

CIRCULAR NO: 9/2006

21 April 2006

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FROM: Chief Executive Officer, Finance and National Planning

TO: All Chief Executive Officers and Heads of Departments

**SUBJECT: OPERATION OF AGENCY TENDERS BOARDS & INCREASE
IN PROCUREMENT LIMITS OF CHIEF EXECUTIVE OFFICERS**

1.0 Objective

1.1 The objective of this circular is to inform ministries and departments of the intention to:

- (i) allow Chief Executive Officers (CEOs) to begin the operation and exercise of powers and functions of their Agency Tenders Boards as set out in the Finance Instructions 2005; and
- (ii) allow CEOs to begin exercising their authority in the increase of procurement limits.

1.2 This circular outlines the procedures and processes that Agency Tenders Boards and CEOs should follow when procuring goods, services or works.

1.3 As advised in Finance Circular 20/2005, these two authorities were scheduled for implementation in January 2006. However, due to the delays of some ministries in establishing their Agency Tenders Boards and in the submission of the lists of members, this will now be implemented with effect from 1st April 2006.

2.0 Procurement Authorities and Tenders Boards

- 2.1 The procurement authorities delegated to CEOs and tender boards are as follows:

Responsible Authority	Procurement Limits
Chief Executive Officers	\$20,000 or less
Agency Tenders Boards	\$20,001 to \$50,000
Major Tenders Board	\$50,001 or more

- 2.2 CEOs are now authorised to procure up to a limit of \$20,000. The authorities/limits that are delegated to sub-delegates within the various agencies should be adhered to as documented in the individual agency Finance Manuals.
- 2.3 It should be noted that the operations and exercise of powers and functions of the Minor Tenders Board has ceased from 1 April 2006. The Agency Tenders Board is now operating and exercising their powers and functions as set out in the Finance Instructions 2005.
- 2.4 The operations and exercise of powers of the Central Tenders Board is deferred until further notice. The three tender boards – Major Tenders Board, Divisional Tenders Boards and the Public Works Tenders Board – will operate and exercise their powers and functions as that of the Central Tenders Board set out in provision 24 of the Finance Instructions 2005.
- 2.5 The Minister of Finance has issued directions pertaining to para 2.2 and para 2.3 above to legally effect these changes.

3.0 Procedural Requirements

Establishment of Agency Tenders Boards

- 3.1 The authority to establish Agency Tenders Boards was issued via Finance Circular 20/2005 to CEOs. The circular outlined the membership of these boards and ministries were required to submit the list of members of their Agency Tender Boards to the Ministry of Finance and National Planning.
- 3.2 A set of guidelines to guide the operations of Agency Tenders Boards is attached as Appendix 1. These guidelines outline the procedures that Agency Tenders Boards should follow when procuring for supplies of goods, services or works.

- 3.3 All Agency Tenders Boards should have already been established with membership of these boards now finalised. It is also advised that members of the Agency Tenders Boards be provided with a set of the attached guidelines.

Membership

- 3.4 The following officers are permanent members of the Agency Tenders Board:
- (i) The CEO or Deputy Secretary as Chair;
 - (ii) A senior officer of the agency;
 - (iii) A representative from Government Supplies; and
 - (iv) Two senior officers appointed by the CEO through invitation to other agencies.

Responsibilities of the Agency Tenders Board

- 3.5 The Agency Tenders Board should ensure that a full, fair and open tendering process has been conducted and that the decision on the award of contract is based on objective criteria clearly stated to tenderers in the procurement documentation. The Agency Tenders Board must ensure that the decision is able to stand up to audit, public scrutiny or any challenge of anti-competitive behaviour.
- 3.6 All members of the Agency Tenders Board must sign a declaration, attached as Appendix 2, confirming that they have no personal interest in the outcome of the Agency Tenders Board.
- 3.7 The Agency Tenders Board should ensure and be satisfied that the procedures laid down in the Financial Management Act 2004, Finance Instructions 2005 and the guidelines governing procurement of works, supplies and services (attached as Appendix 1) are fully complied with by their respective agencies.

4.0 Conclusion

- 4.1 This is one of the many new and rewarding challenges for CEOs and is in line with the rolling-out of other incentives and financial authorities under the FMR.

- 4.2 For any clarifications on the contents of this circular, please contact Seini Tabete on phone 3307011 ext. 2183 or email stabete@govnet.gov.fj stabete@govnet.gov.fj.
- 4.3 We look forward to your continued support in ensuring the successful implementation of the financial management reforms.

Paula Uluinaceva

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Director, Department of Civil Aviation

Director, Government Shipping Services

Director, Department of Environment

Director of Social Welfare

Supervisor of Elections, Elections Office

Agricultural Tribunal, Office of the Agricultural Tribunal

Director of Immigration, Immigration Department

Commissioner of Prisons, Prisons Department

Official Secretary, Office of the President

Director, Department of Culture & Heritage

Appendix 2

TENDER BOARD MEMBERS DECLARATION FORM

Agency Tender Board Meeting held on [date] [Title of Contract Project]

AGENCY TENDER BOARD MEMBERS' DECLARATION

1. I understand that the deliberation and decision on the Agency Tender Board in evaluating tenders must be based on objective criteria applied fairly to all tenders. I recognise that the contracting authority should be able to demonstrate absolute impartiality of all members of the Agency Tender Board.

2. I declare that I have no personal or financial interest in any of the tenderer whose tenders are to be considered by the Agency Tender Board and that there is no other matter of any kind that could affect my impartiality, or that might be considered capable of affecting my impartiality, as a member of the Agency Tender Board.

I understand that in this context:

- a) "personal interest" includes any family or social connection with any person employed by the tenderer or engaged by the tenderer to provide any services in connection with the preparation of the tender;
- b) "financial interest" includes the ownership of shares and any other means or opportunity to acquire any direct or consequential financial gain;
- c) "tenderers" includes the members of any consortium tendering for the proposed contract any proposed sub-contractors identified in the tenders.

3. I understand that any interest or matter referred to above would disqualify me from membership of the Agency Tender Board. I understand that failure to declare any such interest or matter would be in breach of my duty to the contracting authority and could lead to legal action by an unsuccessful tenderer. I recognise that the court would have power to quash the contracting authority's decision on the award of contract if it had not yet entered into the contract; and that if it had already entered into the contract, the contracting authority could be ordered to pay damages to the unsuccessful tenderer in respect of any loss sustained as a result of the contracting authority's breach of duty.

Signed: