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G.N.No. 451/2021

PARLIAMENTARY SERVICES (PROCUREMENT) FINANCE RULES 2021

SL No. 20 of 2021

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The Speaker and Minister for Finance make the following Rules under Section 39 (14) of the *Parliamentary Services Act 2020*:

PART 1 - PRELIMINARY

1. Citation

These Rules may be cited as the *Parliamentary Services (Procurement) Finance Rules 2021*.

2. Commencement

These Rules comes into effect on 1 July 2021.

3. Application of Rules

These Rules apply to all goods, services or works procured by the Office.

4. Interpretation

In these Rules:

'Clerk' means the Clerk of Parliament;

'Financial Instruction' means the Financial Instructions made by the Clerk under Rule 4 of the *Parliamentary Services (Financial Instructions) Finance Rules 2021*;

'Funds' means the Funds of the Office as provided under Section 39 of the Act;

'goods' means object or property of any kind and description and includes raw materials and inventories, products, equipment and plant;

'Office' means the Office of the Parliamentary Services;

'procurement agent' means an agent engaged by the Clerk under Rule 6;

'procurement operations' of the Office means:

- (a) the procurement of goods, services or works required by the Office for its operations;
- (b) the management of goods of the Office include the care, custody, storage, inspection, stocktaking or distribution of goods of the Office; or
- (c) the management of the Office contract for service;.

'services' means the rendering of a contractor, supplier or consultant and any other form of procurement apart from goods or works; and

'works' means all works associated with construction, reconstruction, demolition, repair or renovation of buildings, structure or works such as preparation, excavation, erection, building, installation of equipment or materials, decorating and finishing, as well as services incidental to construction and similar services provided as part of the procurement of a contract.

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5. Objective

- (1) The objective of these Rules is to ensure the Office priorities and objectives of the system of procurement which is directed towards:
 - (a) obtaining value in the expenditure of the Funds;
 - (b) providing for ethical and fair treatment of participants; and
 - (c) ensuring probity, accountability and transparency in procurement operations.
- (2) For the purpose of these Rules, the Clerk shall from time to time issue the conduct of procurement operations of the Office in the Financial Instructions.

PART 2 – PROCUREMENT

6. Procurement agent

- (1) The Clerk may engage a procurement agent to carry out procurement operations on behalf of the Office.
- (2) The procurement agent shall be selected following a competitive tendering process conducted by:
 - (a) the Clerk;
 - (b) the person appointed to manage the Finance for the Office; and
 - (c) one other person who is not an employee of the Office appointed by the Speaker.
- (3) The procurement agent shall be independent of the Office.
- (4) A person selected to be a procurement agent after a competitive tendering process required under sub rule (2) may be engaged for a period of not more than 5 years.
- (5) A person may be engaged as a procurement agent for a further period or period not exceeding 5 years without a competitive tendering process, if the Clerk is satisfied that the procurement agent has met the performance criteria specified in the procurement agent's contract for the previous period of engagement and the Speaker approves the engagement of the procurement agent.
- (6) The procurement agent's contract of engagement shall:
 - (a) require procurement operations to be conducted in accordance with these Rules and the Financial Instructions;
 - (b) set out standard terms under which the procurement agent will conduct procurement operations on behalf of the Office;
 - (c) require the procurement agent to provide reports and conduct of the procurement operations to the Office;
 - (d) contain provisions designed to enhance the skills of the employees of the Office in relation to the procurement operations including through training to be provided by the procurement agent; and
 - (e) contain any other provisions.

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7. Procurement process

- (1) The Clerk is responsible for:
 - (a) the preparation of a Financial Instructions to include the procurement process governing procurement operations of the Office;
 - (b) the regular review and changes relating to the procurement process in the Financial Instructions; and
 - (c) the publication of the Financial Instructions in up to date form including on the Parliament website.
- (2) The Financial Instructions shall comply with the procurement requirements in these Rules.

