

PROCUREMENT POLICY OFFICE

Directive No 35

(Issued pursuant to Section 7(b) of the Public Procurement Act 2006)

Excluding bidders to participate in a procurement exercise

1. Pursuant to Section 35(1A) (a) of the Public Procurement Act (PPA) 2006, a public body may exclude a bidder to participate in a bidding exercise.
2. A public body shall set up performance review system for continuous assessment of the supplier's performance as from the award of a contract.
3. Every review of the supplier's performance during execution of a contract should be duly recorded.
4. The supplier should be notified of any deficiency in his performance of the contract with request to take remedial actions and has been warned that in the absence of satisfactory remedy, he may be excluded in a forthcoming bidding exercise of the public body.
5. The supplier should have been provided with sufficient opportunity to remedy the deficient performance.
6. Notwithstanding the decision to exclude a supplier in a procurement exercise in an Open Advertised Bidding, the public body may also exclude the supplier in Restricted Bidding, Request for Proposals, Request for Sealed Quotation, Informal Quotation and Direct Procurement for a period not exceeding six months.
7. The decision to exclude the supplier is recommended by a Performance Review Committee established by the Chief Executive of the public body. The Committee should have also determined that the public body has suffered prejudice from the poor performance of the supplier or the latter has failed to deliver the goods, works or services satisfactorily and demonstrate that excluding the supplier is fair and reasonable under the circumstance.
8. The decision to exclude the supplier should be approved by the Chief Executive within 15 days from the date of the recommendation of the Committee.
9. The decision of the public body to exclude a supplier shall be communicated to the supplier, copied to the Procurement Policy Office and published on the public body's website, within seven days from date of the decision.
10. Subject to Section 21 of the PPA, the public body shall not award any contract to an excluded bidder during his period of exclusion.
11. A supplier that has been excluded by a public body in its procurement exercise may be subject to debarment from all public contracts by the Procurement Policy Office, on grounds specified under Section 53 of the PPA.