Public Procurement Act 2006)

Performance Rating of Suppliers

1. Pursuant to Regulations 9A, interim guidelines as per Annex are hereby issued for the evaluation of the performance of contractors for works projects.
2. Supervising officers of Ministries/Department are requested to disseminate the guidelines to all Public bodies/institution(s) falling under their purview.
3. The address of the portal where the report must be posted will be communicated in due course.

10 April 2023

MINISTRY OF FINANCE, ECONOMIC PLANNING AND DEVELOPMENT
Procurement Policy Office

In reply please quote: F/PPO/4/1/Vol 13

Circular No. 3 of 2024

From: Procurement Policy Office

To: Heads of Public Bodies

Performance Rating of Contractor/Supplier

Accounting Officers of Ministries/Department are requested to post the performance rating of contractors/suppliers pursuant to Section 35(4) of the Public Procurement Act (2006), Regulations 9A(6) of the Public Procurement Regulations 2008 and as per Directive 69, "Performance Rating of Suppliers" for works projects, on the portal designated by the Policy Office, by clicking on the following link:

<https://eservice.govmu.org/form/PPO/SupplierForm/welcome.php>

2. Accounting officers are requested to ascertain that content of this circular is brought to the attention of all supervising officers of their respective Departments/Local Authorities and Statutory bodies falling under the aegis of their Ministry.
3. Credentials have already been provided to Officials in the grade of Senior Chief Executive and Permanent Secretary. Amendment or creation of new credentials, if any, to access the portal should be communicated to the Policy Office and such amendment or creation of new credentials should be for officers not below the rank of a Deputy Permanent Secretary of your Ministry/Department.

Procurement Policy Office

26 February 2024

Section 35A. Exclusion of suppliers, contractors and consultants *was added in the Act*

35A. Exclusion of suppliers, contractors and consultants

- (1) Notwithstanding the fact that a supplier, contractor or consultant is not suspended or debarred under section 53, a public body may exclude him from bidding or reject a bid from him in a bidding exercise where he has shown significant or persistent deficiencies in the performance of his obligations under a prior contract with that public body or any other public body.**
- (2) The Policy Office may issue directives on procedures to be followed by public bodies for the exclusion of a supplier, contractor or consultant.**

[added by Act 11 of 2024]

Directive No. 35

(Issued Pursuant to Section 7 (b) of the Public Procurement Act 2006)

Excluding bidders to participate in a procurement exercise

1. Pursuant to Section 35(1A) (a) of the Public Procurement Act (PPA) 2006, a public body may exclude a bidder to participate in a bidding exercise.
2. A public body shall set up a performance review system for continuous assessment of the supplier's performance as from the award of a contract.
3. Every review of the supplier's performance during execution of a contract should be duly recorded.
4. The supplier should be notified of any deficiency in his performance of the contract with request to take remedial actions and has been warned that in the absence of satisfactory remedy, he may be excluded in a forthcoming bidding exercise of the public body.
5. The supplier should have been provided with sufficient opportunity to remedy the deficient performance.
6. Notwithstanding the decision to exclude a supplier in a procurement exercise in an Open Advertised Bidding, the public body may also exclude the supplier in Restricted Bidding, Request for Proposals, Request for Sealed Quotation, Informal Quotation and Direct Procurement for a period not exceeding six months.

Directive No. 35

(Issued Pursuant to Section 7 (b) of the Public Procurement Act 2006)

Excluding bidders to participate in a procurement exercise

7. The decision to exclude the supplier is recommended by a Performance Review Committee established by the Chief Executive of the public body. The Committee should have also determined that the public body has suffered prejudice from the poor performance of the supplier or the latter has failed to deliver the goods, works or services satisfactorily and demonstrate that excluding the supplier is fair and reasonable under the circumstance.
8. The decision to exclude the supplier should be approved by the Chief Executive within 15 days from the date of the recommendation of the Committee.
9. The decision of the public body to exclude a supplier shall be communicated to the supplier, copied to the Procurement Policy Office and published on the public body's website, within seven days from date of the decision.
10. Subject to Section 21 of the PPA, the public body shall not award any contract to an excluded bidder during his period of exclusion.
11. A supplier that has been excluded by a public body in its procurement exercise may be subject to debarment from all public contracts by the Procurement Policy Office, on grounds specified under Section 53 of the PPA.

