



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

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Circular No. 6 of 2022

From: Procurement Policy Office

To : Heads of Public Bodies

Dealing with defaulting contractors and suppliers

1. It has been observed that public bodies are not taking timely actions against defaulting contractors and suppliers contrary to the provisions in the Public Procurement Act 2006 (Act), regulations, directives and conditions of contract.
2. Failure on the part of public bodies to take timely actions against defaulting contractors and suppliers keep them eligible for future bidding and award of contracts.
Such situations will continue to prevail unless Accounting Officers establish the proper structures to monitor performance of suppliers and contractors and take actions against officers guilty of negligence.
3. With a view to mitigate the risk of award of contracts to defaulting contractors and suppliers, the Public Procurement Regulations 2008 are being further amended to allow for the mandatory performance rating and inclusion of defaulting contractors and suppliers who have been rated as poor on a portal to be designated by this Office. Moreover, Accounting Officers are reminded that this Office is empowered to report cases of deliberate non-compliance with recommendations for actions against the officers concerned as per Section 7A (3) and (4) of the Act.
4. Appropriate actions that are currently available to public bodies to deal with defaulting contractors and suppliers are highlighted below.

5. Actions against defaulting bidders, suppliers and contractors

5.1 Exclusion of defaulting suppliers

Currently, under the Public Procurement Act 2006 (Act) a public body may initiate actions to sanction defaulting bidders, suppliers and contractors as described hereunder:

- (a) Under Section 35 of the Act, a public body may for a period of six months, 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 PPO has issued Directive No. 35 on procedures to be followed for the exclusion of the defaulting suppliers and contractors and Directive 64 to make it mandatory for public bodies to set up a Performance Review Committee for continuous assessment of the supplier's performance as from the award of a contract.

(c) New regulations will be issued shortly to require public bodies to rate the performance of suppliers at the end of a contract to enable the creation of a database of poor performers, which will be accessible by all public bodies.

Thus, public bodies may request details of evidence on the poor performer from the concerned public body and may set aside a bid received from such bidder if it is satisfied that it poses high potential risks of deficient performance.

5.2 Disqualification and Debarment

Besides the exclusion under section 35 of the Act, a public body may submit to the PPO a proposal for the disqualification or debarment of a bidder or supplier on grounds specified in section 53 of the Act.

The period of disqualification or debarment may stretch from 6 months to 5 years, depending on the gravity of the breach.

6. Accounting Officers are requested to bring the contents of this Circular to all officers and establish the appropriate structures and monitoring system for timely actions.

Procurement Policy Office
29 September 2022



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 (<http://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.