



Tonga

**PUBLIC PROCUREMENT (AMENDMENT)
REGULATIONS 2019**



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PUBLIC FINANCE MANAGEMENT ACT 2002

IN EXERCISE of the powers conferred by section 44 of the Public Finance Management Act 2002, the Minister of Finance with the consent of Cabinet, makes the following Regulations -

1 Short Title and Interpretation

- (1) These Regulations may be cited as the Public Procurement (Amendment) Regulations 2019.
- (2) In these Regulations, the Public Procurement Regulations 2015, as amended, are referred to as the Principal Regulations.

2 Regulation 8 amended

Regulation 8(4)(a) of the Principal Regulations is amended by deleting the words “\$7,500 but remains below \$10,000” and replacing it with the amount “\$20,000”.

3 Regulation 9 amended

Regulation 9 of the Principal Regulations is amended -

- (a) in the existing sub-regulation (4) by deleting the number “10” and replacing it with the number “11”;

- (b) by inserting the following as the new sub-regulation (3) in the appropriate place -
 - “(3) All procurement units shall have an established Senior Procurement Officer responsible for the operation of the procurement unit and procurement officers.”.
- (c) by re-numbering the current sub-regulation (3) as sub-regulation (4);
- (d) by re-numbering the current sub-regulation (4) as sub-regulation (5); and
- (e) by re-numbering the current sub-regulation (5) as sub-regulation (6).

4 Regulation 10 amended

Regulation 10 (1) of the Principal Regulations is amended by –

- (a) deleting the amount “\$7,500” and replacing it with the amount “\$20,000”; and
- (b) deleting the words “appropriate Procurement Unit (either of the Procurement Unit or of the contracting entity or the Central Procurement Unit)” and replacing it with the words “procurement unit of the contracting entity”.

5 Regulation 11 amended

Regulation 11 is amended –

- (a) in sub-regulation (1)(a), by deleting the reference “9(4)” and replacing it with the reference “9(5)”; and
- (b) in sub-regulation (1)(b), by deleting the amount “\$10,000” and replacing it with the amount “\$20,000”.

6 Regulation 12 amended

Regulation 12(2)(d) of the Principal Regulations is amended by deleting the words “letter of award” and replacing it with the words “letter of proposed award”.

7 Regulation 13 amended

Regulation 13 of the Principal Regulation is amended –

- (a) in sub-regulation (2) by deleting the amount “\$7,500” and replacing it with the amount “\$20,000”;
- (b) in sub-regulation (3) by deleting the amount “\$10,000” and replacing it with the amount “\$20,000”; and
- (c) in sub-regulation (4) by -

- (i) deleting the amount “\$10,000” and replacing it with the amount “\$20,000”;
- (ii) deleting the word “corporation” and replacing it with the word “cooperation”.

8 Regulation 14 amended

Regulation 14 of the Principal Regulations is amended –

- (a) in sub-regulation (1) by deleting the amount “\$10,000” and replacing it with the amount “\$20,000”;
- (b) in sub-regulation (1)(a) by inserting after the words “contracting entity,” the words “select the procurement method,”;
- (c) in sub-regulation (2) by deleting the words “following approval of the bid evaluation report by the head of the contracting entity” and replacing them with the words “at the end of the standstill period”

9 Regulation 16 amended

Regulation 16 of the Principal Regulations is amended by–

- (a) deleting sub-regulation (2);
- (b) re-numbering the current sub-regulation (3) as sub-regulation (2);
- (c) re-numbering the current sub-regulation (4) as sub-regulation (3); and
- (d) re-numbering the current sub-regulation (5) as sub-regulation (4).

10 Regulation 19 amended

Regulation 19 of the Principal Regulations is amended -

- (a) in sub-regulation (1) by deleting the words “The procurement proposal shall be prepared by the Central Procurement Unit for all contracts with an estimated value exceeding \$ 10,000”;
- (b) in sub-regulation (1) by deleting the amount “\$7,500” and replacing it with the amount “\$20,000”; and
- (c) in sub-regulation (2)(c) deleting the words “the proposed procurement method, in accordance with Part 6 or Part 9 and a justification” and replacing it with the words “a description of the grounds, if any, justifying”.