36. Opening of bids

- (1) Every bid shall be opened at the time and place indicated in the bidding documents.
- (2) The time of bid opening shall coincide with the deadline for the submission of bids, or follow immediately thereafter, if this is necessary for logistic reasons.
- (3) Every bidder or his representative shall be authorised to attend the bid opening
- (4) The name of the bidder, the total amount of each bid, any discount or alternative offered, and the presence or absence of any bid security, if required, shall be read out and recorded, and a copy of the record shall be made available to any bidder on request.

36. Opening of bids

- (1) Every bid shall be opened at the time and place indicated in the bidding documents.
- (2) The time of bid opening shall coincide with the deadline for the submission of bids, or follow immediately thereafter, if this is necessary for logistic reasons.
- (3) Every bidder or his representative shall be authorised to attend the bid opening.
- (4) The name of the bidder, the total amount of each bid, any discount or alternative offered, and the presence or absence of any bid security, if required, shall be read out and recorded, and a copy of the record shall be made available to any bidder on request.

(4A) Notwithstanding subsections (3) and (4), bids submitted electronically shall be opened in such manner as may be prescribed.

[added by Act 15 of 2022]

PUBLIC PROCUREMENT (ELECTRONIC BIDDING SYSTEM) REGULATIONS 2015

14. Opening of electronic bids

- (1) Every public body or the Board shall allow a reasonable time for bidders to decrypt and re-encrypt their bids after the closing date and time for submission of bids.
- (2) Every public body and the Board shall –
 - (a) open the electronic bid;
 - (b) match hash values and super hash values
 - (c) download bids submitted by bidders;
 - (d) generate comparison statements; and
 - (e) prepare a bid opening report.
- (3) **The bid opening report shall be in the format issued by the Policy Office and shall be promptly published on the website of the public body. [revoked and replaced G.N 294/2022]**
- (4) **The bid opening report shall be freely accessible on the website of the public body.**
[Added G.N 294/2022]

Existing

39. Cancellation of bidding process

- (1) A public body may, at any time prior to the acceptance of a bid, reject all bids, or cancel the public procurement proceedings where—
- (a) all the bids are non-responsive;
 - (b) the lowest evaluated bid is substantially above the applicable updated cost estimate;
 - (c) the goods, works or services are no longer required;
 - (d) it has been established that there has been collusion among the bidders;
 - (e) in the public interest, the bidding document requires substantial modification making it more convenient to restart a new bidding process;

New Version (PPA 2022)

39. Cancellation of bidding process

- (1) A public body may, at any time prior to the acceptance of a bid, reject all bids, or cancel the public procurement proceedings where—
- (a) all the bids are non-responsive;
 - (b) the lowest evaluated bid is substantially above the applicable updated cost estimate;
 - (c) the goods, works or services are no longer required;
 - (d) it has been established that there has been collusion among the bidders;
 - (e) in the public interest, the bidding document requires substantial modification, **or mistakes are found in the bidding documents after the publication of an invitation for bids**, making it more convenient to restart a new bidding process;

[Amended by Act 15 of 2022]

The following section of the Act was amended in **2022** by adding a new subsection as follows:

43. Challenge

- (1) A bidder who claims to have suffered, or to be likely to suffer, loss or injury due to a breach of a duty imposed on a public body or the Board by this Act may, subject to subsections (2) and (3) and section 39(5), challenge the procurement proceedings before the coming into force of the procurement contract.
 - (2) A challenge shall be in writing to the chief executive officer of the public body concerned and identify the specific act or omission alleged to contravene this Act.
 - (3) A challenge shall not be entertained unless it is submitted —
 - (a) in the case of a challenge under section 24 (12) or 40 (4), within the time specified in the relevant subsection; or
 - (b) in any other case, within such time as may be prescribed.
- (3A) A bidder who has not participated in a bidding exercise shall not be entitled to submit a challenge or an application for review under section 40(4).**

[Added by Act 12 of 2023]

Previous

44. Independent Review Panel

- (1) There shall be an Independent Review Panel which shall consist of—
- (a) a Chairperson
 - (b) a Vice-chairperson; and
 - (c) 4 other persons.

45. Right of review

- (1) An unsatisfied bidder shall, subject to section 39(5), be entitled to ask the Review Panel to review the procurement proceedings where—
- (a) the chief executive officer of the public body does not issue a decision within the time specified in section 43 (4);
 - (b) he is not satisfied with the decision; or
 - (c) after the coming into force of the procurement contract, the value of which is above the prescribed threshold prescribed by regulations but does not exceed the prescribed threshold referred to in section 40(3), he is not satisfied with the procurement proceedings on a ground specified in section 43(1).

