



MINISTRY OF FINANCE AND ECONOMIC DEVELOPMENT

Procurement Policy Office
Level 8, Emmanuel Anquetil Building,
Port Louis, Mauritius

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Circular No. 5 of 2017

From: Director, Procurement Policy Office

To : Heads of Public Bodies

Amendments to Public Procurement Act 2006

Public Bodies are hereby informed that Public Procurement Act 2006 has been amended by way of the Finance (Miscellaneous Provisions) Act 2017 Act No. 10 of 2017 gazetted on 24 July 2017.

2. A soft copy of the relevant amendments to the Public Procurement Act 2006 is attached. The amended Public Procurement Act 2006 is posted on the Procurement Policy Office website: <http://ppo.govmu.org>.
3. These amendments provide for:
 - i. additions to the definitions under the Public Procurement Act 2006;
 - ii. specific types of works contracts reserved for microenterprises, small enterprises and medium enterprises to be prescribed;
 - iii. possibility of a public body to exclude a bidder in a bidding exercise under certain conditions for which the Procurement Policy Office will issue Directives;
 - iv. power to the Director to suspend or debar a potential bidder or supplier from participation in procurement on specific grounds; and
 - v. additional grounds for suspension and debarment of bidders and suppliers.
4. You are kindly requested to disseminate the content of this Circular to all those concerned within your organization.

Procurement Policy Office
3 August 2017

**Amendments to the Public Procurement Act 2006 as per the Finance
(Miscellaneous Provisions) Act 2017 Act No. 10 of 2017**

44. Public Procurement Act amended

The Public Procurement Act is amended –

(a) in section 2, by inserting, in the appropriate alphabetical order, the following new definitions

–

“control” has the same meaning as in the Public Debt Management Act;

“foreign State” includes any Ministry, department of the Government, organ, statutory body, Government-owned or Government-controlled corporation, or other agency, of the foreign State;

“own” has the same meaning as in the Public Debt Management Act;

(b) in section 3, by repealing subsection (1D);

(c) by inserting, after section 26A, the following new section –

26B. Reservation

(1) Specific types of works contracts and the estimated contract values, as may be prescribed, shall be reserved for microenterprises, small enterprises and medium enterprises.

(2) In this section –

“microenterprise”, “small enterprise” and “medium enterprise” have the same meaning as in the Small and Medium Enterprises Development Authority Act.

(d) in section 35, by inserting, after subsection (1), the following new subsection –

(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.

(e) in section 53 –

(i) in subsection (1) –

(A) by deleting the words “Policy Office” and replacing them by the word “Director”;

(B) by adding the following new paragraphs, the full stop at the end of paragraph (f) being deleted and replaced by a semicolon and the word “or” at the end of paragraph (e) being deleted –

(g) submitting a bid which contains inaccurate or inadequate information with a view to misleading a public body or the Board regarding the eligibility or responsiveness of its bid;

(h) refusing, where no bid security is required, to accept an award made to it and to enter into a contract with a public body, except in a situation of force majeure;

(i) repeated failure, in the performance of one or more contracts by the supplier, contractor or consultant, to comply with the terms and conditions of the contract or the specifications, as the case may be;

(j) committing a material breach of contract; or

(k) without the prior written approval of the public body, unlawfully assigning or subcontracting any of its obligations under a contract.

(ii) in subsection (2), by deleting the words “Policy Office” and replacing them by the word “Director”.