

Government Procurement (Application) Order 2002

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No. S 217

GOVERNMENT PROCUREMENT ACT

(CHAPTER 120)

GOVERNMENT PROCUREMENT (APPLICATION) ORDER 2002

In exercise of the powers conferred by section 4 of the Government Procurement Act, the Minister for Finance hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Government Procurement (Application) Order 2002 and shall come into operation on 13th May 2002.

Definitions

2. In this Order, unless the context otherwise requires —

“contract document” means a document which sets out the invitation to tender for or to negotiate a procurement contract, the terms and conditions of the contract, the specifications or descriptions of the goods or service, or goods and service, to be procured under the contract, or a document supplementary to any of these documents;

“goods and services tax” means the goods and services tax chargeable under the Goods and Services Tax Act (Cap. 117A);

“recurring contract” means one of 2 or more contracts resulting from a single requirement for a procurement.

Contracting authorities

3. The bodies set out in the First Schedule shall be contracting authorities for the purposes of the Act.

Procurements subject to Act

4. A procurement —

(a) by a contracting authority set out in Part I or II of the First Schedule of —

(i) goods;

(ii) one or more of the services set out in the Second and Third Schedules; or

(iii) a combination of goods and one or more of such services; or

(b) by a contracting authority set out in Part III of the First Schedule of any of

the goods set out in the Fourth Schedule or a combination thereof,
is a procurement subject to the Act if the value of the contract in relation to the procurement is equal to or exceeds the threshold applicable to the procurement under paragraph 8.

Exclusions

5.—(1) Notwithstanding paragraph 4, a procurement —

- (a) set out in the Fifth Schedule; or
- (b) made by a contracting authority on behalf of an entity which is not a contracting authority,

is not a procurement subject to the Act.

(2) For the purposes of sub-paragraph (1)(b), “entity” includes —

- (a) any person; or
- (b) a department of the Government or of a statutory body.

(3) Notwithstanding paragraph 4, a contracting authority may exclude a procurement, or an act or measure in relation to a procurement, from the application of all or any regulations made under section 6 of the Act, if —

- (a) such exclusion is necessary for reasons of national security;
- (b) such exclusion is necessary to protect public morals, order or safety, human, animal or plant life, or any intellectual property right of the Government or any other party;
- (c) the contract of procurement is or is intended to be awarded to an institution assisting handicapped persons, a non-profit organisation or a penal institution; or
- (d) the procurement concerned is a procurement of one or more of the services set out in the Second Schedule, and such exclusion is consistent with —
 - (i) the terms, conditions, limitations and qualifications set out in Singapore’s Schedule of Commitments under the General Agreement on Trade in Services; or
 - (ii) the exemptions set out in Singapore’s List of Article II Exemptions under the General Agreement on Trade in Services.

Effect of exclusion

6. Where a contracting authority is entitled under paragraph 5(3) to exclude a procurement or an act or measure in relation to a procurement from the application of all or any regulations made under section 6 of the Act, the contracting authority shall not be required, in carrying out the procurement, act or measure, to comply with those regulations from which application the procurement, act or measure has been excluded.

Value of procurement contract

7.—(1) For the purposes of paragraph 4, the value of a contract of procurement shall be the estimated value of the contract less the goods and services tax chargeable on that value.

(2) Subject to sub-paragraphs (3) to (9), the estimated value of a contract of procurement shall be the value of the consideration which the contracting authority expects, at the relevant time, to give under the contract, taking into account all forms of remuneration, including any premiums, fees, commissions and interest receivable.

(3) The value of the consideration which the contracting authority expects, at the relevant time, to give under a contract which is a recurring contract shall be based on either —

- (a) the aggregate of the value of the consideration given by the contracting authority under similar recurring contracts concluded —
 - (i) during the last financial year of the contracting authority ending before the relevant time; or
 - (ii) during the period of 12 months ending immediately before the relevant time,
adjusted, where possible, for anticipated changes in quantity and value over the period of 12 months commencing at the relevant time; or
- (b) the aggregate of the estimated value of the consideration which the contracting authority expects, at the relevant time, to give under all recurring contracts which are part of the same procurement as the first-mentioned recurring contract —
 - (i) in the next financial year of the contracting authority commencing on or after the date which the contracting authority expects to award the initial recurring contract of that procurement; or
 - (ii) during the period of 12 months commencing immediately after the date referred to in sub-paragraph (i).

(4) Notwithstanding sub-paragraph (3), where the goods or service, or combination of goods and service, to be procured under a recurring contract are required for the sole purposes of a discrete unit of a contracting authority and —

- (a) the decision of whether to procure the goods or service of that type, or goods and service of those types, has been devolved to that unit; and
- (b) that decision is taken independently of any other part of the contracting authority,

the valuation methods described in sub-paragraph (3) shall be adapted by aggregating only the value of the consideration —

- (i) which the contracting authority has given for similar recurring contracts which were required for the sole purposes of that unit; or
- (ii) which the contracting authority expects, at the relevant time, to give for recurring contracts which are part of the same procurement as the first-mentioned recurring contract and which are required for the sole purposes of that unit,

as the case may be.

(5) The estimated value of a contract —

- (a) for the lease, rental or hire purchase of goods or service, or a combination of goods and service; or
- (b) which does not specify a total price,

shall be based on —

- (i) the total estimated value of the consideration which the contracting authority expects, at the relevant time, to give under the contract for the duration of the contract, where the duration is a fixed period of 12 months or less;
- (ii) the total estimated value of the consideration which the contracting authority expects, at the relevant time, to give under the contract for the duration of the contract without making any deduction for the estimated residual value of the contract, where the duration is a fixed period which exceeds 12 months; or
- (iii) the estimated value of consideration which the contracting authority expects, at the relevant time, to give under the contract in respect of each month of the contract multiplied by 48, where the contract is of indefinite duration.