New Version (PPA 2024)

- (1) There shall be an Independent Review Panel which shall **be an administrative review panel consisting of—**
- (a) a Chairperson
 - (b) a Vice-chairperson; and
 - (c) 4 other persons.
- [amended by Act 11 of 2024]*

45. Right of review

- (1A) Where an unsatisfied bidder is entitled to ask the Review Panel to review the procurement proceedings under subsection (1), he shall seize the Review Panel.**
- [added by Act 11 of 2024]*

Previous

45. Right of review (*contd..*)

- (3) (a) An applicant for review shall be required to make such deposit as may be prescribed for filing the application.
- (b) Where the Review Panel determines that the application was frivolous, the deposit made shall be forfeited.
- (c) An applicant shall pay a non-refundable fee for processing the application in such amount, within such time and in such manner as may be prescribed.
- (d) Where the Review Panel determines that there is no merit in the application, 50 per cent of the deposit under paragraph (a) shall be forfeited.

New Version (PPA 2024)

45. Right of review (*contd..*)

- (3A) Where an application for review under this section is in respect of a major contract, the Review Panel may order the Board to furnish all relevant information and attend any meeting.**
[added by Act 11 of 2024]

Existing

46. Contents of contracts

- (5) There shall be included in every procurement contract a clause ensuring –
- (a) rates of remuneration and other conditions of work of the workers engaged in the execution of the contract that are not less favourable than those established for work of the same character in the trade concerned –
 - (i) by collective agreement applying to a substantial proportion of the workers and employers in the trade concerned;
 - (ii) by arbitration awards; or
 - (iii) by Remuneration Regulations made under the Employment Relations Act 2008;

New Version (PPA 2022)

46. Contents of contracts

- (5) There shall be included in every procurement contract a clause ensuring –
- (a) rates of remuneration and other conditions of work of the workers, **including those employed by subcontractors**, engaged in the execution of the contract that are not less favourable than those established for work of the same character in the trade concerned –
 - (i) by collective agreement applying to a substantial proportion of the workers and employers in the trade concerned;
 - (ii) by arbitration awards; or
 - (iii) by Remuneration Regulations made under the Employment Relations Act 2008;

[amended by Act 15 of 2022]

The following new sections were added in Act 11 of 2024

48A. Project Management and Contract Administration Unit

There shall be, within the Ministry, a Unit to be known as the Project Management and Contract Administration Unit.

48B. Objects of Unit

The Unit shall –

- (a) ensure that projects, as approved by the Ministry, are implemented in a timely manner, within approved costs and meet the expected outcomes;
- (b) provide advice to public bodies on project management and contract administration for projects approved under paragraph (a); and
- (c) make recommendations to the Policy Office for amendments to documents issued under section 7(c).

The following new sections were added in Act 11 of 2024

48C. Functions and powers of Unit

- (1) The Unit shall, in the discharge of its functions –
 - (a) formulate policies and issue instructions, directives, procedures, circulars, technical notes and manuals relating to project management and contract administration;
 - (b) designate a public officer to assist a public body with project management and contract administration;
 - (c) oversee project implementation by public bodies and, where appropriate, give necessary advice and instructions to ensure seamless implementation;
 - (d) prepare a post-implementation report of every completed project;
 - (e) maintain a database of experienced and competent project managers whose services may be hired by public bodies;
 - (f) organise, conduct or arrange for appropriate training programmes for public officers involved in project implementation;
 - (g) liaise and collaborate with international organisations to improve project management and contract administration; and
 - (h) do such other things as may be necessary to attain its objects.

- (2) The Unit shall have such powers as may be necessary to discharge its functions most effectively and may, in particular –
 - (a) request for such information, records and other documents as it may require from any public body;
 - (b) examine such records or other documents; and
 - (c) carry out project and contract management audit.

The following new sections were added in Act 11 of 2024

48C. Functions and powers of Unit

- (3) Where a person, to whom a request is made under subsection (2)(a) fails to comply with that request, or willfully provides false or misleading information, he shall commit an offence.
- (4) Where, in the discharge of its functions, the Unit finds that there has been a deliberate non-compliance with this Act or lawful instructions issued, the Head of the Unit shall refer the matter to the Secretary to Cabinet and Head of the Civil Service recommending such action as he may deem appropriate.
- (5) The Secretary to Cabinet and Head of the Civil Service may, where he considers appropriate, refer any matter referred to him under subsection (3) to the Police for enquiry.

