



# **WAIVER OF THE TENDER PROCESS GUIDE**

**Ministry of Economy  
Fiji Procurement Office  
Suva**

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## **1.0 Introduction**

1.1 This guide has been developed as a procedural guide in assessing requests for waiver of the tender process submitted by Ministries and Departments.

## **2.0 Scope**

2.1 This guide should be used by all staff of FPO when analyzing a request for waiver of the tender process.

## **3.0 Purpose**

3.1 The purpose of this guide is to;

3.2

(i) Identify in which instances a waiver of the tender process can be considered.

(ii) Identify the scenarios which requires GTB approval, and

(iii) Identify the scenarios which requires the Minister's approval.

## **4.0 Legislative Requirements**

### **The Government Tender Board**

4.1 Regulation 48 (1) empowers the Board to waive the tender process where:

(a) there is only one supplier capable of supplying the goods, services or works and

(b) a supplier has been nominated by an Aid Agency which is fully funding the procurement.

4.2 Sole supplier refers to instances where one company is the only supplier and or the authorized distributor or agent of the goods or services required.

- 4.3 In such cases, agencies must provide documentary evidence that the recommended supplier is the sole supplier of the required goods, services or works or is being recommended by the Aid Agency funding the procurement.
- 4.4 The Board may also consider situations where the supplier was the only bidder when the tender was initially called and the agency wishes to procure additional quantity of the same items from the supplier in the same fiscal year.

#### **The Minister of Economy**

- 4.5 Regulation 48 (3) and (4) allows the Minister to waive the tender process if it is impractical to comply with the Regulation in relation to the provision of legal services and in relation to the provision of urgent infrastructure development and services.
- 4.6 Regulation 32 (2) also empowers the Minister to approve the undertaking of any emergency procurement in
- (i) a life or death situation;
  - (ii) the event of an outbreak of disease for either human, plant or animal;
- and
- (iii) where there is an urgent need for goods, services or civil works and engaging in tender proceedings would be impractical due to time constraints or cost factors.
- 4.7 However to qualify for (iii) above, evidence must be provided by the agencies that the circumstances giving rise to the urgency was not foreseeable.
- 4.8 The Minister may also consider and endorse requests by Agencies to engage another Agency including State Owned Entities (SOE) for the supply of goods, services and works.

## 5.0 Miscallenous Circumstances

- 5.1 Miscallenous circumstances are circumstances where request for waiver from Agencies do not fall under any of the circumstances outlined in the Procurement Regulation 2010 but the situation demonstrates that calling for tender would be impractical.
- 5.2 This guide attempts to provide scenario that can be considered under this category which is also submitted to the Minister for endorsement.

*i) Engagement of Government Agencies and other State Owned Entities  
(refer MOF circular memorandum dated 12/6/2013)*

Agencies that prefer or require the use of another Government agency including Government appointed boards like Drainage Board for the procurement for works and services.

*ii) Construction Projects*

This covers cases which requires either new or urgent maintenance works for critical services such as health facilities, restoration of schools etc on an as and where required basis.

*iii) Purchase of Health Equipment or Pharmaceuticals*

The purchase of phamauceutical and /or urgent repair (or replacement) of medical equipment

*iv) National Security*

The purchase of equipment, supplies and items which are critical to providing National Security like the purchase of fire arms and ammunition and purchase of winter clothing for troops undertaking overseas mission.

*v) Foreign Missions and Foreign Affairs*

The purchase of vehicles, equipment and other significant items for the foreign mission e.g purchase of office or residential furniture.

*vi) Venue Hire, Accomodation and Travel*

The hiring of venue, accommodation and travel for conferences and trade shows where service providers require deposits in order to secure the venue.

*vii) Maintenance Works*

In cases where it is not possible to correctly diagnose the actual problem in the first instance and total cost of repairs are only determined after more than one phase e.g replacement of vessel and large complex machinery parts.

## **6.0 Terms and Conditions**

- 6.1 Agencies must submit the same documentation required for potential bidders to submit in the normal tender process like Company Registration, FRCA and FNPF Compliance etc.
- 6.2 All request for waiver must be submitted through FPO for analysis.
- 6.3 Companies approved for waiver are also subject to enter into a contract or MOU whichever is applicable and pay performance bond if required.

## **7.0 Review of Guide**

- 7.1 This guide will be reviewed as and when required