PART 3 – PROCUREMENT OPERATIONS

8. Conduct of procurement operations

- (1) The procurement operations of the Office shall be conducted in accordance with these Rules and the Financial Instructions.
- (2) The procurement operations of the Office are to be conducted in accordance with the Financial Instructions and determined according to the discretion of the Clerk or the procurement agent, whichever is applicable.
- (3) The procurement operations of the Office to be conducted by a procurement agent under these Rules and the Financial Instructions may be conducted under an agreement between the Office and the procurement agent as set out in the procurement agent's contract.
- (4) The Office shall not artificially divide a procurement operation to avoid the requirement of these Rules and the Financial Instructions.
- (5) The Office may be exempted from complying with sub rule (1) to the extent that the exemption is not inconsistent with the terms of the agreement between the Republic of Nauru and a foreign government or an international or regional institution.
- (6) The Office may be exempted from complying with sub rule (1):
 - (a) in circumstances of disaster, war or social unrest; or
 - (b) if the Clerk grants an approval to that effect.

9. Annual Procurement Plans

The Office shall prepare a procurement plan for each financial year in accordance with the Financial Instructions.

10. Procurement operations over \$3000 shall be conducted by a procurement agent

- (1) Procurement operations with a value exceeding \$3,000 shall be conducted by the procurement agent.
- (2) The value of procurement operation is to be determined in accordance with the Financial Instructions.

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- (3) The procurement plan shall be in accordance these Rules and with the Financial Instructions for each procurement operation.

11. Procurement of common items

- (1) Procurement operations of the Office involving common items shall be conducted in accordance to these Rules and the Financial Instructions.
- (2) The Clerk may with the procurement agent identify the goods or services that are to be treated as common items.
- (3) The procurement agent may procure or arrange for the procurement, storage and distribution of common items.

12. Financial Instructions to contain the procurement process

- (1) The Financial Instructions shall contain the procurement process and align to the following procurement principles:
 - (a) procurement operations is not to be conducted unless the operations are necessary for the purpose of the Office and funding is available;
 - (b) employees engaged in procurement are to be provided with suitable training;
 - (c) in determining whether to enter into an arrangement for the conduct by the procurement agent on behalf of the Office of procurement operations, the procurement officer of the Office is to take into account the nature of the operations and the training and experience of the employees of the Office;
 - (d) subject to the principles set out in the Financial Instructions allowing or payments for goods or services in stages and advance payments, payments is to be made in arrears and only if the goods or services are provided satisfactory;
 - (e) payments for goods and services is to be made promptly;
 - (f) the single stage competitive tender is the most appropriate procurement method for procuring goods or services including work except for professional services of a consultant, however if another method is used then the reasons for that decision shall be recorded in writing and can relate to:
 - (i) the estimated value of the procurement operation;
 - (ii) the nature of the procurement operation;
 - (iii) the nature of the market; and
 - (iv) any urgency or other relevant circumstances;
 - (g) requirement and technical specification for a procurement operation;
 - (h) procurement operations are to be carried out in a manner that does not discriminate against potential supplier on the basis of nationality, race, religion, gender or other irrelevant factor;
 - (i) procurement operations are to be carried out in a manner that assess the qualifications and capacity of potential suppliers to provide the goods or services and their integrity;

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- (j) procurement operations are to be conducted in a manner that ensures that it is commercially sensitive information is kept securely and confidential;
 - (k) procurement operations are to be conducted in a manner that set out in the documentation provided to potential suppliers, including evaluating the supplies in accordance to the criteria set out in the documentation;
 - (l) the reasons for a supplier being unsuccessful in relation to a particular procurement operation is to be communicated to the supplier on request;
 - (m) records to be kept for each procurement operations; or
 - (n) a system is to be established for dealing with complains by potential suppliers.
- (2) Subject to any international agreement to which Nauru is a party, the Financial Instructions shall contain provisions setting up a system for preference for goods produced in Nauru or services provided by citizens of Nauru in appropriate cases.
- (3) The Financial Instructions may contain provisions requiring the Office to cause an independent review to be conducted within a specified period after the end of a financial year of each of its procurement operations conducted during the financial years and exceeding a specified value.

Signed thisday of June 2021 at Yaren, Nauru:

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Speaker of the Parliament of Nauru

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Minister of Finance