The following new sections were added in Act 11 of 2024

48D. Staff of Unit

- (1)
 - (a) There shall be a Head of the Unit who shall be a person of high integrity, with substantial experience in the field of project management and contract administration.
 - (b) The Head of the Unit shall be appointed by the Minister for a period of 3 years and shall be eligible for reappointment.
- (2)
 - (a) The Ministry shall recruit, on contract basis, the staff for the Unit, which shall comprise persons of high integrity, with substantial experience in the field of project management and contract administration, procurement, legal, financial, engineering, information technology or administrative matters.
 - (b) The Secretary to Cabinet and Head of the Civil Service shall designate such public officers as may be necessary to assist the Unit and every person so designated shall be under the administrative control of the Head of the Unit.

51. Conduct of public officials

(1) A public official involved in planning or conducting public procurement proceedings or contract administration shall—

- (a) discharge his duties impartially so as to ensure fair competitive access to procurement by suppliers;
- (b) act in the public interest and in accordance with the objectives and procedures set out in this Act;
- (c) avoid conflicts of interest, and the appearance of conflicts of interest, in carrying out his duties and conducting himself;
- (d) not commit or abet any corrupt or fraudulent practice, including the solicitation or acceptance of improper inducements;
- (e) keep confidential any information that comes into his possession relating to procurement proceedings and to bids, including bidders’ proprietary information, except where disclosure is required by an investigatory body vested with powers of investigation, including the Independent Commission against Corruption, Competition Commission or Police;
- (f) for a period of 2 years after leaving the public service, not accept a position of authority in any private concern with which he had official dealings; and
- (g) declare his assets in such manner as may be prescribed.

(1) A public official involved in planning or conducting public procurement proceedings or contract administration shall—

- (a) discharge his duties impartially so as to ensure fair competitive access to procurement by suppliers;
- (b) act in the public interest and in accordance with the objectives and procedures set out in this Act;
- (c) avoid conflicts of interest, and the appearance of conflicts of interest, in carrying out his duties and conducting himself;
- (d) not commit or abet any corrupt or fraudulent practice, including the solicitation or acceptance of improper inducements;
- (e) keep confidential any information that comes into his possession relating to procurement proceedings and to bids, including bidders’ proprietary information, except where disclosure is required by an investigatory body vested with powers of investigation, including the **Financial Crimes Commission**, Competition Commission or Police [*amended by Act 11 of 2024*];
- (f) for a period of 2 years after leaving the public service, not accept a position of authority in any private concern with which he had official dealings; and
- (g) declare his assets in such manner as may be prescribed.

Previous	Amended Version (PPA 2023)
<p>53. Suspension , debarment and disqualification of bidders and suppliers</p>	<p>53. Suspension , debarment and disqualification of bidders and suppliers</p>
<p>(1) Subject to subsection (2), the Director may, under such conditions as may be prescribed, suspend, debar or disqualify a bidder or supplier from participation in procurement on the following grounds—</p>	<p>(1) Subject to subsection (2), the Director may, under such conditions as may be prescribed, suspend or debar a bidder or supplier from participation in procurement on the following grounds—</p> <p><i>[Amended by Act 12 of 2023]</i></p>
New Version (PPA 2024)	
<p>53. Suspension and Debarment of bidders and suppliers</p>	
<p>(1) Subject to subsection (2) or (2A), the Director may suspend or debar a bidder or supplier from participation in procurement on the following grounds—</p> <p><i>[Amended by Act 11 of 2024]</i></p>	

Previous	New Version (PPA 2024) amended by Act 11 of 2024
<p>53. Suspension , debarment and disqualification of bidders and suppliers</p>	<p>53. Suspension and Debarment of bidders and suppliers</p>
<p>(2) A suspension, debarment or disqualification of a bidder or supplier under subsection (1) shall not be effected unless the Director –</p>	<p>(2) A suspension or debarment of a bidder or supplier under subsection (1) shall not be effected unless the Director –</p>
	<p>New sub-section added.</p> <p>(2A) (a) Notwithstanding subsection (2), where the Director is of the opinion that the facts disclosed by a public body against a bidder or supplier are so serious that it should be refrained from participating in any procurement, he shall, in the public interest, suspend that bidder or supplier, as the case may be.</p> <p>(b) The Minister may, on the recommendation of the Policy Office, make such regulations as he thinks fit for the purpose of paragraph (a).</p>
<p>(3) A period of suspension, debarment or disqualification under subsection (1) shall not exceed 5 years.</p>	<p>(3) A period debarment under subsection (1) shall not exceed 5 years.</p>
	<p>New sub-section added.</p> <p>(4) No suspended or debarred supplier, contractor or consultant shall be awarded a procurement contract or otherwise participate in any procurement proceedings.</p>