11 Regulation 29 amended

Regulation 29(1) of the Principal Regulations is amended by deleting the amount “\$1,000,000” and replacing it with the number “\$5,000,000”.

12 Regulation 34 amended

Regulation 34 of the Principal Regulations is amended in sub-regulation (1)(j) by deleting the amount “\$7,500” and replacing it with the amount “\$20,000”.

13 Regulation 35 amended

Regulation 35(1)(b) of the Principal Regulations is amended –

- (a) in sub-clause (i) by deleting the amount “\$7,500” and replacing it with the amount “\$20,000”; and
- (b) in sub-clause (ii) by deleting the amount “\$7,500” and replacing it with the amount “\$20,000”.

14 Regulation 38 amended

Regulation 38 of the Principal Regulations is amended –

- (a) in sub-regulation (1), by deleting the current sub-regulation and replacing it with the following –
 - “(1) The notice of invitation to bid or to pre-qualify, as the case may be, shall be publicised in a manner designed to target potential bidders and attract a sufficient number of bidders to ensure effective competition, including -
 - (a) publication on an appropriate on-line portal, including any website established by the Procurement Division; or
 - (b) publication in any printed media of wide national circulation; or
 - (c) distribution to a registration system of suppliers or contractors maintained in accordance with the procedure established by the Procurement Division; or
 - (d) by any other means approved by the Procurement Division.”; and
 - (b) in sub-regulation (2), by deleting the words “at least two English language newspapers or other”.

15 Regulation 39 amended

- (1) Regulation 39(3) of the Principal Regulations is amended -
 - (a) in sub-regulation (a) by deleting the number “10” and replacing it with the number “5”;
 - (b) in sub-regulation (b) by deleting the number “30” and replacing it with the number “15”;

- (c) in sub-regulation (c) by deleting the number “45” and replacing it with the number “30”;
 - (d) in sub- regulation (d) by deleting the number “20” and replacing it with the number “10”;
 - (e) in sub-regulation (e) by deleting the number “30” and replacing it with the number “15”; and
 - (f) in sub-regulation (f) by deleting the number “30” and replacing it with the number “15”.
- (2) Regulations 39(4) of the Principal Regulations is amended by deleting the number “30” and replacing it with the number “15”.

16 Regulation 41 amended

Regulation 41 of the Principal Regulations is amended by –

- (a) in sub-regulation (1), deleting the number “5” and replacing it by the number “3”; and
- (b) in sub-regulation (2), deleting the words “2 days” and replacing them by the words “1 day”.

17 Regulation 43 amended

Regulation 43(3) is amended by deleting the words “between five and ten percent” and replacing it with the words “up to fifteen percent”.

18 Regulation 59 amended

Regulation 59(3) of the Principal Regulations is amended by deleting the number “14” and replacing it with the number “10”.

19 Regulation 61 amended

Regulation 61 of the Principal Regulations is amended –

- (a) in sub-regulation (2)(a) by deleting the words “a local newspaper of wide circulation” and replacing them with the words “an approved on-line portal”;
- (b) in sub-regulation (3) by deleting the words “a local or international newspaper of wide circulation, and where appropriate, the notice may also be published in a relevant trade publication or technical or professional journal” and replacing them with the words “the manner described in Regulation 38”.

20 Regulation 62 amended

Regulation 62(2) of the Principal Regulations is amended –

- (a) in sub-clause (c)(iii) by deleting the amount “\$7,500” and replacing it with the amount “\$20,000”; and
- (b) by deleting the current sub-clause (c)(v) and replacing it with the following:
 - “(v) for reasons of extreme urgency as defined in Regulation 34(1)(c)”.

21 Regulation 66 amended

Regulation 66(2) is amended by deleting the amount “\$10,000” and replacing it with the amount “\$20,000”.

22 Regulation 74 amended

Regulation 74(2)(a) of the Principal Regulations is amended by deleting the number “14” and replacing it with the number “10”.

23 Regulation 77 amended

Regulation 77(1) of the Principal Regulations is amended by inserting the following after the word “selection” -

“This period may be further extended by 10 days at the discretion of the Independent Expert, with the approval of the Attorney General, where it is deemed necessary to reach a decision.”

Made at Nuku'alofa this **13th** day of **November** 2019.

Hon. Tevita Lavemaau
Minister of Finance