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THE CENTRAL TENDER BOARD ACT 2000

Act 32/2000

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An Act

To provide for the establishment of a central Tender Board to be responsible for the approval of the award of major contracts in public bodies

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the **Central Tender Board Act 2000**.

2. Interpretation

In this Act –

“Board” means the Central Tender Board established under section 4;

“Chairman” means the Chairman of the Board;

“local authority” has the same meaning as in the Local Government Act 1989 and shall include the Rodrigues Regional Assembly;

“member” means a member of the Board and includes the Chairman and the Vice-Chairman;

“major contract” means a contract for the procurement of goods, services or execution of works –

(a) to which a public body is or proposes to be a party;

(b) the fair and reasonable value of which exceeds the prescribed amount;

“officer” means –

(a) an officer of the Board appointed under section 12; and

(b) includes the Secretary of the Board;

“prescribed amount” means the amount specified in the third column of the First Schedule corresponding to the public body or bodies specified in the first column in relation to the type of contract specified in the second column of that Schedule;

“public body” means a Ministry or a Government Department, a local authority of such

other body specified in the first column of Part III, Part IV and Part V of the First Schedule;

“Vice Chairman” means the Vice-Chairman of the Board.

Amended by [\[Act No. 39 of 2001\]](#); [\[Act No. 33 of 2004\]](#)

3. Application of Act

(1) This Act shall bind the State in so far as the State is not exempt from the application of the provisions of the Act by virtue of the operation of subsection (2).

(2) This Act shall not apply to any public body in respect of –

(a) the award ; or

(b) any matter relating to the award,

of a major contract by that body to the Development Works Corporation.

4. Establishment of the Board

(1) There is established for the purposes of this Act a Central Tender Board.

(2) The Board shall consist of –

(a) a Chairman;

(b) a Vice-Chairman; and

(c) 5 other members,

having wide experience in legal, administrative, economic, financial, engineering, scientific or technical matters.

(3) The members of the Board shall be appointed by the President of the Republic, acting in accordance with the advice of the Prime Minister tendered after the Prime Minister has consulted the Leader of the Opposition, and on such terms and conditions as may be determined by the Prime Minister.

(4) Every member shall hold office for a period not exceeding 3 years and shall be eligible for re-appointment.

(5) The President may, on the advice of the Prime Minister, at any time terminate the appointment of a member who has been guilty of –

- (a) any misconduct, default or breach of trust in the discharge of his duties;
 - (b) an offence of such nature as renders it desirable that his appointment should be terminated.
- (6) (a) Subject to paragraph (b), the Board may co-opt such other persons capable of assisting it with expert advice.
- (b) Any person co-opted under paragraph (a) shall have no right to vote.

5. Reference to Board from public bodies

The supervising officer or chief executive officer of any public body shall inform the Board in writing of any major contract which the public body intends to execute and submit all the relevant documents to the Board.

6. Call for tenders

The Board shall, within a reasonable delay after having been informed by the supervising officer or chief executive officer under section 5, call for tenders in respect of such major contract.

6A Award of public-private partnership project

Notwithstanding the provisions of this Act, the Board -

- (a) shall approve all documents relating to the bid;
- (b) shall authorise, approve and carry out pre-selection exercise;
- (c) shall authorise the advertisement, invitation locally or internationally, as the case may be, and call for bids;
- (d) shall examine and evaluate bids; and
- (e) may approve the award,

of a public-private partnership project in the manner provided for under the Public-Private Partnership Act.

Added by [\[Act No. 37 of 2004\]](#)

7. Award of major contract

- (1) Notwithstanding any other enactment, no public shall –
 - (a) advertise, invite, solicit or call for tenders in respect of a major contract unless authorised by the Board;
 - (b) award a major contract unless the award has been approved by the Board.
- (2) No person shall sign a major contract with any public body unless the award has been approved by the Board.
- (3) Where –
 - (a) any variation in a contract price subsequent to the conclusion of the contract entered into by a public body causes the total contract amount to exceed the prescribed amount by more than 20 per cent;
 - (b) any tender submitted in response to a call for tenders made by a public body exceeds the prescribed amount,the matter together with all the tender documents and the contract documents, if any, shall be referred to the Board for approval.
- (4) Where it comes to the knowledge of the Board that a contract has been awarded or is about to be awarded in breach of this Act or regulations made thereunder, the Board shall forthwith report the matter to the Prime Minister, recommending such action as it may deem appropriate.

8. Functions of the Board

- (1) Notwithstanding any other enactment the Board shall, in respect of major contracts –
 - (a) establish appropriate tender procedures and ensure compliance therewith;
 - (b) vet tender documents and notices;

- (c) invite tenders locally or internationally, as the case may be;
- (d) receive and open tenders;
- (e) examine and evaluate tenders; and
- (f) approve the award of such contracts.

(2) In the execution of its duties, the Board shall strive to achieve the highest standards of equity, taking into account –

- (a) equality of opportunity to all prospective tenderers;
- (b) fairness of treatment to all parties; and
- (c) the need to obtain the best value for money in terms of price, quality and delivery, having regard to set specifications.