- **Public procurement (Disqualification) Regulations 2009 has been repealed.**
- **Public Procurement (Suspension and Debarment) 2008 has been amended.**

Previous version

Amended version (PPA 2023)

Section 61(2) was amended as follows:

61. Regulations

- (1) The Minister may, on the recommendation of the Policy Office, make such regulations as it thinks fit for the purposes of this Act.
- (2) Regulations made under subsection (1) may provide for—
 - (a) detailed procedures;
 - (b) competent authorities;
 - (c) operational thresholds;
 - (d) an alternative procurement method where any of the procurement methods referred to in section 15 (1) is not considered appropriate for any specific procurement;
 - (e) time limits and other deadlines;
 - (f) the levying of fees or charges by the Policy Office, the Board or the Review Panel; and
 - (g) The amendment of the Schedule.

- (1) The Minister may, on the recommendation of the Policy Office, make such regulations as it thinks fit for the purposes of this Act.
- (2) Regulations made under subsection (1) may provide for—
 - (a) detailed procedures;
 - (b) competent authorities;
 - (c) operational thresholds;
 - (d) an alternative procurement method where any of the procurement methods referred to in section 15 (1) is not considered appropriate for any specific procurement;
 - (e) time limits and other deadlines; and
 - (f) the levying of fees or charges by the Policy Office, the Board or the Review Panel.

(g) Repealed

[amended by Act 12 of 2023]

Second Schedule of the Act was amended with an increase in the prescribed amount for all contracts as per G.N No. 256, 280 & 293 of 2022

Existing	Amended Version (PPA 2022)
<ol style="list-style-type: none">1. Procurement by a diplomatic mission of Mauritius abroad.2. Procurement by a public body in respect of -<ol style="list-style-type: none">(a) rental of office space;(b) training services; or(c) vessels, including maintenance, repairs, and periodic overhauls in a dry dock;(d) legal services.3. Procurement, notwithstanding Part V of the First Schedule, by the State Trading Corporation of LPG for the period of November 2020 to October 2021.4. Procurement, notwithstanding Part V of the First Schedule, by the State Trading Corporation of wheat flour for the year 2021.	<ol style="list-style-type: none">1. Procurement by a diplomatic mission of Mauritius abroad.2. Procurement by a public body in respect of -<ol style="list-style-type: none">(a) rental of office space;(b) training services; or(c) vessels, including chartering, maintenance, repairs, related consultancy or brokerage services and periodic overhauls in a dry dock;(d) legal services.3. Procurement, notwithstanding Part V of the First Schedule, by the State Trading Corporation of LPG for the period of November 2020 to October 2021.4. Procurement, notwithstanding Part V of the First Schedule, by the State Trading Corporation of wheat flour for the year 2021.5. Procurement by the Central Water Authority for road reinstatement with respect to the unfinished and remaining works of the on-going project for the fixing of appurtenances. construction of chambers, household connection works, laying and commissioning of pipelines and other ancillary works thereto in and around the area of Rose Hill.

Second Schedule of the Act was repealed in by GN 149/2023 and inserted as the Ninth Schedule in the PPR with amendments.

Amended Version (PPA 2023)

1. Procurement by a diplomatic mission of Mauritius abroad.
2. Procurement by a public body in respect of -
 - (a) rental of office space;
 - (b) training services; or
 - (c) vessels, including chartering, maintenance, repairs, related consultancy or brokerage services and periodic overhauls in a dry dock;
 - (d) legal services.
5. Procurement by the Central Water Authority for road reinstatement with respect to the unfinished and remaining works of the on-going project for the fixing of appurtenances. construction of chambers, household connection works, laying and commissioning of pipelines and other ancillary works thereto in and around the area of Rose Hill.

