

# **Public Procurement (Diplomatic Missions of Mauritius) Regulations 2014**

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## **THE PUBLIC PROCUREMENT ACT**

**Regulations made by the Minister, on the recommendation of the Policy Office, under sections 3(1A)(b) and 61 of the Public Procurement Act**

1. These regulations may be cited as the **Public Procurement (Diplomatic Missions of Mauritius) Regulations 2014**.

2. In these regulations —

“Act” means the Public Procurement Act;

“extreme urgency” means a situation where —

(a) life or the quality of life or the environment may be seriously compromised; or

(b) the condition or quality of goods, equipment, buildings or publicly owned capital goods may seriously deteriorate,

unless urgent and necessary action is taken to maintain them in their actual value or usefulness;

“mission” means a diplomatic mission of Mauritius situated in another State;

“supervising officer” means the supervising officer of the Ministry responsible for the subject of foreign affairs.

### **3. Application of regulations and code of conduct**

(1) For the purposes of section 3(1A)(b) of the Act, these regulations shall apply to every procurement undertaken by a mission.

(2) Every public officer involved in planning or conducting procurement referred to in paragraph (1) shall comply with any model code of conduct issued pursuant to section 20(1)(k) of the Prevention of Corruption Act.

### **4. Principles and objectives of procurement**

(1) Every mission undertaking procurement shall aim at achieving —

- (a) value for money;
- (b) efficiency; and
- (c) integrity and accountability.

(2) The aims specified in paragraph (1) shall be achieved through —

- (a) transparency;
- (b) non-discrimination;
- (c) proportionality; and
- (d) competition.

### **5. Open advertised bidding**

(1) (a) Every mission shall, subject to subparagraph (b), use open advertised bidding for procurement of a value exceeding 5 million rupees.

(b) Every mission may make use of a procurement method specified in regulation 6(2) where —

- (i) there is no response to an open advertised bidding; or
- (ii) the mission is of opinion that open advertised bidding is not warranted on the

ground that —

- (A) the value of the procurement is not proportionate to the time and effort required to invite and evaluate a large number of bids;
- (B) there is a limited number of suppliers available; or
- (C) there is a list, of suppliers for specialised goods, works or services, which has been approved by the supervising officer.

(2) Where an open advertised bidding is used, the mission shall —

- (a) prepare the bidding document and submit it, together with the procurement notice, to the supervising officer for his concurrence; and
- (b) publish the procurement notice in not less than 2 of the host country's newspapers with a wide circulation and post a copy thereof on its website.

## **6. Choice of procurement methods**

(1) Where any procurement does not —

- (a) require open advertised bidding pursuant to regulation 5(1)(b); or
- (b) exceed 5 million rupees in value,

the choice of procurement methods available to a mission shall be the methods specified in paragraph (2).

(2) The procurement methods from which a choice may be made shall be -

- (a) restricted bidding;
- (b) competitive negotiations;
- (c) shopping; or

(d) single source procurement,

in accordance with regulation 7, 8, 9 or 10, respectively.

## **7. Restricted bidding**

Where restricted bidding is used -

(a) the mission shall -

(i) conduct a market survey;

(ii) as far as reasonably possible, invite bids from at least 5 potential bidders; and

(b) the bidding documents and the shortlisting shall be made with the concurrence of the supervising officer.

## **8. Competitive negotiations**

(1) Competitive negotiations may be used where —

(a) no response is received following restricted bidding; or

(b) the matter needs urgent attention.

(2) Where competitive negotiations are used —

(a) the mission shall provide adequate justification to the supervising officer;

(b) the supervising officer shall —

(i) ensure that the negotiating team is adequately prepared with well defined objectives, variables, exit point and other relevant issues; and

(ii) approve the use of competitive negotiations.

## **9. Shopping**

(1) A mission may, where the value of the procurement does not exceed 100,000 rupees, resort to shopping.

(2) Where the shopping method is used -

(a) and it would not be practical to proceed with a call for quotations, readily available goods may be purchased; and

(b) the mission shall, in other circumstances -

(i) obtain a reasonable number of quotations; and

(ii) after an evaluation of the quotations by a Bid Evaluation Committee composed of the staff of the mission, proceed with the acquisition.

## **10. Single source procurement**

(1) Single source procurement may be used —

(a) in cases of extreme urgency;

(b) when the goods, works or services are available from a single source and no suitable alternative is available;

(c) by a supplier, for additional deliveries which are intended as partial replacement or extension for existing goods, works or services, where a change of supplier would compel the mission to procure supplies which do not meet requirements of inter-changeability with existing supplies;

(d) where additional works, which were not included in the initial contract have, through - unforeseeable circumstances, become necessary and the separation of the additional works from the initial contract would be difficult for technical or

economic reasons;

- (e) where the nature of any consultancy services requires that a particular consultant be selected, having regard to the experience and specific qualifications of the consultant;
- (f) where the mission determines that the continuity of consultancy services is essential to meet the objectives of the consultancy assignment; or
- (g) where the value of the procurement does not exceed 100,000 rupees and there is no response from suppliers to a request for priced quotations pursuant to regulation 9(2)(b) or the lowest price quoted is, in the opinion of the mission, substantially higher than the market price.

(2) Where single source procurement is used, the mission may, subject to the approval of the supervising officer, conduct negotiations with the supplier.

## **11. Bidding and contract documents**

(1) Every mission shall, subject to paragraph (2), customise bidding documents in use by public bodies in the host country and submit the documents to the supervising officer for finalisation, with the collaboration of the Policy Office.

(2) A mission may, in appropriate cases, make use of a bidding document other than that of the host country, subject to the approval of the supervising officer.

## **12. Bidding Process**

- (1) Where open advertised bidding or restricted bidding is used, bids shall be —
  - (a) received in sealed envelopes at the mission by the deadline for submission; and
  - (b) opened on the fixed date, time and place mentioned in the bidding documents.

(2) Bids received after the fixed date referred in paragraph (1) shall be returned unopened to the bidder concerned.

(3) The bids shall be opened by the mission and forwarded to the Bid Evaluation Committee which shall submit its recommendations for the approval of the award to the Departmental Tender Committee of the Ministry responsible for the subject of foreign affairs.

### **13. Award of contract**

(1) The award of a contract shall be made to the substantially responsive bidder whose proposal is most advantageous to the mission, considering price and other factors included in the bidding documents.

(2) Where a contract is awarded following open advertised bidding, the mission shall notify every unsuccessful bidder of the name of the selected bidder and the value of the contract.

### **14. Debriefing**

The mission shall promptly respond to a request for debriefing made by an unsuccessful bidder within 30 days from the date of notification of the award.

### **15. Reporting and record keeping**

(1) Every mission shall —

(a) keep a proper record of all procurement activities; and

(b) on the request of the supervising officer, make the record available to him.

(2) Every mission shall, not later than 15 days after the end of every quarter, submit to the Minister to whom responsibility for the subject of foreign affairs is assigned, a return of its procurement activities in respect of that quarter.

Made by the Minister, on the recommendation of the Policy Office, on 4 March 2014.