9. Powers of the Board

(1) In the discharge of its functions under this Act, the Board may –

- (a) call for such information and documents as it may require from any public body;
- (b) commission any studies relevant to the determination of the award of a major contract;
- (c) request any professional or technical assistance from any appropriate body or person in Mauritius or elsewhere; and
- (d) do all such acts and things as it may consider incidental or conducive to the attainment of its objects.

(2) The Board may –

- (a) require the Chairman, supervising officer or chief executive officer of a public body –
 - (i) to furnish any information or produce any records or other documents relating to a major contract;
 - (ii) to answer all relevant questions;

(b) examine such records or other documents and take copies or extracts therefrom.

(3) Any person to whom a request is made under subsection (2) who –

(a) fails to comply with the request; or

(b) refuses to answer or wilfully gives any false or misleading answer to any question lawfully put by the Board,

shall commit an offence.

10. Secretary of the Board

(1) There shall be a Secretary to the Board who shall be a public officer.

(2) The Secretary shall be entitled to attend the meetings of the Board and participate in its deliberations but shall have no right to vote.

11. Meetings of the Board

(1) The Board shall meet as often as is necessary and at such time and place as the Chairman deems fit.

(2) Everything authorised or required to be done by the Board shall be decided by simple majority of the members present and voting.

(3) In the absence of the Chairman at any meeting, the Vice-Chairman shall preside over the meeting.

(4) At any meeting of the Board –

(a) the Chairman or Vice-Chairman and 2 other members shall constitute a quorum;

(b) each member shall have one vote on the matter in question and, in the event of an equality of votes, the Chairman of the meeting shall have a casting vote.

(5) Subject to this section, the Board shall regulate its meetings and proceedings in such manner as it deems fit.

12. Staff of the Board

(1) The Board shall, in the conduct of its business under this Act, be assisted by such public officers as may be required or by such persons as may be appointed by the Board in a temporary capacity under a contract on non-pensionable terms.

(2) The staff shall be under the administrative control of the Chairman.

13. Immunities of the Board

No action shall lie against the Board or any member, or officer of the Board for any act or omission except in so far as the act or omission complained of was done in bad faith.

14. Undue influence

Any person who directly or indirectly, in any manner influences, or attempts to influence any member or officer of the Board or any decision of the Board, shall commit an offence.

15. Funds of the Board

The Board shall derive its funds from –

- (a) the Consolidated Fund; and
- (b) any fees and charges levied by the Board.

16. Oath

The members and the officers of the Board shall, on assumption of duty, take the oath specified in the form set out in the Second Schedule.

17. Disclosure of interest

A member or the Secretary of the Board having any direct or indirect interest in any matter brought before the Board –

- (a) shall immediately inform the Board; and
- (b) shall not participate in the deliberations or any part of the decision-making process in relation to that matter.

18. Declaration of assets

(1) Subject to subsection (2), every member or officer shall file with the Prime Minister, a declaration of his assets and liabilities in the form specified in the Third Schedule –

- (a) not later than 30 days of his appointment; and
- (b) on the termination of his appointment.

(2) Where, subsequent to a declaration made under subsection (1) the state of assets and liabilities is so altered as to be reduced or increased in value by a minimum of 10,000 rupees, the member or officer shall make a fresh declaration.

(3) No declaration of assets filed under subsection (1) or subsection (2) shall be disclosed to any person except with the express consent of the member for officer concerned or by order of a Judge on reasonable cause shown.

19. Auditor's certificate

The auditor of every public body shall, in his annual report, state in his report whether sections 5 and 7 of this Act have been complied with.

20. Offences

(1) Any person who contravenes this Act or any regulations made thereunder shall commit an offence and shall on conviction be liable to a fine not exceeding Rs 50,000 and to imprisonment for a term not exceeding 8 years.

(2) Notwithstanding –

(a) section 114(2) of the Courts Act; and

(b) section 72(5) of the District and Intermediate Courts (Criminal Jurisdiction) Act,

a Magistrate shall have jurisdiction to try an offence under this Act or any regulations made thereunder and may impose any penalty provided by this Act.

21. Regulations

(1) The Prime Minister may –

(a) make such regulations as he thinks fit for the purpose of this Act;

(b) by regulations, amend the Schedules.

(2) Any regulations made under subsection (1) may provide –

(a) for different days to be prescribed for the Act to be applicable in respect of different public bodies specified in the first column of the First Schedule; and

(b) for the levying of fees and charges.

22. Repeal

The following enactments are repealed –

(a) The public Procurement, Transparency and Equity Act 1999;

(b) The Public Procurement, Transparency and Equity (Domestic Preference) Regulations 2000;

(c) The Public Procurement, Transparency and Equity (Registration of Suppliers) Regulations 2000.

23. Transitional provisions

(1) Any matter to any contract which was being dealt, immediately before the coming into force of this Act, under the central Tender Board Act 1994 or under the Public Procurement, Transparency and Equity Act 1999, shall be dealt with in accordance with this Act.

