



MINISTRY OF FINANCE AND ECONOMIC DEVELOPMENT
Procurement Policy Office
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Circular No. 6 of 2016

From: Director, Procurement Policy Office

To : Heads of Public Bodies

Amendments to the Public Procurement Act 2006

Some provisions of the Public Procurement Act have been amended through the Finance (Miscellaneous Provisions) Act 2016.

2. These amendments along with Explanatory Notes are listed at Annex.
3. The updated Public Procurement Act is accessible in the website of Procurement Policy Office (ppo.govmu.org)

Procurement Policy Office
11 October 2016

Annex to Circular No. 6 of 2016

Section of PPA	Amendments	Explanatory Note
Section 3. Application of the Act-exempt provisions Subsections 3(g) and 3(1A)(b)	<p>Procurement of Vessels</p> <p>New sub section 3(g) has been added: <i>“by any public body in respect of vessels, including maintenance, repairs and periodic overhauls in a dry dock.”</i></p> <p>Section 3(1A)(b) amended: <i>“subsection (1)(d), (e), <u>(f) or (g)</u> shall be subject to such regulations as may be made by the Minister.”</i></p>	Procurement of vessels has been excluded from PPA. However, the procedure for its procurements will be described in the forthcoming Regulations.
Section 11. Functions of the Board New subsection 11(1)(f)	<p>Contract Amendments, Variations, Price Adjustment, Additional Works and Goods</p> <p>New subsection 11(1) (f) has been added :</p> <p><i>“The Board shall, in respect of major contracts –</i> <i>review the recommendations of a public body with respect to an amendment that increases the contract value pursuant to section 25(2)(c) or (d) or 46(3), or a variation pursuant to section 46(4) and –</i></p> <p>(i) <i>approve the variation or amendment proposed;</i></p> <p>(ii) <i>require the public body to make a fresh recommendation; or</i></p> <p>(iii) <i>reject the variation or amendment proposed.”</i></p> <p>New sub section 46(4A) has been added :</p>	<p>The amendments concern changes in contract price during contract execution above a prescribed threshold that would be stipulated in the Regulations. These amendments aim at ensuring that changes in contract prices are fully justified. In this respect, public bodies should seek prior approval of the Central Procurement Board. The changes relate to:</p> <ul style="list-style-type: none"> -Additional goods as per section 25(2)(c) -Additional works as per section 25(2)(d) -Amendment as per section 46(4A)(a) -Variation as per section 46(4A)(b) -Price Adjustment as per section 46(4A)(b)
Section 46. Contents of contracts. Section 46(4) amended by inclusion of new subsection 46(4A)	<p><i>“No-</i></p> <p>(a) <i>amendment requiring fresh procurement proceedings under subsection (3);</i></p> <p>(b) <i>variation or adjustment under subsection (4); or</i></p> <p>(c) <i>direct procurement under section 25(2)(c) or (d),</i></p> <p><i>shall be made or carried out, as the case may be, with respect to major contracts that exceed the prescribed amount, without the prior approval of the Board.”</i></p>	
Section 27. Prequalification Proceedings. Section 27 (1) amended by	<p>New subsection 27 (1A) on Prequalification Exercise has been amended as follows:</p> <p><i>“Notwithstanding subsection (1), an invitation for bids may, in case a prior bidding exercise has been unsuccessful, be issued without a prequalification</i></p>	Prequalification shall be effected for the procurement of large or complex works. However, with the amendment, where a prior prequalification exercise did not result in a sufficient number of prequalified bidders, public bodies may opt for an OAB for the fresh bidding exercise.

inclusion of sub section 27(1A)	<i>exercise.”</i>	
Section 39. Cancellation of bidding process by inclusion of sub sections 39(1)(e) and 1(f) and amendment to 39(3)	<p>Section 39(1)(e) and (1)(f) on Cancellation of Bidding Process have been added:</p> <p><i>“(e) the bidding document requires substantial modification making it more convenient to restart a new bidding process; or</i></p> <p><i>(f) after the closing date and time for submission of bids and before the opening of bids, it is determined that one or more bidders were unable to submit bids due to such circumstances as may be prescribed.”</i></p> <p>Section 39(3) has been amended as follows:</p> <p><i>“There shall be no invitation to re-bid for the procurement on the same specifications and contract conditions unless the rejection of all bids or cancellation of procurement proceeding is made on a ground specified in subsection (1)(a), (b) or (f).”</i></p>	In addition to the four grounds for cancellation of the bidding process, two more grounds have been added. The last ground relates more to eProcurement proceedings. The circumstances will be fully described in the Regulations.
Section 40 Award of procurement contracts subsection 40 (2) amended by inclusion of subsection 40(2C)	<p>Section 40(2C) on award of Lots has been added:</p> <p><i>“Notwithstanding subsection (1), a public body may limit the award of the number of lots to suppliers provided that such limitations are based on non-discriminatory criteria for determining which lots shall be awarded to substantially responsive suppliers that shall be indicated in the bidding document.”</i></p>	This amendment allows public bodies to restrict the maximum number of lots awarded to a Supplier. The methodology to award these lots should be clearly stated in the bidding documents. All eligible and qualified bidders can participate in the bidding exercise.
Section 44 Independent Review Panel Subsection 44 (1) amended by inclusion of subsection 44(1B)(d)	<p>Section 44(1B)(d) has been added:</p> <p><i>“The Vice-chairperson and members shall be under the administrative control of the Chairperson.”</i></p>	More clarity is provided for the administration of Independent Review Panel