



MINISTRY OF FINANCE, ECONOMIC PLANNING AND DEVELOPMENT
Procurement Policy Office

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

Circular No. 09 of 2022

From: Procurement Policy Office

To: Heads of Public Bodies

Amendments to Public Procurement Act 2006 and Public Procurement Regulations 2008

Public bodies are hereby informed that the Public Procurement Act 2006 (Act) and the Public Procurement Regulations 2008 (Regulations) have been amended as highlighted hereunder.

2. **Public Procurement Act 2006**

- a. Section 2 of the Act has been amended to define or redefine the following terms:
 - i. Directives
 - ii. Goods
 - iii. Major contract
- b. Section 3A: Part III of the Act is no longer applicable to the procurement of goods, works and services specified in the Second Schedule of the Act.
- c. Sections 7(b) has been amended to provide a clearer understanding of this function of the Policy Office.
- d. New sub-section (1B), in section 11 has been added to require the Board to ensure that the bid evaluation committee includes qualified persons from the public body concerned.
- e. New sub-section (1C), in section 11 has been added to require the Board to share such information as may be prescribed with the public body when a bidding exercise is completed.
- f. Section 12(3) has been amended to require a public body to refer to the Board for approval together with all the bidding documents when 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.
- g. New sub-paragraph (ba) has been added to Section 24(9) to allow a public body to exceptionally resort to negotiations of the fee under Section 24(9)(b) when the price quoted by the only responsive Consultant substantially exceeds the estimated cost and a re-bid exercise is not considered practical.



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- h. Section 25(1) has been amended to make it also applicable to the procurement of consultancy services.
 - i. Section 35(1A) has been amended to allow a public body to exclude a bidder who has failed to perform in another public body by following the procedures as per the directive issued by the Policy Office. A public body is required to rate the performance of suppliers as per the regulations and directive issued by the Policy Office.
 - j. Section 36(4A) has been added to enable appropriate setup for the opening of bids received electronically.
 - k. Section 39(1)(e) has been amended to allow a public body to cancel a procurement proceeding where mistakes have been detected in the bidding document after the publication of an invitation for bids.
 - l. Section 46(5) has been amended for the provisions to be applicable to sub-contractors as well.
 - m. The First Schedule of the Act has been amended and the prescribed amounts have been increased.
 - n. The Second Schedule of the Act in respect of the procurement of vessels has been amended.
3. **Public Procurement Regulations 2008**
- i. Regulation 3A, has been added to ensure sharing of information is being done by the Board to the public body concerned upon completion of a bidding exercise.
 - ii. Regulation 3B has been added to allow the Policy Office to monitor the status of bidding exercises in respect of major contracts.
 - iii. Regulation 9A, has been added to require public bodies to set up a Performance Review Committee to perform the tasks prescribed therein. Public bodies shall publish the names of suppliers whose performance has been determined as poor on the website designated by the Policy Office. The list shall be subject to controlled access by public bodies who may decide not to award a contract to a bidder whose performance has been rated as poor.
 - iv. Paragraph (1) of Regulation 41 has been amended and the prescribed threshold for restricted bidding for the procurement of works and other services has been reviewed to Rs 10 million.
 - v. Paragraph (1) of Regulation 47 has been amended and the prescribed threshold for the invitation for expression of interest for consultancy services has been reviewed to Rs 20 million.
 - vi. Regulation 47C has been added to reserve works contracts up to Rs 20 million to small contractors subject to the conditions stipulated therein.
 - vii. Regulation 57, Paragraph (1A) has been added to enable the Review Panel to conduct reviews based on submissions without hearings or through remote or virtual hearings, as far as reasonably possible.



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**RF 162
MS ISO 9001:2015**

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4. **Public Procurement (Electronic Bidding System) Regulations 2015**

Regulation 14 has been amended to align it to the electronic opening process whereby bidders shall have prompt access to the bid opening report on the website of the public body without having to attend the opening at the public body or the Central Procurement Board.

5. The updated version of the Act and Regulations may be downloaded from the website of the PPO (ppo.govmu.org).

**Procurement Policy Office
24 November 2022**



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