Other Regulations that have been subject to amendment
during the year **2022 to date**

Regulation 3B was added in 2022

3B. Submission of progress reports

- (1) The Board shall submit to the Policy Office a quarterly progress report on all procurement exercises.**

- (2) The progress report shall contain the following details –**
 - (a) name of the public body;**
 - (b) reference number of the procurement exercise;**
 - (c) brief description of the procurement;**
 - (d) date of submission of bidding documents for vetting;**
 - (e) status of procurement exercise;**
 - (f) reasons for any delay; and**
 - (g) such other information as the Policy Office may require**
[added GN 292/2022]

Previous version

PPR 2023

Regulation 5. Open International Bidding

(2) For the purposes of section 18(1)(a) of the Act and subject to paragraph (3), the estimated value for procurement of goods, works and other services shall be 200 million rupees and for consultancy services 10 million rupees.

(2) For the purposes of section 18(1)(a) of the Act and subject to paragraph (3), the estimated value for procurement of goods, works and other services shall be 200 million rupees and for consultancy services **20 million rupees.**

[amended GN 115/2023]

Regulation 6. Prequalification proceedings

(1) A prequalification exercise shall be effected for the procurement of -

(1) A prequalification exercise **may** be effected for the procurement of –

[amended GN 115/2023]

Previous version (PPR 2023)

30. Bid validity period

- (4A) (a) No bid validity period shall be extended more than once, except where further extension is required in the following circumstances –
- (i) pending the determination of an application for review by the Review Panel;
 - (ii) to re-evaluate the bids following a decision by the Review Panel;
 - (iii) a case, in relation to the bid, is lodged before the Court;
 - (iv) the country is seriously threatened by, or is actually confronted with, a pandemic or any other catastrophe.

Amended version (PPR 2024)

30. Bid validity period

- (4A) (a) No bid validity period shall be extended more than once, except where further extension is required in the following circumstances –
- (i) pending the determination of an application for review by the Review Panel;
 - (ii) to re-evaluate the bids following a decision by the Review Panel;
 - (iii) a case, in relation to the bid, is lodged before the Court;
 - (iv) the country is seriously threatened by, or is actually confronted with, a pandemic or any other catastrophe; or
 - (v) extension of bid validity is required to complete land acquisition procedures.**
- [Added by GN 95/2024]*

Previous version

31. Cancellation of proceedings before opening of bids

- (1) [Revoked GN 227/2016]
- (2) A cancellation of procurement proceeding may be made –
 - (a) when the object of the procurement is no longer required;
 - (b) when the bidding document has to be modified so substantially that it will be more efficient and convenient to cancel the bid invitation, revise the document and re-issue an invitation to bid; or
- (3) If the procurement proceeding is cancelled before opening of bids, any bid received shall be returned unopened.

Amended version (PPR 2023)

31. Cancellation of proceedings before opening of bids

- (1) [Revoked GN 227/2016]
- (2) A cancellation of procurement proceeding may be made –
 - (a) when the object of the procurement is no longer required;
 - (b) when the bidding document has to be modified so substantially that it will be more efficient and convenient to cancel the bid invitation, revise the document and re-issue an invitation to bid; or
 - (c) financial assistance, including grant or concessional financing, has been obtained, or is sought, from a foreign State to fund the procurement.**
[added GN 182/2023]
- (3) If the procurement proceeding is cancelled before opening of bids, any bid received shall be returned unopened.

Regulation 41 Restricted Bidding was amended

Previous	Amended Version
<p>41. Restricted bidding</p> <p>(1) For the purpose of section 19(1)(b) of the Act, the threshold amount shall <u>be 5 million rupees</u> for the procurement of goods, works and other services</p> <p>(2) For the purpose of section 19(2)(b) of the Act, the bidders from whom bids are directly solicited shall, as far as reasonable possible, include at least two SMEs</p>	<p>(1) For the purpose of section 19(1)(b) of the Act, the threshold amount shall –</p> <ul style="list-style-type: none">(a) for the procurement of goods, be 5 million rupees; and(b) for the procurement of works and other services, be 10 million rupees. <p><i>[Revoked and replaced GN 292/2022]</i></p> <p>(2) For the purpose of section 19(2)(b) of the Act, for the procurement of goods, the bidders from whom bids are directly solicited shall, as far as reasonably possible, include at least 2 SMEs.</p> <p><i>[Amended by GN 95/2024]</i></p>

Regulation 47 (1) EOI was amended

Previous	New (PPA 2022)
<p>47. Invitation for expression of interest</p> <p>(1) For the purposes of section 24(2)(a) and (b) of the Act, the threshold shall be <u>10 million rupees</u>.</p>	<p>(1) For the purposes of section 24(2)(a) and (b) of the Act, the threshold shall be 20 million rupees.</p> <p><i>[Amended GN 292/2022]</i></p>

