



NATIONAL PROCUREMENT ACT PROCUREMENT INSTRUCTION

No. 05/2019

1ST April 2019

SUBJECT: SECTION 77 DELEGATION - CREATION OF PROVINCIAL, DISTRICT AND SPECIAL COMMITTEES OF THE NATIONAL PROCUREMENT COMMISSION.

1. INTRODUCTION

1.1 Authority

This delegation (hereafter PI) is issued under Section 45 of the *National Procurement Act* (hereafter NPA). The Board of the National Procurement Commission (hereafter NPC) and the APC Committee (APCC) may issue PIs or Guidelines not inconsistent with this Act, which are necessary or desirable for carrying out or giving effect to the NPA and in general for the better control and management of procurement.

1.2 Legality & Enforcement

Pursuant to section 9 of the NPA, the NPC has control and direction of all matters relating to the management of the procurements of the State.

2. PURPOSE

2.1 Creation of Provincial, District and Local-Level Committees of the National Procurement Commission

Pursuant to Section 77(3) of the NPA, the NPC Board may delegate, on such terms and conditions as it thinks fit, its procurement function at a provincial, local and district level -

- (a) at a provincial level, a Provincial Committee of the Commission; or
- (b) at a district level, a District Committee of the Commission; or
- (c) at a local-level, a Local-Level Committee of the Commission

The NPC is not able to delegate its functions unless the Provincial Government, Local-Level Government or the relevant District Development Authority has been certified under the NPA that it -

- (a) has the capacity to engage in the procurement processes; and

- (b) it is sufficient to protect the use of public funds and ensure that good public financial management practices are followed and applied by Provincial Government or Local-Level Government, including the relevant District Development Authority.

2.2 Scope of this Procurement Instruction

This PI delegates only to the procurement functions of the former Provincial Supply and Tenders Boards and District Supply and Tenders Boards which will now become Provincial NPC Committees and District NPC Committees. The following Special Committees are also delegated:

Former Board	Delegated Committee
Pharmaceutical Special Tenders Board	Pharmaceutical Special NPC Committee
University of Goroka Special Tenders Board	University of Goroka Special NPC Committee
University of PNG Special Tenders Board	University of PNG Special NPC Committee
Audit Services Special Tenders Board	Audit Services Special NPC Committee
National Judiciary Services and Staff Special Tenders Board	National Judiciary Services and Staff Special NPC Committee
National Parliament Special Tenders Board	National Parliament Special NPC Committee
Port Moresby General Hospital Special Tenders Board	Port Moresby General Hospital Special NPC Committee
PNG Institute of Medical Research Special Tenders Board	PNG Institute of Medical Research Special Tenders Board

3. Certification of Capacity

Subject to this PI, the NPC certifies that, for the purposes of Section 77(4) of the NPA that the above Committees outlined in this PI have the capacity to engage in the procurement processes, and that capacity is sufficient to protect the use of public funds and ensure that good public financial management practices are followed and applied.

This certification may be revoked at any time if in the opinion of the NPC that doubt has arisen as to the capacity of Committees with delegations to engage in the procurement processes, or has capacity sufficient to protect the use of public funds and ensure that good public financial management practices are followed.

4. Technical Expertise of Committees

All Committees of the NPC shall not undertake procurements, irrespective of the value of the procurement, unless they have technical expertise in the subject matter of the procurement.

The Chairman of a Committee of the NPC shall certify in writing prior to the commencement of any procurement the grounds on which he believes that the Special Committee of the NPC has the technical expertise in the subject matter

- (b) it is sufficient to protect the use of public funds and ensure that good public financial management practices are followed and applied by Provincial Government or Local-Level Government, including the relevant District Development Authority.

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3. Certification of Capacity

Subject to this PI, the NPC certifies that, for the purposes of Section 77(4) of the NPA that the above Committees outlined in this PI have the capacity to engage in the procurement processes, and that capacity is sufficient to protect the use of public funds and ensure that good public financial management practices are followed and applied.