(2) For the purposes of this Act, any tender invited under the Central Tender Board Act 1994 or under the Public Procurement, Transparency and Equity Act 1999 shall be deemed to have been invited as required under this Act and any regulations made thereunder.

(3) Tenders and contracts that were approved under the Central Tender Board Act 1994 or under the Public Procurement, Transparency and Equity Act 1999 shall be deemed to have been approved under this Act and no re-tendering shall be undertaken.

(4) Subject to this section, this Act shall apply to legal situations which exist when it comes into force.

(5) Any right or obligation arising under the Public Procurement, Transparency and Equity Act 1999 and still subsisting at the commencement of this Act shall, at the commencement of this Act, continue to be a right or obligation in favour of, or against the Government.

FIRST SCHEDULE
 (section 2)

Column 1 Public body	Column 2 Type of Contract	Column 3 Prescribed Amount
Part I		
Ministries/Government Departments	All Contracts	1 million rupees
Part II		
Local Authorities	All Contracts	1 million rupees
Part III		
Agricultural Marketing	Civil Engineering Works and capital Goods	10 million rupees

Amended by [\[GN No. 63 of 2001\]](#); [\[Act No. 32 of 2003\]](#)

Development Works Corporation
 Export Processing Zone
 Development Authority
 Farmer's Service Corporation
 Financial Services commission
 Industrial & vocational Training Board
 Irrigation Authority
 Mahatma Gandhi Institute
 Mauritius College of the Air
 Mauritius educational Development Company Ltd
 Mauritius Film Development Corporation
 Mauritius Examinations Syndicate
 Mauritius Institute of Health
 Mauritius Institute of Public Administration and management
 Mauritius Meat Authority
 Mauritius Oceanography Institute

Mauritius Standards Bureau
Mauritius Tea Factories Company Ltd
Mauritius Telecom Limited
National Computer Board
National Handicraft Centre
Outer Islands Development Corporation
Private Secondary schools Authority
Public Officers Welfare Council
Rodrigues Educational Development Company Ltd
Road Development Authority
Sir Seewoosagur Ramgoolam Botanic Garden Trust
Small and Medium Industries Development Organisation
Sugar Industry Labour Welfare Fund
Sugar Planter's Mechanical Pool Corporation
Tea Board
Tertiary Education Commission
University of Mauritius

Amended by [Act 13 of 2001]; [[GN No. 22 of 2001](#)]

PART IV

Civil Engineering 25 million
works and capital rupees
Goods

Airport Development Corporation Ltd
Beach Authority
Cargo Handling Corporation Ltd
Central Electricity Board
Central Water Authority
Development Bank of Mauritius Ltd
Information and Communication Technologies Authority
Mauritius Broadcasting Corporation
Mauritius Export & Investment Authority
Mauritius Freeport Authority
Mauritius Housing Company Ltd
Mauritius marine Authority
Mauritius Shipping Corporation Ltd
Mauritius Sugar Authority
National Housing Development Company Ltd
National Transport Corporation
SITRAC Ltd

State Informatics Ltd
State Investment Corporation Limited
State Property Development Company Ltd
State Trading Corporation
Wastewater Management Authority

Amended by [[Act No. 39 of 2000](#)]; [[Act No. 13 of 2001](#)]; [[Act No. 22 of 2001](#)]; [[Act No. 44 of 2001](#)]; [[GN No. 22 of 2001](#)]; [[Act No. 7 of 2002](#)]

Part V

Mauritius Revenue Authority All Contracts 50 million rupees

Amended by [[Act No. 33 of 2004](#)]

SECOND SCHEDULE
(section 16)

I,being appointed Chairman/Vice Chairman/
Member/officer of the Central Tender Board, do hereby swear/solemnly affirm that I will, to the best of my judgment, act for the furtherance of the objects of the Board and shall not, on any account and at any time, disclose, otherwise than with the authorisation of the Board or where it is strictly necessary for the performance of my duties, any confidential information obtained by me in virtue of my official capacity.

Taken before me,

.....
Master and Registrar of the Supreme Court

THIRD SCHEDULE
(section 18)

I,of
make oath/solemn affirmation as a
.....and declare that –

*1 I am unmarried/married under the system of(matrimonial regime).

*2 My assets (extent, nature of interests therein, liabilities regarding these assets) are

as follows –

- (a) landed property
- (b) residential, commercial or industrial building
- (c) motor vehicles
- (d) Boats.....
- (e) Shares
- (f) Interest in partnership or société

*3 The assets of my spouse/minor children (extent, nature of interests therein, liabilities regarding these assets) are as follows

- (a) landed property
- (b) residential, commercial or industrial building
- (c) motor vehicles
- (d) boats
- (e) shares
- (f) interest in partnership or société

.....
Signature

Sworn/solemnly affirmed by the abovenamed before me at this
.....day

.....

*Master and Registrar
Supreme Court*

Related documents: