



CPPP Exams

The results of the Certification Programme in Public Procurement (CPPP) examinations for the October 2009 intake are out.

The results can be accessed online on the website of the Procurement Policy Office at:

<http://ppo.gov.mu>

Implementation of e-Procurement System Launching of the Procurement Portal



On 12 April 2010 a radical change was brought in the procurement system by the Procurement Policy Office. A dedicated website for public procurement is operational, which represents a major step towards the implementation of e-Procurement.

Public bodies would now have to upload on the procurement portal their procurement notices (including bidding documents, where applicable) ►►

The Procurement Policy Office invites readers to submit comments or suggestions on the Procurement System for further improvements.

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for all procurements to be undertaken through open advertised bidding. Public bodies are no longer required to publish long press communiqués in the newspapers. This leads to a significant reduction in costs relating to the publication of procurement notices. On the website, public bodies should also upload the annual procurement plan, summary of bid evaluation report and notice of procurement award.

The procurement portal will now be a focal point for all suppliers. By accessing the site <http://publicprocurement.gov.mu> suppliers will not only view online current procurement notices but they will also have an idea of all forthcoming bidding opportunities through the annual procurement plan. Suppliers' trust in the procurement system will be further enhanced as they will now view on the website all summary of bid evaluation reports and notices of procurement award. Thus the website will serve as a one stop shop for suppliers as there will be no need to consult several newspapers to receive information on public procurement.

To make the different players of the public procurement system aware of this major change, several briefing sessions were held and press communiqués were published and announcements made on radio and television.

Implementation of E-Procurement

The Government has engaged Pricewaterhouse Coopers Private Limited (PwC) to provide consultancy services for the implementation of e-procurement in the public sector.

Mauritius recently signed a MOU with the Government of the State of Andhra Pradesh (GoAP) for the sharing of its e-procurement platform. Two ministries, namely the Ministry of Health & Quality of Life and the Ministry of Information and Communication Technology, as well as the National Development Unit, have been identified for the pilot phase.

The Consultant has already completed an assessment of the actual procurement system in Mauritius. It has also carried out a gap analysis between the e-Procurement





system implemented in GoAP and actual procurement system in Mauritius. The Consultant would also assist in the e-procurement implementation/customization for the Government. According to the time frame worked out by the Consultant, the e-procurement project would be implemented in five phases over a period of twelve months.

A stepping stone has already been laid with the introduction of a dedicated public procurement website for the posting of the Procurement Notices, Annual Procurement Plan, Summary of Evaluation Reports, and Notice of Procurement Awards (**Phase 0**). The subsequent phases are as follows:

- **Phase 1:** Implementation/adopt GoAP e-procurement system in As-Is conditions with minimal or no customization for works/goods procurement.
- **Phase 2:** Customisation of the e-Tendering module as per requirements of Government of Mauritius
- **Phase 3:** Implementation of contract management functions, challenge & appeal functions, and suspension & debarment functions
- **Phase 4:** Integration with Treasury Accounting System (TAS) for funds & commitment management

It is hoped that following the successful implementation in the pilot ministries, the e-procurement system would be rolled out to all public bodies, thereby enhancing the whole procurement system in Mauritius.

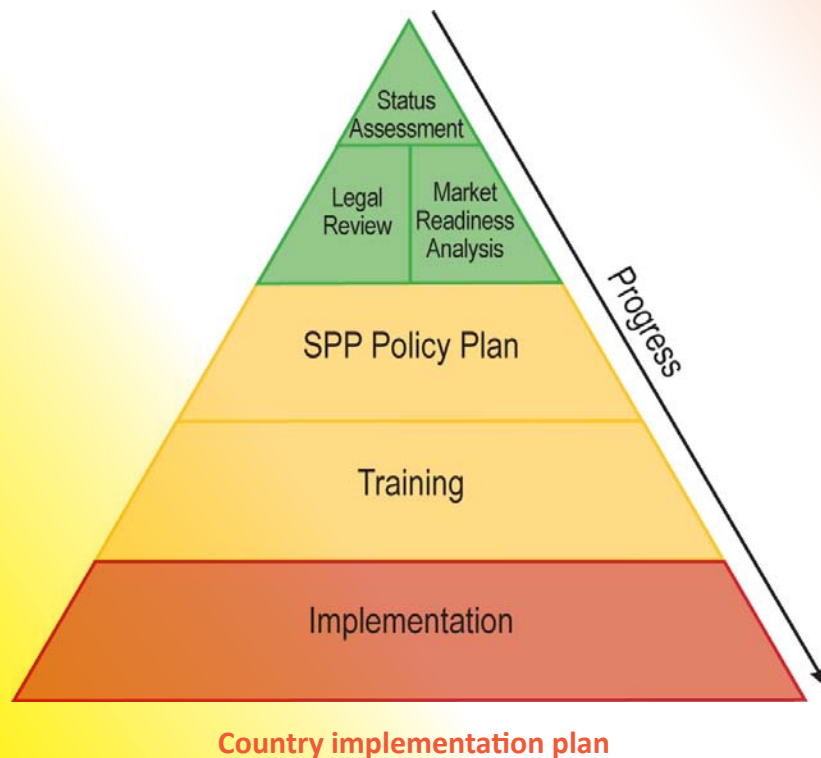


Sustainable Public Procurement (SPP)

The last meeting of the Steering Committee on SPP was held on April 28, 2010. The main item on the agenda was to analyse and comment upon the Consultant's final report on the study conducted on the market readiness analysis for implementation of SPP.

Pilot countries implementing SPP project should proceed according to the country implementation plan of the Marrakech Task Force on SPP, as illustrated below.

In this respect the Steering Committee has set up a task force for the preparation of the SPP Policy and Action Plan. The Task Force, chaired by the Director of the Procurement Policy Office, comprises representatives of relevant public bodies, private sector and NGOs. Mrs. B. Morton, UNDP expert, will assist the Task Force in the development of the SPP Policy and Action Plan.





Certification Programme in Public Procurement (CPPP)

Award Ceremony

An award ceremony was held on 17 February 2010 at the Sir Harilall Vaghjee Memorial Hall, New Government Centre, Port Louis for the handing over of certificates to 110 participants of the CPPP in 2009. Dr. Honourable B. Hookoom, Minister of Civil Service Affairs and Reform Institutions, graced the ceremony.

The following participants received the Best Performer Award:

<i>January 2009 Intake</i>	<i>June 2009 Intake</i>
1. Ramkhelawon S. (Ms.)	1. Tajoodeen A. R. (Mr.)
2. Moorghen J. (Mr.)	2. Goburdhun K. (Ms.)
3. Rughoo G. (Mr.)	3. Lalldharee A. (Ms.)

The CPPP is an improvement program of applied learning specifically designed to enhance the knowledge and skills of procurement officials in the public sector. It helps towards achieving excellence in public procurement.

Introducing eLearning

Two batches are following the CPPP which started as from 06 April 2010. The examinations are scheduled to be held in mid-July 2010. For this intake, courses are being conducted not only through the traditional classroom lecture but also through distance learning using an electronic platform.

Distance Learning aims at attracting a large number of procurement officials, particularly those who cannot be released during working hours. Actually forty-seven participants have enrolled for the distance learning. They comprise officers from the Procurement & Supply Cadre of the Ministry of Finance & Economic Development, the Internal Control cadre, the National Audit Office, parastatal bodies and the Rodrigues Regional Assembly.



Request for Advice

A tender exercise was carried out for a works contract. The procurement exercise was initiated through the Open Advertised bidding method. Seven bids were received by the closing date.

During the evaluation, an arithmetical error of Rs 1 234 567 was found in the bid submitted by one company, ABC Company. After correction, the bid was found to be the lowest compliant offer. A difference of Rs 56 888 was noted between the lowest offer and the second best offer.

As the arithmetical error has an impact on the selection of the lowest evaluated substantially responsive offer, this has changed the results of the bidding process. The Public Body in question is wondering whether, at the time of notification of award, unsuccessful bidders might challenge the award.

Since at time of Bid opening, different contract prices were announced, what can the Public Body do in such a situation?

Answer

At time of notification of award of contract as per section 40 of the Act, it is advisable to draw the attention of the unsuccessful bidders that the award would be made on the corrected price due to an arithmetical error appearing on the successful bidders' offer. This will surely prevent some unsuccessful bidders to challenge unnecessarily.

However in case of challenge, the Public body may then indicate clearly the type of arithmetical error found and which has been duly corrected.



Decisions of the Independent Review Panel (IRP)



Decision No. 20/2009

Softpro Network and Packages Ltd

v/s

**Ministry of Social Security, National Solidarity and
Senior Citizens Welfare and Reform Institutions**

The background of the procurement exercise

The Ministry of Social Security, National Solidarity and Senior Citizens Welfare and Reform Institutions invited bids through the Open International Advertised Bidding Method for the management of the Social Services Management Information Systems in December 2008. On 13 January 2009 bids were opened at the Central Procurement Board (CPB) and a Bid Evaluation Committee (BEC) was set up.

