

29 November 2024

PRAZ/B/15/4

CIRCULAR No. OPS/3 of 2024

ALL ACCOUNTING OFFICERS OF PUBLIC ENTITIES UNDER THE MUTAPA INVESTMENT FUND

EXEMPTION OF PROCURING ENTITIES (PEs) THAT OPERATE IN COMPETITIVE MARKETS OR COMMERCIAL BUSINESS UNITS FROM COMPLIANCE WITH SPECIFIC PROVISIONS OF THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS (PPDPA) ACT [CHAPTER 22:23]

1. The Procurement Regulatory Authority of Zimbabwe (the Authority), is mandated under section 6 (1)(c) of the PPDPA Act to issue instructions regarding the interpretation and implementation of the PPDPA Act.
2. Section 3(7) of the PPDPA Act states that the Authority, for good cause shown, may by written notice to the body concerned exempt any procuring entity from compliance with any provision of this Act, and thereupon the provision concerned shall not apply to that procuring entity.
3. Section 3(9) of the PPDPA Act provides that the President after consultation with the Authority, may by notice in the *Gazette*, exempt a prescribed public entity on specified grounds from the application of the PPDPA Act.
4. Through General Notice 164B of 2024, the President exempted 21 PEs which operate in competitive markets from the application of the PPDPA Act.
5. Section 3(10) of the PPDPA Act provides that: -
“(10) Notwithstanding any exemption granted to an entity under subsection (9), such entity shall nevertheless comply with guidelines issued by the Procurement Regulatory Authority of Zimbabwe governing the criteria by which the entity shall regulate its procurement practices, as read with section 44 of the Public Finance Management Act [Chapter 22:19] and section 195 of the Constitution”
6. The Mutapa Investment Fund (MIF), through a minute dated 13 November 2024, requested for an exemption of the 15 remaining PEs under MIF, in terms of section 3(9) of the PPDPA Act. The request was premised on the fact that provisions of the PPDPA Act now buttressed and safeguarded in the recently promulgated amendments done through Finance Act No. 2 of 2024.

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7. The minute further highlighted that the intent of Section 3(10) of the PPDPA Act was to ensure that the exempted PEs would need to still comply with the guidelines issued by the Authority and that PRAZ will monitor compliance on an ex-post basis rather than ex-ante basis.
8. The Authority, appreciates that PEs that operate commercial business units or in competitive markets require swift decisions in procurement in order to maintain their competitive advantage against rivals whilst satisfying customer demands and enhancing profit generation.
9. The Authority is cognisant of the fact that procurements for PEs which operate in competitive markets fall into two (2) categories namely **procurement requirements (e.g. trading stock and raw materials) for commercial activities** which are affected by competition and **procurement requirements which are of a general nature (e.g. provision of security services and motor vehicles)** which can be procured using normal tender procedures. The Authority noted that there was need for PEs to separate such requirements in order to uphold public procurement objectives as prescribed under section 4 of the PPDPA Act.
10. The Authority also noted that, to enhance efficiency, PEs that operate commercial business units or in competitive markets require exemptions from specific provisions of the Act. These include but are not limited to the following, depending on the business operations for a specific PE:

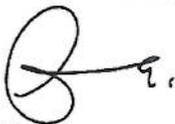
No.	ITEM	Comment on the required exemption
1	Advertising	<ul style="list-style-type: none"> ➤ PEs require an exemption from advertising certain procurements such that they don't expose their business strategies to competitors.
2	Procurement Methods	<ul style="list-style-type: none"> ➤ PEs require an exemption to adopt the Request for Quotation (RFQ) method above the USD10,000,00 threshold to procure raw materials etc. ➤ PEs require an exemption to adopt the Restricted Bidding Method in order to avoid exposing their business strategies to competitors or to address special circumstances like procurements of a security nature. ➤ PEs can also adopt Framework Agreements to procure the same. ➤ PEs can also require an exemption to adopt the RFQ method in order to address unforeseen urgent procurement requirements.
3	Bidding Periods	<ul style="list-style-type: none"> ➤ PEs require an exemption to adopt RFQ method within 24 Hrs or less rather than the 3 working days prescribed in the Act to address urgent requirements. ➤ PEs, especially those in the fuel industry, also require an exemption to adopt spot tenders.

4	SPOC Scrutiny	➤ PEs require an exemption to conclude certain procurement processes without prior scrutiny by the SPOC and then report <i>post facto</i> .
5	Engagement of Walk in Suppliers	➤ PEs require an exemption to engage walk in suppliers who might be offering favourable prices opportunities.
6	Engagement of unregistered Suppliers	➤ PEs require an exemption to engage unregistered foreign and local suppliers who might be offering favourable prices opportunities but are yet to appreciate the need to be a registered government supplier.
7	To conduct some procurements outside the eGP System	➤ Some procurements require exemption since some critical foreign suppliers are still to appreciate the eGP system.