This certification may be revoked at any time if in the opinion of the NPC that doubt has arisen as to the capacity of Committees with delegations to engage in the procurement processes, or has capacity sufficient to protect the use of public funds and ensure that good public financial management practices are followed.

4. Technical Expertise of Committees

All Committees of the NPC shall not undertake procurements, irrespective of the value of the procurement, unless they have technical expertise in the subject matter of the procurement.

The Chairman of a Committee of the NPC shall certify in writing prior to the commencement of any procurement the grounds on which he believes that the Special Committee of the NPC has the technical expertise in the subject matter

of the procurement and shall provide that certification to the NPC prior to the commencement of any procurement.

Procurements in respect of which the Committees of the NPC does not have technical expertise in the subject matter of the procurement it shall be referred to the NPC.

The NPC may request a Committee of the NPC to refer a procurement to the NPC if the NPC is of the opinion that the Special Committee of the NPC does not have technical expertise in the subject matter of the procurement.

5. Compliance with instructions and directions of the NPC

All Committees of the NPC shall comply with all directions, instructions and guidelines issued by the NPC as to procedures and policies to be followed when executing a procurement. Until such directions, instructions and guidelines are issued by the NPC, all Committees of the NPC shall comply with the following –

- a) all procurements are by way of publicly advertised tender, that includes the specifications or terms of reference, including specific requirements that will allow the determination of whether or not a bidder is capable of supplying the goods, works or services, that is open to all persons to bid on the tender, subject to the reservations contained within Section 48 of the NPA;
- b) all procurements shall be by way of sealed bids, with separate envelopes for technical and financial components of the bid;
- c) the technical component of all sealed bids shall be publicly opened and recorded by the Committee of the NPC at the end of the tender period;
- d) the Provincial Committee of the NPC shall only open the financial components of tenders after the technical evaluation has been completed;
- e) a technical evaluation shall determine only whether or not a bid is technically compliant with the specifications or terms of reference;
- f) a successful bidder shall be determined only as the lowest financial bid from among the technically compliant tenders.
- g) all procurement notifications and public documents must be published on the nominated procurement website for public access

6. Delegation of Procurement Functions

Subject to this PI, the NPC delegates pursuant to Section 77(4) of the NPA to the specified Committees its procurement powers subject to the terms and conditions specified in this PI and the financial limits contained in Section 26 of the NPA.

The following delegation powers have not been delegated by the Board of the NPC:

1. Issuance of Certificates of Inexpediency
2. Issuance of the NPC unique procurement tender registration number

6.1 Provincial Committees of the NPC

All Provincial Committees of the NPC have the jurisdiction to undertake procurements of –

- a) not exceeding K 5,000,000 for the Province in which they are located, and
- b) above K 2,500,000 and not exceeding K 5,000,000 for and on behalf of District Development Authorities within each Province.

The Chairman of a Provincial Committee of the NPC shall execute all contracts awarded by the Provincial Committee of the NPC –

- a) in the case of a procurement awarded by the Provincial Committee of the NPC on behalf of a Province, in the name of the Province; and
- c) in the case of a procurement awarded by the Provincial Committee of the NPC on behalf of a District Development Authority, in the name of the District Development Authority.

The membership of a Provincial Committee of the NPC is specified in Section 77(5) of the NPA. The Finance Minister has the power to appoint an independent person who has an unimpeachable and impeccable reputation and relevant experience or demonstrated understanding of commercial, procurement or contracting practices to be a member of a Provincial Committee of the NPC.

Each Provincial Committee of the NPC shall no later than 30 June 2019 advise the Finance Minister, through the NPC, of persons they recommend for consideration as appointment as an independent member of the Provincial Committee of the NPC. The Finance Minister is not bound by any recommendation so made.

