



# MINISTRY OF FINANCE AND ECONOMIC DEVELOPMENT

## Procurement Policy Office

*Level 8, Emmanuel Anquetil Building,*

*Port Louis, Mauritius*

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**Ref : F/PPO/4/1/Vol 9**

### **Circular No. 7 of 2016**

**From: Director, Procurement Policy Office**

**To : Heads of Public Bodies**

### **Guidelines for Procurement under Government to Government Agreement**

#### **(G to G procurement)**

G to G procurement is exempt from the procurement rules of the Public Procurement Act (PPA) 2006.

2. The annex Guidelines, posted in the website of Procurement Policy Office (ppo.govmu.org), are issued pursuant to Section 3 (1Ba) of PPA and is applicable where a procurement is undertaken pursuant to an agreement or arrangement between Mauritius and a foreign State to benefit from the expertise and development experience of that foreign State in a particular field as specified in Section 3(1) (b) of the Act.

**Procurement Policy Office  
14 October 2016**



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## **Annex to Circular No. 7**

### **Guidelines for Procurement under a Government to Government Agreement issued pursuant to Section 3 (1Ba) of the Public Procurement Act 2006**

#### **(G to G Procurement)**

#### **1. Introduction**

The procurement rules under the Public Procurement Act (PPA) 2006 do not apply where procurement is undertaken pursuant to an agreement or arrangement between Mauritius and a foreign State to benefit from the expertise and development experience of that foreign State in a particular field as specified in Section 3(1) (b) of the PPA. This type of procurement is commonly known as G to G procurement.

#### **2. Specific G to G Procurement process under PPA**

2.1 The following alternative procedures for procurement under a G to G Agreement are stipulated in Section 3 (1A) (a), 3(1B) (a), 3(1B) (b) and 3 (1C) of the PPA:

- a) The procurement for the project may be carried out by:
  - (i) the foreign State or by an entity which it designates; or
  - (ii) a public body or a statutory body or entity specified in any enactment as designated by the Government of Mauritius;
- b) The public body will perform due diligence to ensure that the procurement at subsection (a) constitutes value for money. It may request assistance from the Central Procurement Board (CPB) to conduct the due diligence;
- c) The public body is required to submit to a High-Powered Committee a report on the due diligence conducted at subsection (b);



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- d) The High-Powered Committee referred to at subsection (c) will be chaired by the Secretary to Cabinet and Head of the Civil Service or his representative and comprise of other senior officials designated by the latter. The Committee may also co-opt appropriate public officer;
- e) The High-Powered Committee will examine the due diligence documents submitted by the public body and forward a report on the procurement including its own recommendations to Cabinet; and
- f) After appraising Cabinet, the High-Powered Committee will notify the public body of its recommendations for the latter to take a decision on the procurement.

2.2 An extract of the relevant sections of the Act is at Annex.

### 3. Steps for Procurement under a G to G Agreement

3.1 To carry out procurement under a G to G Agreement a public body should:

**Step 1:** Ensure that there is a written agreement or arrangement between Mauritius and the foreign State.

**Step 2:** Ensure that the Agreement or Arrangement allows Mauritius to benefit from the expertise and development experience of that foreign State in a particular field.

**Step 3:** Set up a Committee (Due Diligence Committee) comprising knowledgeable persons in the subject matter to carry out the due diligence exercise.

**Step 4:** Seek assistance of the CPB (if necessary) for the Committee to define a methodology to ensure that the procurement constitutes value for money as each procurement has specific characteristics.

Such methodology may include:

- a) Justification for resources to be deployed (as per the proposal)



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- b) Breakdown of the activities.
- c) Cost structure with sufficient details.
- d) The procurement approach chosen was appropriate under the circumstance.

Value for Money can be assessed by using the following 4 Es principles (Effectiveness, Efficiency, Economy and Ethics) :

*Effectiveness-* assesses the impact of spend by reviewing outcomes. For demand-led services, it reviews whether demand is being managed effectively or delivering a better service or getting a better return for the same amount of expense, time or effort.

*Efficiency-* assesses productivity. That is how much you get out for what you put in. It covers the efficiency of the service model, for example, where there is a choice, are services used that are most efficient with better outcomes.

