

Guidelines

Single Source Procurement Using Public Funds Already Approved By Parliament

Preamble

The Act requires institutions to secure approval from the Board before they adopt single source procurement.

The Minister of Finance and Economic Planning issued guidelines on 17th September, 2004 to explain the process for application of Single Sourcing.

However, most applications for single source procurement submitted to the Board fail to satisfy the basic requirements for approval. This sometimes results in delays during the approval process.

In order to ensure that single source requests satisfy the key provisions of the Public Procurement Act, 2003 (Act 663), the Board is issuing a more detailed guidance to assist all institutions who may require single source procurement.

Institutions are required to satisfy three main conditions when applying for single sourcing:

- I. Justification under Clause 40 of Act 663
- II. Capability and Qualification of Proposed Firm
- III. Conditions of Contract and Financial Proposal

- I. Justification under Clause 40 of Act 663

Under this condition institutions are required to demonstrate that their proposed application for single source can be justified under at least one of the provisions set below.

- (a) Where goods, works or services are only available from a particular supplier or contractor, or if a particular supplier or contractor has exclusive rights in respect of the goods, works or services, and no reasonable alternative or substitute exists;
- (b) Where there is an urgent need for the goods, works or services and engaging in tender proceedings or any other method of procurement is impractical due to unforeseeable circumstances giving rise to the urgency which is not the result of dilatory conduct on the part of the procurement entity;
- (c) Where owing to a catastrophic event, there is an urgent need for the goods, works or technical services, making it impractical to use other methods of procurement because of the time involved in using those methods;

- (d) Where a procurement entity which has procured goods, equipment, technology or services from a supplier or contractor, determines that
 - (i) Additional supplies need to be procured from that supplier or contractor because of standardization'
 - (ii) There is a need for compatibility with existing goods, equipment, technology or services, taking into account the effectiveness of the original procurement in meeting the needs of the procurement entity;
 - (iii) The limited size of the proposed procurement in relation to the original procurement provides justification;
- (e) Where the procurement entity seeks to enter into a contract with the supplier or contractor for research, experiment, study or development, except where the contract includes the production of goods in quantities to establish commercial viability or recover research and development costs; or
- (f) Where the procurement entity applies this Act for procurement that concerns national security, and determines that single-source procurement is the most appropriate method of procurement.
- (g) A procurement entity may engage in single-source procurement with the approval of the Board after public notice and time for comment where procurement from a particular supplier or contractor is necessary in order to promote a policy specified in section 59(4)(c), (d) or 69(2) (c) (i), and procurement from another supplier or contractor cannot promote that policy.

II. Capability and Qualification of Proposed Firm

Institutions shall provide detailed information and demonstrate that the proposed supplier, consultant, or contractor possesses the required experience and capability to carry out the work. Evidence should include:

- a. name of the proposed firm
- b. professional and technical qualifications and competence;
- c. financial resources;
- d. equipment and other physical facilities;
- e. managerial capability, reliability, experience in the procurement object and reputation; and
- f. the personnel to perform the procurement contract;
- g. have the legal capacity to enter the contract;
- h. be solvent, not be in receivership, bankrupt or in the process of being wound up, not have its business activities suspended and not be the subject of legal proceedings that would materially affect its capacity to enter into a contract;

- i. have fulfilled its obligations to pay taxes and social security contributions and any paid compensation due for damage caused to property by pollution;
- j. have directors or officers who have not in any country been
 - convicted of any criminal offence relating to their professional conduct or to making false statements or misrepresentations as to their qualifications to enter into a procurement contract, within a period of ten years preceding the commencement of the procurement proceedings; or
 - disqualified pursuant to administrative suspension or disbarment proceedings.

III. Conditions of Contract and Financial Proposal

Institutions applying for single source procurement shall also provide the following information:

- Detailed cost of the proposed procurement,
- Demonstration that the proposed cost represents value for money. For example institutions can do this by comparing the proposed cost with recent similar projects carried out through competition, or by comparing the proposed cost with available national and international standards.
- Proposed draft terms and conditions of contract – these should be consistent with agreed international terms and conditions e.g. Government of Ghana/FIDIC/World Bank.