6.2 District Committees of the NPC

All District Committees of the NPC have the jurisdiction to undertake procurements of not exceeding K 2,500,000 for the District Development Authority of the District in which they are located.

The Chairman of a District Committee of the NPC shall execute all contracts awarded by the District Committee of the NPC in the name of the District Development Authority.

The membership of a District Committee of the NPC is specified in Section 77(6) of the NPA. The person appointed to represent the interests of justice, law and order in the District; and the person appointed to represent the interests of the community in the District; and the person appointed to represent the interests of women in the District shall be selected by the Finance Minister.

Each District Committee of the NPC shall no later than 30 June 2019 advise the Finance Minister, through the NPC, of persons they recommend for consideration as appointment as an independent member of the District Committee of the NPC. The Finance Minister is not bound by any recommendation so made.

6.3 Special Committees of the NPC

As provided under the Act (s45) This PI also creates delegations for Special Committees to enable better management and control of procurement.

All Special Committees of the NPC have the jurisdiction to undertake procurements of not exceeding K 1,000,000 for the specified scope of tendering in the entity for which they are located.

The Chairman of a Special Committee of the NPC shall execute all contracts awarded by the Special Committee of the NPC within scope of the committee's procurement function.

The membership of a Special Committee will be determined by the NPC and will include a member of the NPC procurement operations and chaired by the Head of the Entity/Chief Executive Officer.

Each Special Committee of the NPC shall no later than 30 June 2019 advise the Finance Minister, through the NPC, of persons they recommend for consideration as appointment as an independent member of the Special Committee of the NPC. The Finance Minister is not bound by any recommendation so made.

3.0 Reporting by the Committees

Committees of the NPC shall report to the NPC, within seven days of -

- a) no procurement can commence without a registered and assigned NPC tender number allocated by the NPC and a certification from the APC Committee
- b) at the commencement of the procurement process or on receipt of bidding documents – details of the procurement to be commence in the template prescribed by the National Procurement Commission.
- c) the award of a contract, irrespective of value, the details of the procurement, including the specifications or terms of reference of the procurement, the procurement method used, the bidders and their financial offers, the technical and financial evaluations considered by the Committee of the NPC and the minutes of the Committee of the NPC where the award of the contract was determined;
- d) the end of every calendar month, the details of every procurement being processed or undertaken by the Committee of the NPC that has yet to be finalised, including the specifications or terms of reference of the procurement, the procurement method to be used and the details of the expected finalisation of the procurements yet to be finalised, including their comments on any issues arising during the procurement process that may hinder the prompt finalisation of the procurement. This will be provided in the template prescribed by the National Procurement Commission.

7. Availability of Funds for Procurements by Committees of the NPC

All public and statutory bodies are required by Section 25 of the NPA to submit to the Authority to Pre-committee Committee (APCC) established under the Public Finances (Management) Act, post budget procurement plans for any procurement falling within the jurisdiction of the NPC, which includes its delegated Committees.

The NPC, which includes its delegated Committees, shall commence no procurements unless and until the APCC has certified the availability of funds to meet those procurements subject to the terms and conditions issued as PIs in relation to National Budget Procurement Plans.

This is subject to any Procurement Instructions that may delay the initial commencement of National Budget Procurement Planning during the transition period.

8. FORMER CSTB OPERATIONS MANUAL

Until advised, the Operations Manual for the conduct and operations of supply and tenders board will continue to apply.

9. ENFORCEMENT

Non-compliance with this and other PIs issued under the National Procurement Act, will invoke appropriate sanctions and/or penalties prescribed under the Act and/or under other relevant laws.

10. EFFECTIVE DATES OF THIS PROCUREMENT INSTRUCTION

This Procurement Instruction is effective as of the date of signing by the Chairman of the Board of the NPC.

11. HELP DESK

Should you require further information the following should be contacted:

helpdesk@procurement.gov.pg



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National Procurement Commission

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