

Singapore

Legal and institutional framework

In Singapore, clear and comprehensive regulations for the conduct of public procurement have been seen as the fundamental prerequisite for curbing corruption in public contracting. Government procurement in Singapore—worth SGD7.5 billion (about USD4.5 billion) a year—is subject to regulations of the Government Procurement Act and three decrees: the Government Procurement Regulations, the Government Procurement (Challenge Proceedings) Regulations, and the Government Procurement (Application) Order. Additionally, the Ministry of Finance is entitled to establish regulations regarding a wide scope of procurement aspects, such as the prequalification and awarding procedures or the technical specifications for procurement. Government instruction manuals issued by the Ministry of Finance provide additional guidance to procuring entities and to potential bidders. The whole procurement framework also applies to state-owned enterprises. However, procurement in respect of some security-sensitive purchases, such as contracts made by the Internal Security Department, Criminal Investigation Department, and Security Branch, and procurements by the Ministry that have security considerations, is exempt from the application of tendering regulations. Singapore's public procurement laws apply to all government procurement for purchases worth more than SGD70,000 (about USD40,000).

In general, government procurement activities in Singapore have been decentralized to individual ministries, departments, and statutory boards. Centralized purchasing, however, is carried out for common goods and services used throughout the public service.

Procurement methods and procedures

A key measure to avoid corruption through collusion and arbitrary agreements relating to changes in procurement methods and proceedings is to provide procurement regulations with a wide but well-defined scope of application. Singapore's procurement framework foresees open, selective, and limited tendering. Additionally, sole-source procurement is possible in exceptional cases. Limited tendering may be used for purchases concerning national security, in situations of urgency, or when a tendering has failed. A tender is deemed failed if not a single responsive bid was submitted. To avoid failure of tenders, the Government publishes plans indicating major purchases foreseen for

the following fiscal year. As an additional measure to prevent malicious alteration of the procurement method, limited tendering has to be approved by the Permanent Secretary of the ministry concerned or the head of the state-owned enterprise.

As procurement planning may be particularly exposed to corruption, procurement procedures, regulations, and capacities ought to be transparent for all parties involved, and overseen properly to combat corruption through an approach that both prevents and punishes corruption. In this regard, all procurement operations, beginning with the announcement of a tender to the awarding of the contract, are made through an online business center for government electronic business (GeBIZ) where all tender notices containing information on the procuring entity, description of products, services, or works to be procured, dates of tender opening and closing, and venue for the collection of tender documents are published.

The content of tender documents is prescribed by law. The documents must set out all evaluation criteria, but these are not limited by law. As regards the admission of tenderers for selective and limited tendering, the procurement regulations do not explicitly enumerate the applicable criteria.

The selection criterion for the contract to be awarded is the lowest price, if all other tender specifications are met, unless other criteria have been defined and set out in the invitation to tender.

The selection of a bidder and the award of the contract are announced on the GeBIZ Web site. Furthermore, the contracting authority provides, at the request of an eligible supplier, an extensive explanation of its procurement practices and procedure and pertinent information about the selection of the tender, allowing bidders to review the evaluation result.

Safeguarding and enforcing integrity

Singapore has put in place a number of provisions aimed at bolstering the integrity of procuring agency staff and bidders. Agency staff are subject to a code of conduct, under which they are obliged, among others, to disclose to the relevant department attempts to unduly influence procurement decisions. Additionally, any person affected by procedural lapses or corrupt offenses is entitled to lodge a complaint with these administrative bodies in charge. The informant's identity is protected under the Prevention of Corruption Act.

To underline the priority of integrity in government procurement in Singapore, penal sanctions against procurement personnel found guilty of fraudulent practices such as accepting or soliciting bribes are particularly harsh when compared with the penalties for the offense of bribery in general. Up to seven years' imprisonment may be imposed for active or passive bribery in government procurement. In addition, procurement personnel face civil sanctions. Any gratuity given by any person to an agent in contravention of the law may have to be recovered by the principal as a civil debt either from the agent or from the person who gave the gratuity to the agent.

Sanctions applicable to fraudulent bidders include the possible termination of the awarded contract and the recovery of damages resulting from such termination. Moreover, suppliers convicted of a criminal offense related to the conduct of their business or profession may be debarred by individual procurement entities from future government tenders.

Besides, to ensure the proper sanctioning of any attempt to undermine procurement regulations, anyone who has suffered, or reasonably risks suffering, loss or damage as a result of a breach of a contracting authority's duty is entitled to seek binding judicial decision by appealing to the Government Procurement Adjudication Tribunal. The Tribunal may order the nullification of any decision or action taken by the contracting authority concerned, or the contracting authority may be ordered to make a decision or take action in accordance with the applicable regulations, which include measures involving the termination of contract, re-tendering, liquidation of damages, and debarment from future public tenders. The applicant may lodge a notice of challenge within 15 days from the date on which the facts constituting the basis of the challenge first took place, and pays a fee of SGD500 (about USD300), as well as a deposit of SGD5,000 (about USD3,000). The Tribunal generally has to issue its ruling within 45 days from the date the notice of challenge is lodged. If the contract has already been awarded, the Tribunal may decide only to have the costs of the applicant for the procurement process reimbursed.

Singapore conducts regular mandatory internal and external audits of procurement processes. These audits are performed at least yearly. Audit reports by the Auditor-General's Office are made available to the public. Documentation regarding the procurement proceedings has to be kept by the procuring entity for at least three years.

A way forward

To ensure a thorough review of procurement decisions if allegations of corruption surface, Singapore might wish to find out whether keeping procurement documentation for three years is long enough. It is, however, noted that the mandatory tendering of government contracts through the government procurement Web site since 2004 has greatly facilitated documentation storage. The electronic records are now kept more than three years in the system before they are archived for future reference and audit.

Relevant documentation

Access to Singapore's Government Procurement Act and all related subsidiary legislation: <http://statutes.agc.gov.sg>

Singapore's online business center for government electronic business: <http://www.gebiz.gov.sg>