The latter concluded that the bid submitted by the lowest bidder, namely Data Communication Ltd, was substantially responsive to the tender requirements, and recommended that the contract be awarded to that company, subject to some clarifications. On 20 May 2009 the Ministry notified Data Communication Ltd that it has been selected for the award of the contract. On 22 May 2009 an aggrieved bidder, Messrs Softpro Network and Packages Ltd, made a challenge. Not satisfied with the reply given by the Ministry, the aggrieved bidder made an application for review on 28 May 2009.

The grounds for the review

The CPB was wrong by not accepting the offer of Softpro despite the fact that its bid was the lowest evaluated one and that of Data Communication Ltd was not the lowest one. Moreover, the CPB was wrong in rejecting the bid of Softpro by considering the following as major deviations:

- non-submission of information on training, data migration and “Other Requirement”.
- not quoted for the Front/Back End Modules

During the hearing the attention of the IRP was drawn to the fact that as per the bidding document, a demonstration of the solution proposed should have been carried out by the bidder at its own cost within 4 weeks after the closing date of the tender. The Ministry pointed out that the CPB





Submissions and findings

was aware of the same. In fact it had even requested the CPB to allow them, as potential users of the system, to attend the demonstration session. However, no such demonstrations were carried out.

The IRP found that the issue raised was of significance and deserved consideration. The CPB, though it had initially approved such requirements in the bidding document and had accepted the idea of holding demonstration, yet it ignored this requirement and approved the award of the contract only on the recommendation of BEC.

The IRP agreed that the demonstration constitutes a mandatory step of the bidding process. As per the the IRP the absence of the demonstration tantamounts to a material defect in the bidding process which can only be cured by fresh bid. As a result of which the IRP recommended the annulment in whole of the decision of the Public Body.

Lessons learned

One cannot be selective in applying mandatory requirements during evaluation process. All steps as specified in the bidding document should be observed prior to approving an award.

Disqualification of Bidders

Pursuant to Regulation 14 of the Public Procurement (Disqualification) Regulations 2009, the Procurement Policy Office has disqualified CEPC Ltd of 16, Arnaud Street, Beau Bassin from participating in public procurement for a period of twelve months as from 20 April 2010.

Public bodies are hereby required to comply with the provisions of Regulation 4 of the Public Procurement (Disqualification) Regulations 2009 which states that:

No public body shall –

- (a) solicit or accept bids, proposals or quotations from a suspended or disqualified bidder;**
- (b) consider bids, proposals or quotations submitted by a suspended or disqualified bidder prior to its suspension or disqualification.**



Implementation of Social Policy in Public Procurement: Labour Clause

Mauritius ratified the Labour Clauses (Public Contracts) Convention, 1949 in 1969. This Convention requires the inclusion of labour clause in public contracts.

The aims of including the Labour Clause in bidding documents are:

- (a) to ensure that employees performing works under public contracts do not enjoy conditions of labour less favourable than those enjoyed by other workers in the same trade or industry.
- (b) to remove labour costs being used as an element of competition among bidders for public contracts
- (c) to eliminate the negative effects of tendering on the workers' labour conditions and
- (d) to ensure that public contracts do not exert a downward pressure on wages and working conditions

Article 4(a) of the Convention states that, for the measure to be effective, the clause should be brought to the notice of all persons concerned, identify persons responsible for compliance, and provide for the posting of notices informing workers concerned of the conditions of their work (International Labour Conference, 2008).

The Standard Bidding Documents (particularly for works and services contracts) issued by Procurement Policy Office now contain a Labour Clause in the General Conditions of Contract. It states that the remuneration and other conditions of work of the employees of the Contractor shall not be less favourable than those in similar trade by collective agreement. The clause further requires that where remuneration and conditions of work

are not regulated in a manner referred to above, the rates of the remuneration and other conditions shall not be less favourable than the general level observed in the trade in which the contractor is engaged by employers whose general circumstances are similar.

The implementation of this social policy may have a negative impact on value for money. Since its application, it has been observed that the contract price has increased to some extent. This is understandable as previously contractors of works, security and cleaning services hired some of their workers among pensioners and convicted/sick persons. These workers were paid very low salary. Consequently, costs were reduced and contractors had the possibility of submitting a competitive offer.

With the application of the labour clauses, contractors have to pay a reasonable salary to all their workers and their contract proposal must reflect this part. However, it may be argued that the quality of work executed has improved (or at least the potential is there). Moreover, it is believed that the potential gains on the part of workers largely outweigh the marginal additional costs for the procuring entity.

