



MINISTRY OF FINANCE AND ECONOMIC DEVELOPMENT

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

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Circular No 1 of 2013

From: Officer-in-Charge, Procurement Policy Office

To : Heads of Public Bodies

Amendments to Public Procurement Act

Public Bodies are hereby informed that various sections of the Public Procurement Act have been amended through the Economic and Financial Measures (Miscellaneous Provisions) Act 2012. These amendments have been officialised in the Government Gazette No. 129 of 22 December 2012. (see annex)

2. A highlight of the amendments to the Act is given in annex.

3. Regulations in respect of:

- (a) procurement by diplomatic missions of Mauritius abroad;
- (b) procurement for rental of office Space;
- (c) procurement of training services; and
- (d) Framework Agreement

are under preparation.

4. Pending preparation of the above Regulations, the Procurement Policy Office shall guide public bodies on a case to case basis on the manner they may proceed with the procurement listed above.

5. Amendment to the Regulations pertaining to Challenge and Appeal is also in progress.

6. The updated version of the Public Procurement Act is available on the website of the Procurement Policy Office (<http://ppo.gov.mu>).

7. You are kindly requested to disseminate the contents of this circular to all those concerned within your organisation.

**Procurement Policy Office
06 February 2013**

***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.gov.mu>). 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.*

Amendments to the Public Procurement Act

- (i) *Section 2 – Interpretation* : The amendment relates to the interpretation of “framework agreement”. It now also provides for a lead organization to enter into a framework agreement.
- (ii) *Section 3 – Application of the Act* : New paragraphs (d),(e)&(f) provide for the exemption from the application of the Act for:
- Procurement by diplomatic missions of Mauritius abroad.
 - Procurement in respect of rental of office space.
 - Procurement in respect of training services.
- (iii) *Section 7 – Functions of Procurement: Policy Office (PPO)* : New paragraph (aa) provides for an additional function of the PPO, that is, to designate a public body to enter into and manage a framework agreement
- (iv) *Section 9 – Secretary of the Board* : Amended Section 9 provides for the appointment of the Secretary of the Board on a contractual basis and defines the main responsibilities of the Secretary of the Board.
- (v) *Section 10 – Staff of the Board* : Amended section 10(2) provides for the staff of the Board to be under the administrative control of the Secretary instead of the Chairperson.
- (vi) *Section 24 – Request for Proposals* : Amended sub-sections 11 and 12 provide for award of contract for consulting services:
- not exceeding the prescribed threshold (presently Rs 15M) to be made without prior notice; and
 - for those exceeding the threshold to be made within 7 days of notification instead of 15.
- (vii) *Section 26 – Application of the Bidding Process* : New section 26A provides for an electronic bidding system to receive and process bidding documents and to award procurement contracts.
- (viii) *Section 28 – Bidding Documents* : New sub-section 2 now provides for a bidding document to contain qualifications and evaluation criteria based on life cycle costing.
- (ix) *Section 29 – Two-stage bidding* : New section 29A provides for the circumstances under which a public body or a

- lead organization may enter into a framework agreement.
- (x) *Section 40 – Award of procurement contracts* : New sub-section (2B) provides for a public body to award a procurement contract based on a pre-determined common rate to more than one contractor.
- Amended sub-section 4 provides for the challenge period for both international and local bidding to be 7 days.
- (xi) *Section 43 – Challenge* : Amended sub-section (1) provides for a bidder to challenge a procurement proceeding **before** the entry into force of the procurement contract subject to the prescribed period in respect of specific situations.
- (xii) *Section 44 – Independent Review Panel (IRP)* : Amendment to sub-sections 1(b) and (2) and new subsection (1A) provide for:
- the IRP to comprise of a Chairperson and 3 other persons instead of 2;
 - the Chairperson and 2 members to constitute a quorum;
 - the members present at a meeting to elect a member to act as Chairperson, in the absence of the Chairperson; and
 - every member to hold office for a period not exceeding 3 years and to be eligible for reappointment for one further term.
- (xiii) *Section 45 – Right of Review* : Amended sub-section 1, paragraph (c) provides for an unsatisfied bidder to ask for a review after the entry into force of a procurement contract above the threshold prescribed in regulations (presently Rs 1M) but which does not exceed the threshold prescribed in section 40(3) (presently RS 15M).
- New subsection (2)(ba) provides for an application for review to be accompanied by a statement of case together with any witness statement.
- New sub-section (2A) and (2B) refer to the manner in which a statement of case should be submitted.
- New sub-section (3)(c) provides for the payment of a non-refundable fee for processing an application for review.
- Amended sub-section (8) provides for the Independent Review Panel to make a decision within such period as may be prescribed instead of 1 month of the date of submission of an application for review.