*Economy-* assesses what goes into providing a service and careful use of resources to save expense, time or effort.

*Ethics -* transparency and integrity of the process

### 3.2 The public body should ensure that the proposal:

- a) Is Fit - for- purpose.
- b) Has been properly structured to meet the requirements for the task in question and is not over-specified (gold-plated).
- c) Takes into consideration the total benefits/cost of ownership (acquisition costs, operating and maintenance costs and disposal costs), wherever applicable.
- d) Includes all the terms and conditions to safeguard the rights and obligations of the two parties including the risks of the proposed contract being well-balanced and particularly not detrimental to the public body.
- e) Discloses the capability of the service provider to deliver the services as per the agreed terms and conditions.



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3.3 The Committee may seek the assistance of an expert to validate the methodology chosen.

### **Step 5:** Where negotiations is required:

- a) Seek the mandate for negotiation from the Secretary to Cabinet and Head of Civil Service.
- b) Negotiate with the representatives of the foreign counterparts.
- c) Set the methodology for negotiation that should generally include the negotiation process with a robust planning phase (the variables to be negotiated, the entry and exit points, use of Best Alternative to a Negotiated Agreement (BATNA) as being the most advantageous alternative course of action a public body can take if negotiations fail and an agreement cannot be reached. The Public body can also use BATNA to achieve a better deal and consider under any other issues for the negotiations to be concluded fairly).
- d) Carry negotiation through a transparent process.
- e) Formalise the outcome of the negotiations in writing with Agreed Minutes signed by both parties.

### **Step 6:** Submission of Due Diligence Report

The Due Diligence Report comprises the Due Diligence Process and all details of the Negotiation. The Committee submits the Due Diligence Report and the Agreed Minutes to the High-Powered Committee.

**Step 7:** The High-Powered Committee shall forward its report, including its recommendations, to Cabinet; and thereafter, notify the Ministry responsible of its recommendations to enable it to take a decision on the procurement.

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### Annex: Extract of the relevant sections of the Act in relation to G to G Agreement

| Sections of the PPA | Content   |
|---------------------|---|
| 3(1)(b)             | Notwithstanding any other enactment but subject to this section, this Act shall not apply to procurement undertaken pursuant to an agreement or arrangement between Mauritius and a foreign State which allows Mauritius to benefit from the expertise and development experience of that foreign State in a particular field   |
| 3(1A)               | (1A) Any procurement under – (a) subsection (1)(b) or (c) shall be subject to the conditions set out in subsection (1B)   |
| 3(1B)               | <p>The conditions referred to in subsection (1A) shall be –</p> <p>(a) in relation to a procurement referred to in subsection (1)(b), the procurement is undertaken by–</p> <p>(i) the foreign State or by or through an entity designated by the foreign State; or</p> <p>(ii) the Government of Mauritius or any statutory body or entity specified in any enactment, or designated, for that purpose by the Government of Mauritius;</p> <p>(b) in relation to a procurement referred to in subsection (1)(b) or (c) –</p> <p>(i) the Ministry responsible shall – (A) perform due diligence, with such assistance as it may request from the Board, to ensure that the procurement constitutes value for money; (B) submit a report on the due diligence, together with supporting documents and its recommendations, to the high-powered committee referred to in subsection (1C);</p> <p>(ii) after examination of the documents and recommendations referred to in paragraph (b)(i)(B), the high-powered committee shall –</p> <p>(A) forward its report, including its recommendations, to Cabinet; and</p> <p>(B) thereafter, notify the Ministry responsible of</p> |



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|        | its recommendations to enable it to take a decision on the procurement.  |
| 3(1Ba) | The Policy Office shall, for the purposes of subsection (1B) (b) (i) (A), issue guidelines to assist the Ministry in performing due diligence.   |
| 3(1C)  | The high-powered committee referred to in subsection (1B) –<br>(a) shall be chaired by the Secretary to Cabinet and Head of the Civil Service or his representative;<br>(b) shall comprise such other senior officials as the Secretary to Cabinet and Head of the Civil Service may designate;<br>(c) may co-opt such public officer as it deems appropriate. |