

PUBLIC PROCUREMENT (AMENDMENT) BILL, 2022*(Bill No. 30 of 2022)***OBJECTS AND REASONS**

This Bill, inter alia, seeks to amend sections 2, 37, 42, 49, 60, 80, 82, 98, 100 and the Schedule of the Public procurement Act, 2008 —

- (a) for defining the words “framework agreement” in section 2 of the Act;
- (b) to substitute the words “on the grounds of low value procurement” in section 37(4)(a) instead of the words “on the basis of lowest value of bid”;
- (c) to insert a new subsection after section 42(2) to include a provision on framework agreements;
- (d) to repeal section 49(1) and substitute it with a new provision for termination or cancellation of procurement proceedings;
- (e) to repeal subsection (2) of section 80 to remove a restriction provided for negotiation;
- (f) to amend sections 82, 98, and 100 to reduce the standstill period of 10 days to 5 days for challenging decision of the procurement entity; and
- (g) for revising procurement thresholds in Schedule I.

Dated this 15th day of November, 2022.

**NAADIR HASSAN
MINISTER OF FINANCE,
NATIONAL PLANNING AND TRADE**

PUBLIC PROCUREMENT (AMENDMENT) BILL, 2022

(Bill No. 30 of 2022)



A BILL

FOR

AN ACT TO AMEND THE PUBLIC PROCUREMENT ACT, 2008 (CAP 305).

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Public Procurement (Amendment) Act, 2022.

Amendment of Cap 305

2. The Public Procurement Act (Cap 305) Act is amended as follows —

- (a) by inserting in section 2 after the definition of “foreign bidder supplier” the following definition —

“framework agreement” means an agreement or other arrangement between one or more procuring entity and one or more suppliers which establishes the terms and conditions under which the supplier enters into one or more contracts with the procuring entity in the period during which the agreement or arrangement applies for the supply of goods, works and services;”;

- (b) by repealing in clause (a) of subsection (4) of section 37 the words “on the basis of lowest value bid” and substituting therefor the words “on the grounds of low value procurement”;

- (c) by inserting after subsection (2) of section 42, the following subsection —

“(2A.) Notwithstanding subsection (2), the procurement entity may enter into a framework agreement through open tender and in accordance with such terms and conditions as may be prescribed, where —

- (a) the need for the subject matter of a procurement is expected to arise on a repeated basis during a given period of time within a procuring entity;
- (b) by virtue of the subject matter of a procurement, the need for it may arise on an urgent basis during a given period of time; or

- (c) the Procurement Oversight Unit considers that a particular procurement can best be undertaken through a framework agreement.”;
- (d) by repealing subsection (1) of section 49 and substituting therefor the following subsections —

“(1) a procuring entity may, at any time, terminate or cancel procurement proceedings without entering into a contract on the following grounds —

- (a) the procurement need has ceased to exist or changed significantly;
- (b) sufficient funding is not available for the procurement;
- (c) there is significant change in the required technical details, bidding conditions, conditions of contract or other details, such that the re-commencement of proceedings is necessary;
- (d) no responsive bids are received;
- (e) there is evidence of collusion among bidders;
- (f) there is evidence of corrupt practice by public officers; or
- (g) public interest.

(1A) A procurement entity shall consult with the user department which issued the requisition and obtain the prior authorisation of the approval authority before terminating or cancelling any procurement proceedings.”;

- (e) by inserting after section 60, the following section —

Simplified bidding

“**60A.**(1) The objective of simplified bidding is to obtain competition and value for money to the extent possible, while maintaining economy and efficiency, where the circumstances do not justify the use of open bidding.

(2) A procuring entity may use simplified bidding procedure for procurement of readily available commercially standard goods not specifically manufactured to the particular specifications of the public body such as office supplies including stationeries, consumables and office equipments.

(3) The procedure and conditions for the use of simplified bidding by the procuring entities for the goods being procured shall be as prescribed in the regulations.”;

- (f) by repealing subsection (2) of section 80;
- (g) by repealing in subsection (2) of section 82, the words “ten working days” and substituting therefor the words “five working days”;
- (h) by repealing in subsection (4) and in clause (c) of subsection (5) of section 98, the words “ten working days” and substituting therefor the words “five working days”;
- (i) by repealing in clause (a) of subsection (1) of section 100, the words “ten working days” and substituting therefor the words “five working days”;
- (j) by repealing Schedule I and substituting therefor the following Schedule —

SCHEDULE I
PROCUREMENT THRESHOLDS

Table 1: In respect of Goods & Services and Works

Column 1	Column 2
Threshold	Approval Authority
Not exceeding SCR250,000	Approval is given by Accounting Officer (PS/CEO)
Exceeding SCR250, 000 but not exceeding SCR850,000	Approval is given by Procurement Committee
Exceeding SCR850, 000	Approval is given by National Tender Board

Table 2: In respect of Consultancy Services

Column 1	Column 2
Threshold	Approval Authority
Not exceeding SCR75,000	Approval is given by Accounting Officer (PS/CEO)
Exceeding SCR75,000 but not exceeding SCR250,000	Approval is given by Procurement Committee
Exceeding SCR250,000	Approval is given by National Tender Board