

## **Public Procurement (Amendment) Regulations 2022**

**GN No. 292 of 2022**

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### **THE PUBLIC PROCUREMENT ACT**

#### **Regulations made by the Minister, on the recommendation of the Procurement Policy Office, under section 61 of the Public Procurement Act**

1. These regulations may be cited as the **Public Procurement (Amendment) Regulations 2022**.
2. In these regulations –  
“principal regulations” means the Public Procurement Regulations 2008.
3. The principal regulations are amended by inserting, after regulation 3, the following new regulations —

#### **3A. Sharing of information by Board**

(1) The Board shall, following the conclusion of a bidding exercise, provide to the public body a copy of —

- (a) the executive summary of the Bid Evaluation Report; and
- (b) all the bids received.

(2) The public body shall ensure the safe custody of the documents received under paragraph (1) and limit their use to get an update about the evolution of the market and solutions available.

(3) No proprietary information from the documents shall be disclosed to any other party.

(4) The Board may share any other document, which it deems appropriate, with the public body.

#### **3B. Submission of progress reports**

(1) The Board shall submit to the Policy Office a quarterly progress report on all procurement exercises.

(2) The progress report shall contain the following details —

- (a) the name of the public body;

- (b) the reference number of the procurement exercise;
- (c) the brief description of the procurement;
- (d) the date of submission of bidding documents for vetting;
- (e) the status of procurement exercise;
- (f) the reasons for any delay; and
- (g) such other information as the Policy Office may require.

4. The principal regulations are amended by inserting, after regulation 9, the following new regulation —

**9A. Performance rating of suppliers**

(1) Every public body shall set up a Performance Review Committee which shall comprise of—

- (a) a senior officer, not below the rank of Deputy Permanent Secretary, as chairperson; and
- (b) at least 2 other officers who are well conversant with project and contract management procedures.

(2) The committee shall — .

- (a) review the performance of suppliers and contractors in accordance with the guidelines issued by the Policy Office;
- (b) assess cases of poor performance of suppliers and make recommendations to the Chief Executive Officer of the public body; and
- (c) review on-going projects, submit reports for works contracts above the threshold of 300 million rupees on a monthly basis to the Chief Executive Officer.

(3) Every contract shall be managed by persons who have been assigned such responsibility and where there is more than one person, a lead person shall be appointed, who shall —

- (a) during the implementation, report to the committee any serious breach by the supplier where it becomes necessary to initiate any action against the supplier; and

(b) on completion of the contract, submit a report to the committee after evaluating and rating the performance of the supplier in accordance with criteria set, and guidelines issued, by the Policy Office.

(4) The report on the performance and rating of the supplier shall be submitted to the supplier for any comment and representation, which shall be considered and, if required, changes made before it is submitted to the committee.

(5) The committee may make any change it deems appropriate after reviewing the recommendations of the lead person and the comments of the supplier before submitting its report to the Chief Executive Officer.

(6) Every public body shall post the performance rating of suppliers in a portal designated by the Policy Office for access limited to public bodies.

(7) Any supplier who has been poorly rated may not be awarded a contract by a public body where, after having obtained relevant details from the public body which has rated the supplier, sufficient evidence is available to reasonably indicate that the award of the contract to that bidder may pose high risks of deficient performance.

(8) For the purpose of paragraph (7), any poor performance rating older than 12 months shall not be considered.

5. Regulation 41 of the principal regulations is amended by revoking paragraph (1) and replacing it by the following paragraph —

(1) For the purpose of section 19(1)(b) of the Act, the threshold amount shall —

(a) for the procurement of goods, be 5 million rupees; and

(b) for the procurement of works and other services, be 10 million rupees.

6. Regulation 47 of the principal regulations is amended, in paragraph (1), by deleting the words “10 million rupees” and replacing them by the words “20 million rupees”.

7. The principal regulations are amended by inserting, after regulation 47, the following new regulation —

#### **47C. Reserved contracts for works up to 20 million rupees**

Works contracts up to the value of 20 million rupees shall be reserved to small contractors who -

- (a) have an annual turnover of 10 million rupees and above but not exceeding 30 million rupees; and
- (b) are registered as small contractors under the Construction Industry Development Board Act.

**8.** Regulation 57 of the principal regulations is amended by inserting, after paragraph (1), the following new paragraph —

(1A) Notwithstanding paragraph (1), the Review Panel shall offer to conduct, as far as reasonably possible, reviews based on submissions without hearings or through remote or virtual hearings.

Made by the Minister, on the recommendation of the Procurement Policy Office, on 1 November 2022.

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