

PART 24 – PUBLIC BODIES

DIVISION 1 - GENERAL

1. The instructions issued under this part of the Financial Management Manual have reference to Part VIII of the Act. (Public Bodies)
2. **Section 2 of the Act** defines a public body as any body, authority or instrumentality (whether corporate or unincorporated) established by or under an Act or a Constitutional Law, other than a body, authority or instrumentality established under the Companies Act (Chapter 146).
3. The term "subsidiary corporation" (of a public body) has been defined in **Section 49 of the Act**.
4. While some Sections of **Part VIII of the Act** refer only to public bodies, some relate to their subsidiary corporations as well. Thus the Act requires that proper accounts and records shall be kept by a public body or a subsidiary corporation (**Section 62 of the Act**). Similarly, the Auditor General has been given responsibility to audit the books of all public bodies and subsidiary corporations (**Audit Act, 1989**). The Minister's authority for inspection or investigation or to issue policy directions on tendering covers both public bodies as well as subsidiary corporations (**Sections 60 and 64 of the Act**).

DIVISION 2 - POLICY DIRECTIONS ON TENDERING

5. The following policy directions have been approved by the Minister under **Section 60 of the Act** and apply to all public bodies and subsidiary corporations.
6. **Directions on Preference to National Tenderers**
 - 6.1 The term "national tenderer" is as defined in **Section 2 of the Act**.
 - 6.2 Where a national tenderer is a business firm or company wholly owned or controlled by automatic citizens, a notional reduction of 15 per cent is to be made to the prices quoted by it while making price comparison of bids. Where a firm or company is partly owned by persons who are not automatic citizens, the following formula will apply:

Extent of ownership by non-automatic citizens	Notional reduction (per cent)
50 per cent or above	15
25 per cent and above but below 50 per cent	10
10 per cent and above but below 25 per cent	5
Below 10 per cent	0

6.3 In the case of Contracts:

Public bodies and subsidiary corporations shall restrict the invitation of tenders up to the value of K5,000,000 only to businesses that are completely nationally owned or to certain categories of resident companies which have demonstrated a long-term commitment to supporting national subcontractors and the training of local staff subject to their satisfying that they have the requisite capacity to carry out the contract. Decisions as to eligibility will be made by a Technical Committee established in accordance with paragraph 13 of Part 9 - State Tenders.

- 6.4 Public bodies and subsidiary corporations may, however, invite tenders without the restriction in paragraph 6.3 above if the businesses, that are completely nationally owned or certain categories of resident companies, have no requisite capacity to carry out the work.

Public bodies and subsidiary corporations may also invite tenders without the restriction in paragraph 6.3 where there is risk of undue delay in performance because of other known work commitments of nationally owned or certain resident companies judged against their resources or where there is an obligation to invite open tenders under an agreement with an international financing agency.

- 6.5 A joint venture company or consortium with up to 50% overseas participation may be included in the invitation of tenders in the case of contract valued above K5,000,000 and up to K10,000,000.
- 6.6 For contracts valued at more than K10,000,000 open international tendering will be invited.

7. Directions on Preference to Local Manufacturers

The following directions will be binding on public bodies and subsidiary corporations as part of the Government's industrial policy, for according preference to goods locally manufactured:

- (i) All tender notices must be published in Papua New Guinea in addition to the media in Australia and other countries as required.
- (ii) Specifications drawn up for purchase programmes shall not unnecessarily favour imported goods at the cost of locally manufactured goods.
- (iii) Tenders must allow local bidders to bid in smaller parcels as far as possible. The local origin of materials and labour will be the criterion to decide what is "locally manufactured". In case of doubt, the Department of Commerce and Industry should be consulted.
- (iv) Where there are bids from suppliers of imported goods and locally manufactured goods in response to an Invitation to Tender, a notional addition equivalent to the import duty shall be made to overseas bids, if the imports are eligible for exemption from duty, for price comparison with the locally manufactured goods.
- (v) In respect of (iv) above, if no import duty is leviable or if the import duty leviable is less than 20 per cent, the notional addition to be made to the imported goods for price comparison is to be decided on the basis of the extent to which the criteria for "local manufacture" are met. If they fully satisfy the criteria, the notional addition will be the maximum, that is 20 per cent.
- (vi) As far as possible, price comparisons are to be made on Free Into Stores (FIS) basis.

DIVISION 3 - CONTRACTS

Minister's Approval for Contracts:

8. Public bodies should refer all contracts, consideration of which exceeds K100,000 to the Minister for prior approval under **Section 61 of the Act**.
9. While referring such contracts for prior approval, public bodies shall provide the following information in a covering minute:
 - Whether tenders were invited publicly as required under **Section 59 (1) of the Act**. If not, reasons (in brief) for waiving the requirement.
 - Whether the cost of the contract is included in the approved budget of the public body.

- A comparative statement of the various bids.
 - If the lowest bid (or the highest in the case of sale of an asset or service) is not accepted, reasons for doing so.
 - Whether the Policy Directions issued under **Section 60 of the Act** to give preference to national tenderers or local manufacturers have been complied with.
10. If a public body finds that the limit of K100,000 is restrictive, taking into consideration its business turnover and nature of business, it may submit a proposal for raising the limit to K500,000.

11. EXEMPTION FOR CERTAIN CONTRACTS OR CLASS OF CONTRACTS FROM MINISTER'S PRIOR APPROVAL

Under **Section 61 (3) of the Act**, the Minister has approved exemptions to the following class of contracts from his prior approval, subject to the conditions set out below:

- Contracts entered into in the normal course of business, such as contracts of international trading, money market transactions, short term investments and deposits by the following public bodies:

Bank of Papua New Guinea

Bank of South Pacific

Rural Development Bank of Papua New Guinea

Investment Corporation of Papua New Guinea

State Services and Statutory Authorities Superannuation Fund

Retirement Benefits Fund and Defence Force Retirement Benefit Fund

National Provident Fund

PNG Electricity Commission

Air Niugini

PNG Harbours Board

Waterboard

Niugini Insurance Corporation