The Following new section was added in the ACT in **2022**

47C. Reserved contracts for works up to 20 million rupees

Works contracts up to the value of 20 million rupees shall be reserved to small contractors who –

- (a) have an annual turnover of 10 million rupees and above but not exceeding 30 million rupees; and**
- (b) are registered as small contractors under the Construction Industry Development Board Act.**

[added GN 292/2022]

47C. Reserved works contracts for microenterprises and small enterprises

- (1) Subject to this regulation, contracts for works not exceeding 30 million rupees shall be reserved to microenterprises and small enterprises.
- (2)
 - (a) A microenterprise shall be eligible to bid for any contract not exceeding one million rupees, irrespective of its annual turnover.
 - (b) A microenterprise which has an annual turnover not exceeding 10 million rupees shall be eligible to bid for any contract not exceeding 10 million rupees, provided that its actual annual turnover meets the qualification requirements specified in the bidding document.
- (3) A small enterprise which has an annual turnover above 10 million rupees but not exceeding 30 million rupees shall be eligible to bid for any contract not exceeding 30 million rupees, provided that its actual annual turnover meets the qualification requirements specified in the bidding document.
- (4) In this regulation –
“microenterprise” has the same meaning as in the Small and Medium Enterprises Act;
“small enterprise” has the same meaning as in the Small and Medium Enterprises Act.

[revoked and replace GN 115/2023]

47C. Reserved works contracts for microenterprises and small enterprises

- (1) Subject to this regulation, contracts for works not exceeding 30 million rupees shall be reserved to microenterprises and small enterprises.
- (2)
 - (a) A microenterprise shall be eligible to bid for any contract not exceeding one million rupees, irrespective of its annual turnover.
 - (b) A microenterprise which has an annual turnover not exceeding 10 million rupees shall be eligible to bid for any contract not exceeding 10 million rupees, provided that its actual annual turnover meets the qualification requirements specified in the bidding document.
- (3) A small enterprise which has an annual turnover **between 10 million rupees and** 30 million rupees shall be eligible to bid for any contract not exceeding 30 million rupees, provided that its actual annual turnover meets the qualification requirements specified in the bidding document. *[amended GN 92/2024]*
- (3A) Notwithstanding paragraphs (2) and (3), a public body may – (a) open the bidding exercise to bidders with higher turnover for specialised types of works where microenterprises or small enterprises do not have the expertise; or (b) carry out a single open invitation for bids to all bidders, provided that priority of consideration for award shall be given to microenterprises and small enterprises. [added GN 92/2024]**
- (4) In this regulation –
“microenterprise” has the same meaning as in the Small and Medium Enterprises Act;
“small enterprise” has the same meaning as in the Small and Medium Enterprises Act.

Directive No. 72

(Issued Pursuant to Section 7 (b) of the Public Procurement Act 2006)

Reserved Works Contracts for Micro and Small Enterprises

1. The purpose of this Directive is to inform public bodies on the procedures for reserved works contracts for micro enterprises and small enterprises pursuant to Section 26B of the Public Procurement Act (2006) and Regulation 47C of the Public Procurement Regulations 2008.
2. The following procedures should be adopted:
 - a. Small works not exceeding Rs 1 million
 - i. Invite bids from micro enterprises.
 - ii. Award the contract to the lowest evaluated substantially responsive bidder irrespective of the annual turnover.
 - b. Small works between Rs 1 million and Rs 10 million
 - i. Proceed with a restricted bidding exercise from micro and small enterprises.
 - ii. Separate the bids received from micro and small enterprises.
 - iii. Award the contract to the lowest evaluated substantially responsive bidder from among the micro enterprises.
 - iv. In the absence of any responsive bid from the micro enterprises, proceed with the evaluation of bids from the small enterprises and award the contract to the lowest evaluated substantially responsive bidder.

Note: For para 2(a) and (b) above, in respect of specialized works where there is no known micro enterprise capable of performing the contract, bids may be invited from other bidders.

contd...