It is the duty of any employer to provide a proper environment for his workers and pay a decent salary. This is even more relevant in the public sector as the government, being an

employer as well as responsible for the welfare of the citizens, should set the right example.

The labour clauses apply without any discrimination, irrespective of large or small firms, local or foreign contractors. The clause is used in a transparent manner as provided for in the General Conditions of Contract, which contractors should read prior to submitting their bids. It may however have some negative impact on competition. Some contractors lack skilled workers where the normal salaries could be paid. They restrain from paying over-aged workers a reasonable salary as their performance is limited.

In the long term, this social policy will result in positive gains for all parties concerned. The Government is achieving its principal objective of improving the life of people. The contractors may have a motivated workforce and the rate of labour turnover might decrease.

In practice, bidders are required to undertake that they will comply with this requirement. Payment will not be effected to contractors for works completed unless evidence is shown concerning compliance to this clause. Breach of this condition may result in the termination of Contract. Furthermore, to make this clause more effective, contractors should display a copy of this clause at the site of work.



Contract Management

Contract Management is becoming a core competency which is providing a competitive advantage by generating savings and indicating the element of best practices. Contract Management is a process comprising the following phases:-

- 1. Procurement Planning***
- 2. Solicitation process***
- 3. Source selection***
- 4. Contract Administration***
- 5. Review and Feedback***

Each of these phases is critical to the success of the resulting contract and the performance of the contractor, supplier or consultant.

Procurement Planning

Procurement Planning is a process which determines whether to procure, what to procure, how to procure, how much to procure and when to procure. The procurement activity is identified and the structure of the procurement process is determined and therefore the different phases of responsibilities and activities are identified which will help in the successful contract administration.

Procurement Planning involves:-

- Writing the specifications, scope of works and the terms of reference
- Conducting market surveys
- Assuring the availability of funds after preparing the cost estimates
- Selecting the appropriate procurement method and contract type
- Carrying out an analysis of the risks involved
- Writing down the special conditions of contract in line with the general conditions of contract.

Procurement planning enables a better involvement of the business community since they are aware of the procurement opportunities in advance. This further consolidates a buyer/supplier relationship thereby providing space for a good and fruitful contract administration.

Solicitation Process

The solicitation process or the bidding process involves the advertisement of the procurement opportunity whereby each and every eligible and qualified bidder is given the opportunity to submit a bid.

Best practice in the solicitation phase is to procure using web based approach like using the e-procurement website of the Procurement Policy Office.

Further the standard bidding documents help to include best practice, since a uniform approach to the market is possible. It helps in contract administration due to a standard set up. For example, the contract agreement format is the same in the bidding documents; therefore the approach will be the same across all the public bodies under the Public Procurement Act.



Source selection

When the solicitation process is standard, therefore the source selection, i.e. the selection of the right supplier, will be carried out using the same evaluation method, though the criteria may be different. Thus the principle will be applied and the lowest evaluated substantially responsive bid will be awarded the contract.

This will only be possible when experienced evaluation teams with disciplined approach and using the guidelines provided by the organisation like the PPO.

This approach enables a successful contract administration because disputes are minimised due to the fact that reliable and qualified suppliers/contractors are awarded the contract.

Contract Administration

Contract administration is a process to ensure that the buyer receives for what he has paid and the supplier/contractor receives payment for what he has provided.

This was already planned at the planning stage and agreed at the award stage through the solicitation process.

However, contract administration during implementation of the contract is important because, it is the responsibility of the buyer to monitor the contract in order to assess the performance of the supplier/contractor and to ensure that everything is being done according to what has been agreed on both sides.

The contract administration includes:-

- Measuring the contractor/supplier performance using appropriate tools for performance measurement
- Managing change/variations
- Conducting risk monitoring and control

- Conducting project milestone reviews

Review and feedback

When the contract is terminated, a post audit has to be carried out to identify the problematic events that occurred during the implementation of the contract and how they were resolved. This has to be documented and recorded so that it can be used as a historical data as 'lessons learned'. The final acceptance has to be completed and processed for payment according to the contract terms.

It is customary to carry out a debriefing session of the contract administration team. The complexity of the contract management depends on the category or even the scope and dimension of the contract. The scope and dimension of contract management for the procurement of medical equipment and the construction of a hospital differ in magnitude. Therefore the approach may be the same but the resources required for the contract management will be different.

(Extract from Supply Magazine, CIPS, UK)

PPO Newsletter

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