11. The Authority, on 1 January 2024, introduced the Electronic Government Procurement (eGP) System, which among other benefits, ensures proper procurement planning and achievement of value for money thereby enhancing service delivery in line with Vision 2030. In addition, the eGP system provides for procurements to be dealt with on a case-by-case basis so as to ensure transparency and efficient allocation of resources.
12. The Authority has developed a template (*attached*) to guide PEs seeking exemptions from compliance with specific provisions of the PPDPA Act.
13. Accordingly, the Authority, in an endeavour to avoid unnecessary disruption of business activities and in terms of section 6 (1) (c) as read with section 7 (a) of the PPDPA Act, is hereby directing PEs under the MIF to: -
 - To submit their applications to conduct procurement for the year 2025 in terms of section 15 of the PPDPA Act.
 - Submit applications for exemptions from compliance with the provisions of the PPDPA Act as prescribed under section 3(7,9 &10) of the PPPDA Act.
14. The Authority, advises PEs to use the **attached template** as a guideline when applying for exemptions from compliance with specific provisions of the PPDPA Act. Templates and documents for authorisation to conduct procurement are available on the PRAZ website www.praz.org.zw.
15. PEs that operate are mandated to incorporate all procurements on the annual procurement plan.
16. PEs are encouraged to submit applications by 31 December 2024 to enable early implementation in the year 2025.

17. PEs are also advised to ensure that applications to conduct procurement and relevant attachments are uploaded on the PRAZ e-GP system link <https://egp.praz.org.zw> by 31 December 2024 to avoid inconveniences in procurement processes.

Please be guided accordingly and note that the attached templates and documents can be downloaded on the PRAZ website www.praz.org.zw.



C. Ruswa
Chief Executive Officer

PROCUREMENT REGULATORY AUTHORITY OF ZIMBABWE



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TEMPLATE TO GUIDE PROCURING ENTITIES (PEs) UNDER THE MUTAPA INVESTMENT FUND(MIF) THAT OPERATE IN COMPETITIVE MARKETS OR COMMERCIAL BUSINESS UNITS WHEN APPLYING FOR EXEMPTION IN TERMS OF SECTION 3(7,9,10) OF THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS (PPDPA) ACT

The application for exemption should comprise the following: -

1. Brief Background of the PE e.g.

- XYZ P/L is the largest service provider in Zimbabwe which offers innovative, affordable and friendly services that allow customers to talk, browse, share, and stay connected.
- XYZ P/L operates in a competitive environment require swift decisions in procurement in order to keep up with prevailing market forces whilst satisfying customer demands and enhancing their revenue generation to meet profit targets.
- XYZ P/L was requesting for exemption from following normal tender procedures, as follows: -

No	CATEGORY OF REQUIREMENT	PROPOSED PROCUREMENT METHOD	PROPOSED SUPPLIER REGISTERED WITH PRAZ	PROPOSED SUPPLIERS NOT REGISTERED WITH PRAZ	JUSTIFICATION FOR ENGAGING AN UNREGISTERED COMPANY
1	Trading Stock	State the preferred Procurement methods e.g Framework Agreements /RFQ/Restricted Bidding Method/Competitive Bidding Method	State category e.g S002	State the name of Companies	
2	Spares	Request For Quotations (RFQ) Method	State category e.g G001	State the name of Companies	

2. State all the required exemptions

We are hereby seeking the following exemptions e.g

No.	ITEM	Comment on the required exemption
1	Advertising	<ul style="list-style-type: none"> ➤ PES require an exemption from advertising certain procurements such that they don't expose their business strategies to competitors.
2	Procurement Methods	<ul style="list-style-type: none"> ➤ PES require an exemption to adopt the Request for Quotation (RFQ) method above the USD10,000.00 threshold to procure raw materials etc. ➤ PES require an exemption to adopt the Restricted Bidding Method in order to avoid exposing their business strategies to competitors or to address special circumstances like procurements of a security nature. ➤ PES can also require an exemption to adopt the RFQ method in order to address unforeseen urgent procurement requirements.
3	Bidding Periods	<ul style="list-style-type: none"> ➤ PES require an exemption to adopt RFQ method within 24 Hrs or less rather than the 3 working days prescribed in the Act to address urgent requirements. ➤ PES, especially those in the fuel industry, also require an exemption to adopt spot tenders.
4	SPOC Scrutiny	<ul style="list-style-type: none"> ➤ PES require an exemption to conclude certain procurement processes without prior scrutiny by the SPOC and then report <i>post facto</i>.
5	Engagement of Walk in Suppliers	<ul style="list-style-type: none"> ➤ PES require an exemption to engage walk in suppliers who might be offering favourable prices opportunities.
6	Engagement of unregistered Suppliers	<ul style="list-style-type: none"> ➤ PES require an exemption to engage unregistered foreign and local suppliers who might be offering favourable prices opportunities but are yet to appreciate the need to be a registered government supplier.

7	To conduct some procurements outside the eGP System	✓ Some procurements require exemption since some critical foreign suppliers are still to appreciate the eGP system.

NB:- On the Annual Procurement Plan List the following

1. Procurements that are to be exempted and indicate exempted on the Comment Section
2. Procurements That should be conducted outside the eGP system and indicate the same in the comment section

3. State the PE is going to ensure accountability and uphold the objectives of Public Procurement

The PE is going to ensure accountability and uphold the objectives of public procurement as follows: -

1. Update the Authority on walk-in suppliers which offer favorable terms
2. Conclude Highly Value tenders and report post facto with 30 days of conclusion.
3. Submit Quarterly/Monthly reports on procurements conducted
4. Ensure that Companies pay contract admin fees
5. Encourage the unregistered companies to register as soon as they are given meaningful business etc.

NB:-

1. PEs should note that the above is just a guideline and PEs are expected to look at their specific cases when applying for exemption
2. PEs should also be in a position to separate procurement requirements which require exemption and those which do not require exemption.