Directive No. 72

(Issued Pursuant to Section 7 (b) of the Public Procurement Act 2006)

Reserved Works Contracts for Micro and Small Enterprises

c. Works between Rs 10 million and Rs 30 million

- i. Invite bids through open advertised bidding by clearly mentioning in the bidding documents that priority of consideration for award shall be given to small enterprises with an average annual turnover not exceeding Rs 30 million.
 - ii. Separate the bids received and proceed with the evaluation of bids received from small enterprises.
 - iii. Award the contract to the lowest evaluated substantially responsive enterprise. Directive No. 72 (Issued pursuant to section 7 of the Public Procurement Act)
 - iv. In the absence of responsive bids from a small enterprise, proceed with the evaluation of bids from the other bidders and award the contract to the lowest evaluated substantially responsive bidder.
3. In case the lowest evaluated responsive bid is more than 15% above the cost estimate, the provisions of Directive No. 61 shall apply.

27 June 2024

Existing Version

57. Hearings

- (1) At the request of the applicant for review or on its own initiative, the Review Panel may, where it deems appropriate, conduct a hearing.
- (2) A hearing shall be completed -

Version 2022 (PPR 2022)

57. Hearings

- (1) At the request of the applicant for review or on its own initiative, the Review Panel may, where it deems appropriate, conduct a hearing.

(1A) Notwithstanding paragraph (1), the Review Panel shall offer to conduct, as far as reasonably possible, reviews based on submissions without hearings or through remote or virtual hearings.
[Inserted GN 292/2022]

Previous version (2023)

66. Liquidated damages

- (1) The procurement contract may provide that the contractor is liable for payment of an agreed sum for delay in the performance due under the contract.

- (2) Where a clause for payment of liquidated damages is provided in the contract, it shall specify –
 - (a) the agreed sum to be paid per unit time of delay;
 - (b) the maximum amount due under the liquidated damages clause; and
 - (c) that the contractor is not relieved of its liability for performance of the procurement contract by virtue of payment under the liquidated damages clause.

Amended version (PPR 2024)

66. Liquidated damages

- (1) The procurement contract may provide that the contractor is liable for payment of an agreed sum for delay in the performance due under the contract.

(1A) For goods contract, the liquidated damages shall be proportionate to the value of the goods not supplied within time.
[Added by GN 95/2024]

- (2) Where a clause for payment of liquidated damages is provided in the contract, it shall specify –
 - (a) the agreed sum to be paid per unit time of delay;
 - (b) the maximum amount due under the liquidated damages clause; and
 - (c) that the contractor is not relieved of its liability for performance of the procurement contract by virtue of payment under the liquidated damages clause.

First Schedule (Part V) was amended in **2022** as follows:

Ministry responsible for Rodrigues was added

Procurement of transportation, storage and distribution services for –

(a) petroleum products only, namely MOGAS, Gas Oil and Dual- Purpose Kerosene (DPK); and

(b) Liquefied Petroleum Gas (LPG) of 5,6 and 12 kilogrammes, for domestic use, from the Island of Mauritius to the Island of Rodrigues and back

[added GN 136/2022]

In 2023, the First and Second Schedule of the PPA have been repealed and same has been inserted as Eighth and Ninth Schedule in the PPR [GN 149/2023].

Eight Schedule to the Regulations has been amended by revoking and replacing Part VI

Previous version	Amended version (PPR 2023)
<p data-bbox="78 325 410 368">Any public body-</p> <p data-bbox="78 439 1251 939">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 the Minister may approve, 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 or from any other State which that State approves.</p>	<p data-bbox="1276 325 1615 368">Any public body-</p> <p data-bbox="1276 439 2474 654">Procurement of goods, works, consultancy services or other services funded by at least 50 percent of the estimated project value from grant or concessional financing as the Minister may approve, from –</p> <ul data-bbox="1276 668 2474 1168" style="list-style-type: none"><li data-bbox="1276 668 2474 939">(a) 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 or from any other State which that State approves; or<li data-bbox="1276 1011 2474 1168">(b) a donor organisation who imposes conditions on the procurement of these goods, works, consultancy services or other services. <p data-bbox="1276 1182 1742 1218"><i>[Amended by GN 115/2023]</i></p>

In 2023, the First and Second Schedule of the PPA have been repealed and same has been inserted as Eighth and Ninth Schedule in the PPR [GN 149/2023].

First Schedule Part VIII to the Regulations has been amended

Ministry responsible for
the subject of education

Procurement of cleaning services, **upgrading, embellishment, revamping and painting works in schools** provided by Mauri-Facilities Management Co. Ltd or through its contractors.

[Amended by GN 42/2024]

PART XIII has been added in the First Schedule to the Regulations

Mauritius Meat Authority

**Purchase of livestock for
resale and/ or slaughter**

[Added by GN 47/2023]



Thank You