Public Procurement World - Singapore

1. The Laws

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# a. What is the applicable legislation?

The laws governing public sector procurement are primarily set out in the Government Procurement Act (Cap. 120) ("GPA") and subsidiary legislation promulgated thereunder, namely the Government Procurement Regulations ("GP Regulations"), the Government Procurement (Challenge Proceedings) Regulations ("Challenge Proceedings Regulations"), the Government Procurement (Application) Order ("Application Order") and the Government Procurement Act (Commencement) Notification.

Detailed and comprehensive guidelines on the conduct of government procurement are set out in a section of the Instruction Manual issued by the Ministry of Finance to all public sector officers ("IM on Procurement") which is not publicly available.

# b. Does the legislation relate to or interact with any applicable trade agreement, such as the European Union procurement rules, WTO Government Procurement Agreement (GPA) or the procurement requirements of the North American Free Trade Agreement (“NAFTA”)?

The GPA is intended to give effect to Singapore's obligations under international treaties, in particular the plurilateral 1994 Agreement on Government Procurement established under the auspices of the World Trade Organisation ("1994 Agreement").

Obligations on government procurement can also be found in various bilateral and multilateral treaties that Singapore has entered into, including the Agreement between New Zealand and Singapore on a Closer Economic Partnership ("ANZSCEP"), the Agreement between Japan and Singapore for a New Age Economic Partnership ("JSEPA"), the EFTA-Singapore Free Trade Agreement ("ESFTA"), the Singapore-Australia Free Trade Agreement ("SAFTA") and the United States-Singapore Free Trade Agreement ("USSFTA").

# c. What are the basic underlying principles of the legal framework?

The framework for public sector procurement enshrines the Singapore government's commitment to the following principles:

openness and fairness – suppliers should be given equal access to opportunities and compete on a level playing field in order to ensure that the best offers possible are received.

transparency – all stages of the procurement lifecycle should be open and transparent and the objectives, criteria and procedures associated with the procurement should, as far as possible, be made known to suppliers.

value for money – the selected supplier should offer the best value for money (i.e., the optimal balance of benefits measured against the total cost of ownership); the tender does not need to be awarded to the lowest bidder.

# d. Is aerospace and defense procurement treated differently from other types of procurement?

The GPA applies in respect of procurement by the Ministry of Defence, but only in relation to certain categories of goods listed in the Fifth Schedule of the Application Order. The list is mainly comprised of generic goods or goods of a non-sensitive nature (e.g., motor vehicles, engine accessories, furniture, office supplies, clothing, personal equipment, and toiletries).

This implies that the procurement of other goods by the Ministry of Defence, such as the purchase of major military equipment, weapons, arms and munitions, is excluded from the ambit of the GPA. This is in line with the exception set out in paragraph 1 of Article XXIII of the 1994 Agreement in relation to "the procurement of arms, ammunition or war materials, or to procurement indispensable for national security or for national defence purposes".

In a similar vein, the GPA does not apply to procurement undertaken by certain agencies under the Ministry of Home Affairs (e.g., the Criminal Investigation Department of the Singapore Police Force) or to procurement undertaken by the Ministry of Home Affairs that has security implications.

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