

HARMONIZATION OF PROCUREMENT POLICIES OF STATE-OWNED ENTERPRISES

Report on the Review of Current Procurement Policies of SOEs
and Adaptability of Current Public Finance Framework to SOEs

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Acronyms

Aasandha	Aasandha Company Limited
ACC	Anti-Corruption Commission
ADB	Asian Development Bank
AGO	Auditor General's Office
AIA	Addu International Airport Private Limited
BCC	Business Centre Corporation Limited
BML	Bank of Maldives Plc
Dhiraagu	Dhivehi Raajjeyge Gulhun Plc
FDC	Fahi Dhiriulhun Corporation Limited
FENAKA	Fenaka Corporation Limited
GDP	Gross Domestic Product
GIL	Gulhifalhu Investments Limited
GMIZL	Greater Male' Industrial Zone Pvt Ltd
GoM	Government of Maldives
HDC	Housing Development Corporation
HDFC	Housing Development Financing Corporation Plc
IAS	Island Aviation Services Ltd
IATC	Inter-Agency Tender Committee
IMF	International Monetary Fund
KACL	Kadhdhoo Airport Company Limited
MACL	Maldives Airports Company Limited
MCIF	Maldives Centre for Islamic Financing Limited
MFMC	Maldives Fund Management Company Limited
MHCL	Maldives Hajj Corporation Limited
MIB	Maldives Islamic Bank Plc
MITDC	Maldives Integrated Tourism Development Corporation Limited
MMA	Maldives Monetary Authority
MMPRC	Maldives Marketing and Public Relations Corporation Limited
MNACI	Maldives National Association for Construction Industry
MoF	Ministry of Finance
MPL	Maldives Ports Limited
MSCL	Maldives Sports Corporation Limited
MSE	Maldives Stock Exchange
MTCC	Maldives Transport and contracting Company Plc
MTDC	Maldives Tourism Development Corporation Plc
MWSC	Male' Water and Sewerage Company Private Limited
NTB	National Tender Board
PCB	Privatisation and Corporatization Board
PLC	Public Limited Companies
PSM	Public Service Media
RDC	Road Development Corporation Limited
SDFC	SME Development Finance Corporation Private Limited
SOE	State-Owned Enterprises
STELCO	State Electric Company Limited
STO	State Trading Organization Plc
TCL	Thilafushi Corporation Limited
Tradenet	Tradenet Maldives Corporation Limited
WAMCO	Waste Management Corporation Limited

Table of Contents

SECTION 1: REPORT ON REVIEW OF CURRENT PROCUREMENT POLICIES OF SOES.....	5
1 INTRODUCTION.....	5
1.1 SCOPE OF THE ENGAGEMENT	5
2 METHODOLOGY	7
2.1 REVIEW OF KEY DOCUMENTS AND RELEVANT LITERATURE.....	7
2.2 SOE SURVEY AND CONTENT ANALYSIS	8
3 SETTING THE CONEXT	12
3.1 SOE SECTOR IN THE MALDIVES.....	12
3.2 TYPE AND QUANTUM OF PROCUREMENT IN SOES.....	13
4 ASSESSMENT OF THE PROCUREMENT SYSTEMS OF SOES	18
4.1 PROCUREMENT POLICY FRAMEWORK	18
4.2 IMPLEMENTING POLICY AND TOOLS TO SUPPORT POLICY FRAMEWORK.....	32
4.3 ORGANIZATIONAL AND MANAGEMENT CAPACITY.....	33
4.4 PROCUREMENT OPERATIONS AND MARKET PRACTICES.....	35
4.5 ACCOUNTABILITY, INTEGRITY AND TRANSPARENCY OF THE PROCUREMENT SYSTEM.....	36
SECTION 2: REPORT ON REVIEW OF CURRENT PUBLIC FINANCE FRAMEWORK.....	38
1 INTRODUCTION.....	38
2 PUBLIC PROCUREMENT SYSTEM.....	38
2.1 LEGAL AND REGULATORY FRAMEWORK	38
2.2 INSTITUTIONAL FRAMEWORK AND MANAGEMENT CAPACITY.....	42
2.3 PROCUREMENT OPERATIONS AND MARKET PRACTICES.....	43
2.4 E-PROCUREMENT SYSTEM.....	43
2.5 INTEGRITY AND TRANSPARENCY OF THE PUBLIC PROCUREMENT SYSTEM.....	44
3 STRENGTHS.....	45
4 WEAKNESSES.....	45
SECTION 3: CONCLUSIONS AND RECOMMENDATIONS.....	46
1 INTRODUCTION.....	46
2 SOE PROCUREMENT POLICY AND GUIDELINES	46
2.1 SCOPE OF APPLICATION AND COVERAGE OF SOE PROCUREMENT POLICIES	46
2.2 PROCUREMENT PRINCIPLES	47
2.3 PROCUREMENT METHODS	48
2.4 EMERGENCY PROCUREMENT	50
2.5 PROCUREMENT THRESHOLDS.....	50
2.6 BID EVALUATION COMMITTEES	52
2.7 ADVERTISING RULES AND TIME LIMITS	53

2.8	BID DOCUMENTATION AND SPECIFICATIONS.....	53
2.9	EVALUATION AND AWARD CRITERIA.....	54
2.10	SUBMISSION, RECEIPT AND OPENING OF TENDERS.....	55
2.11	RIGHT TO CHALLENGE AND APPEAL.....	56
2.12	CONTRACT MANAGEMENT.....	56
2.13	CONTRACT VARIATIONS AND ADVANCE PAYMENTS.....	56
2.14	ELECTRONIC PROCUREMENT (E-PROCUREMENT).....	57
2.15	NORMS FOR SAFEKEEPING OF RECORDS, DOCUMENTS AND ELECTRONIC DATA.....	57
3	ORGANIZATIONAL AND MANAGEMENT CAPACITY.....	58
3.1	PROCUREMENT EXPENDITURE AND THE BUDGET CYCLE.....	58
3.2	ORGANISATION, FUNDING, STAFFING, AND LEVEL OF INDEPENDENCE AND AUTHORITY.....	58
3.3	AVOIDING CONFLICT OF INTEREST.....	58
3.4	DEFINITION, RESPONSIBILITIES AND FORMAL POWERS OF PROCUREMENT DEPARTMENT PERSONNEL.....	59
3.5	TRAINING, ADVICE AND ASSISTANCE.....	59
3.6	MONITORING PERFORMANCE TO IMPROVE THE SYSTEM.....	59
4	PROCUREMENT OPERATIONS AND MARKET PRACTICES.....	60
5	ACCOUNTABILITY, INTEGRITY AND TRANSPARENCY OF THE PROCUREMENT SYSTEM.....	60
5.1	ADEQUATE AND TIMELY ACCESS TO INFORMATION BY THE PUBLIC.....	60
5.2	CO-ORDINATION OF CONTROLS AND AUDITS OF PROCUREMENT PROCESS.....	60
5.3	ANTI-CORRUPTION MEASURES.....	61
5	ANNEX 1: STAKEHOLDERS CONSULTED.....	63
6	ANNEX 2: LIST OF DOCUMENTS REVIEWED.....	65
7	ANNEX 3: LIST OF SOES INCLUDED IN THE ANALYSIS.....	65
8	ANNEX 4: LIST OF SOES EXCLUDED IN THE ANALYSIS.....	66
9	ANNEX 5: QUESTIONNAIRES RECEIVED.....	66
10	ANNEX 6: QUESTIONNAIRES NOT RECEIVED.....	67
11	ANNEX 7: REVENUE OF SOES (MVR).....	67
12	ANNEX 8: TOTAL ASSETS OF SOES (MVR).....	68
13	ANNEX 9: SALARIES AND WAGES OF SOES (MVR).....	69
14	ANNEX 10: OPERATING PROFIT OF SOES (MVR).....	69

SECTION 1: REPORT ON REVIEW OF CURRENT PROCUREMENT POLICIES OF SOES

1 INTRODUCTION

In strengthening the governance and management of State-Owned Enterprises (SOEs) the Ministry of Finance (MoF) has undertaken to improve their system of procurement, by harmonizing and aligning the procurement policies of SOEs with the Public Procurement Act, the Public Procurement Guidelines and the Privatization and Corporatization Act (Act No.: 3/2013).

Presently, procurement guidelines and practices are heterogenous across the SOE sector, with wide variations in the robustness of procurement mechanisms in place, making SOEs susceptible to inefficiency, potential corruption and abuse and negative public perception. This has created the need to modernize and to standardize the procurement policies and practices to ensure adherence to the basic procurement principles of transparency, competition, value for money and integrity.

The objective of the consultancy is to develop a principle-based harmonized procurement policy for all the SOEs which is within the parameters set in the public finance regulations, that will help the SOEs to procure goods and services in a more competitive, transparent and cost-effective manner.

This report is divided into three sections as stated below, corresponding to deliverables 1 and 2 of this engagement:

- Section 1: Report on review of current procurement policies.
- Section 2: Report on review of current public finance framework which can be adopted into SOE procurement policies and international good practice in the parastatal sector
- Section 3: Conclusions and Recommendations

1.1 Scope of the Engagement

This engagement is divided into two primary components. Firstly, the Consultant was required to review the existing policies and procedures adopted by the SOEs, and assess the public procurement regulations and best practices that can be adopted to SOEs in the Maldives. Secondly, the Consultant is expected to develop a set of procurement policy principles which can be applied to SOEs and which can provide

flexibility to SOEs while maintaining transparency and competitiveness. Specific tasks as laid out by the Terms of Reference (TOR) are as follows:

- a) Conduct an analysis of procurement of goods, works and services procured by SOEs
- b) Research on current procurement policies, practices and performance of SOEs with particular focus on time lag in the completion for each of the major procurement milestones and total time taken to procure from bid announcement to contract signing.
- c) Consult the Privatization and Corporatization Board (PCB), the Ministry of Finance, the Auditor General's Office, the private sector and civil society to determine the strengths and weaknesses of SOE public procurement to inform the reform. Analyse models and principles to harmonize procurement policies of SOEs which will enable transparency and competitiveness in procurement activities, including good international practice in similar economies
- d) Review the current public finance framework and analyse principles which can be adopted into SOE procurement policies.
- e) Develop functional responsibilities of the procurement function and job description and competency requirements of the main staff of the procurement function.
- f) Prepare draft Procurement Policy for SOEs, including a clear, effective and transparent process to apply this policy across SOEs following the "comply or explain" principle
- g) Coordinate with National Tender of Ministry of Finance and other relevant stakeholders to obtain feedback to draft Procurement Policy and Job Descriptions and Competencies
- h) Amend Procurement Policy, Job Descriptions and Competencies as per the feedback from stakeholders
- i) Familiarization workshop(s) on implementing procurement policy and adoption of Job Descriptions to stakeholders

This report addresses the first component which presents two deliverables as described below:

1. Section 1 - Report on review of current procurement policies which shall address the tasks in Section III. (a) and (b), of SOEs to harmonize procurement policies of SOEs, based on stakeholder consultation and review of audit reports.
2. Section 2 - Report on review of current public finance framework which can be adopted into SOE procurement policies and international good practice in the parastatal sector.

2 METHODOLOGY

The study comprised four main components – firstly, a review of national legislative and policy documents relevant to public sector procurement and of conceptual and academic literature on the sector from the Maldives and elsewhere was undertaken. Secondly, a survey of the SOEs procurement practices were conducted using a standard questionnaire. Thirdly, a content analysis of the procurement policies of SOEs was carried out. The fourth component was a series of purposive in-depth interviews conducted with a number of SOEs, and a second set of interviews were conducted with selected stakeholders such as members of the public, NGOs, government officials, and watchdog agencies. The interviews for the second and third components were conducted in person.

2.1 Review of Key Documents and Relevant Literature

The national procurement related legislative and policy documents consulted in the course of this study included:

- Public Finance Act 2006 and Amendments
- Public Finance Regulation 2017/R-20 and Amendment
- Proposed changes to the Public Finance Regulation
- Privatization, Corporatization, Monitoring and Evaluation of Government Businesses' Act (Law no. 3/2013)
- Corporate Governance Code for SOEs, May 2019

In addition, the study collected and reviewed documents relevant to the public sector procurement including recent reports by IMF and other donor project reports related to SOE governance and public sector procurement. The methodology used for collecting these documents included sources such as key NGOs working on related issues and web searches on the internet sites of relevant Ministries, NGOs and donor agencies.

2.2 SOE Survey and Content Analysis

2.2.1 Selecting SOEs for content analysis

The Privatization, Corporatization, Monitoring and Evaluation of Government Businesses' Act 2013 defines an SOE as any business entity with any share of the GoM. However, applying a standardized set of rules for entities with minority shares or to public limited companies have been found impractical. Such entities often have restrictive shareholder agreements signed at the formation, and or in the case of public limited companies are subject to additional set of rules, making it harder to impose further operational or governance restrictions. For this reason, this study adopts the more practical SOE definition framed by PCB in the Corporate Governance Code for SOEs (CG Code). PCB has narrowed down SOEs in its published CG Code for SOEs in 2019 as follows:

".. a Company [entity] where the State owns 50% or more of the shares. Also, by virtue of the distribution/ dispersion of shareholding or by contract concluded between the shareholders are controlled by the State. For avoidance of doubt, publicly listed companies shall not fall within the definition of State-Owned Enterprises for the purpose of applicability of this Code."

The survey aimed to capture all active SOEs (as per PCB definition), which aligns with the ultimate purpose of the study, which is to provide critical information for the development of a harmonised procurement guideline for SOEs.

For that purpose, all inactive SOEs were considered irrelevant and excluded from the study. Hence, total population for the study was considered to be only active SOEs with over 50% ownership of the GoM, totalling 24. All 24 entities were included in the study. *Table 2-1* shows an analysis of SOEs, by shareholding, in the Maldives.

In addition to the information captured through SOE survey, following documents were requested from all the entities via PCB.

- Procurement Policies of the SOE
- 2019 Budget of the SOE
- 2018 Financial Statements of the SOE
- Quarterly Financial Statements of the SOE
- Delegation of Authority matrix (approval levels) of the SOE
- Organizational Chart of procurement department of the SOE

This analysis helped to understand the current policies adopted by the SOEs, and nature of its procurement practices. This analysis also helped to identify the

thresholds applied by the SOEs, and some of the principles and ethics advocated for in the procurement policies.

Table 2-1: SOEs in Maldives

Total number of SOEs	64
<i>Total non-PLC SOEs with over 50% ownership</i>	53
<i>Total Active SOEs</i>	33
<i>Total Active non-PLC SOEs with over 50% ownership</i>	24
Active GoM Companies	
100% GoM Owned and Active (Ltd)	21
50% or greater GoM Owned and Active (Ltd)	3
50% or less GoM Owned and Active (Ltd)	0
Inactive GoM Companies	
100% GoM Owned and inactive (Ltd)	28
50% or greater GoM Owned and inactive (Ltd)	1
50% or less GoM Owned and inactive (Ltd)	2
Active PLC with GoM Ownership	
50% or greater Government Owned and Active (PLC)	3
50% or less Government Owned and Active (PLC)	4
Active Corporative Societies with GoM Ownership	
50% or greater GoM owned Corporative Societies	0
50% or less GoM owned Corporative Societies	2

2.2.2 In-depth interviews

Given the size of the population of SOEs and high variability observed across survey responses, a sizeable proportion of SOEs were then selected for the third component of this study, i.e. the in-depth qualitative interviews. For these reasons, all SOEs as per the definition adopted for this study were included in the sample, and meeting requests were sent to all 24 SOEs.

2.2.3 Administering the interviews

The methodology used to identify and interact with the respondents comprised the following steps:

1. Contact details and names of focal persons for the SOEs were obtained through MoF.
2. The person was contacted and informed of the on-going study and requested to participate in the study and/or to suggest the names of other relevant persons from the organisation (i.e., head of procurement function or another

senior staff involved in the procurement process). Details of the interview, its duration and main topics were discussed with the potential informant and an appointment for the interview was made (if willing). An open-ended questionnaire highlighting major areas for discussion were shared with the informants via email prior to the meeting.

3. All the interviews were conducted face-to-face.
4. The data collection period lasted 3 weeks, from mid- January 2020 to mid-February 2020.
5. Interviews typically took 1 to 1.5 hours. On some occasions, organisational documents were exchanged with the informant for further clarification and information following the interview.

2.2.4 SOEs Respondent Details

The following tables show details of the SOEs interviewed.

Table 2-2: Details of SOEs interviews

Total Number of SOEs contacted	24
No of 100% GoM owned SOEs	21
Total Number of SOEs Interviewed	20
No of 100% GoM owned SOEs Interviewed	18
Response Rate	83%

Table 2-3: SOEs Sampled and Response Rate

					Sampling details		
#	Name	GOM Ownership	Field of Industry	Issued share Capital (MVR million)	Policy Reviewed	Questionnaire Received	Interviewed
1.	Aasandha	100%	Health	10	Yes	No	Yes
2.	AIA	50%	Aviation	400	Yes	Yes	Yes
3.	BCC	100%	Business	-	Yes	Yes	Yes
4.	FDC	100%	Social Housing		Yes	Yes	Yes
5.	Fenaka	100%	Provision of utilities	750	Yes	No	Yes
6.	GMIZL	100%	Industrial Island	1,500	Yes	Yes	Yes
7.	HDC	100%	Residential Housing	442	Yes	Yes	Yes
8.	IAS	100%	Aviation	100	Yes	Yes	Yes
9.	KACL	100%	Aviation	1.88	Yes	No	No

10	MFMC	100%	Investment		Yes	Yes	No
11	MACL	100%	Airports	150	Yes	Yes	Yes
12	MCIF	100%	Islamic Finance Center	10	Yes	Yes	Yes
13	MHCL	100%	Hajj Operations	21	Yes	No	Yes
14	MITDC	100%	Tourism	5	Yes	Yes	Yes
15	MMPRC	100%	Marketing and PR	10	Yes	Yes	Yes
16	MPL	100%	Cargo Handling	425	Yes	Yes	Yes
17	MSCL	100%	Sports	3	Yes	Yes	Yes
18	MWSC	80%	Water and Sewerage	267	Yes	Yes	Yes
19	PSM	100%	Media		Yes	Yes	Yes
20	RDC	100%	Construction		Yes		Yes
21	SDFC	85%	Banking and Finance		Yes	Yes	No
22	STELCO	100%	Provision of Electricity		Yes	Yes	Yes
23	Tradenet	100%	Business		No	Yes	No
24	WAMCO	100%	Waste management	500	Yes	No	Yes
Total					23	18	20
Response %					96%	75%	83%

2.2.5 Stakeholders and Key Informants

Apart from SOEs, representatives from other key stakeholder groups were interviewed for the study from relevant governmental departments, NGOs, independent commissions, and private sector players. The interviews explored their views on the relevance of public sector procurement guidelines for SOEs, key issues and experience with governance and functioning of procurement of SOEs from the angles of ease of conducting business, transparency and anti-corruption.

3 SETTING THE CONEXT

3.1 SOE Sector in the Maldives

There are 64 business entities with GoM shareholding registered in the Maldives, of which 31 entities are inactive (in the process of winding up) and 34 are currently active including 2 subsidiaries of other SOEs. Six SOEs are publicly listed in the Maldives Stock Exchange (MSE)¹, accounting for 66% of total market capitalization at the end of 2019.

SOEs are an important part of the economy as it is primarily involved in delivery of core public infrastructure services. To some extent, the large role of SOEs reflects the geographical uniqueness of the Country – an archipelago of dispersed islands each with a small population and high per capita costs of delivering public services under limited possibilities to achieve efficient scale of operations². SOEs are active in banking, telecommunications, financial sector (for housing and Islamic finance), residential housing (including social housing), aviation, airport operations, cargo handling, tourism, public transport, utilities (water & sewerage, electricity), general trading, marketing and public relations, health, hajj pilgrimage, sports, waste management, media, investment and construction sector.

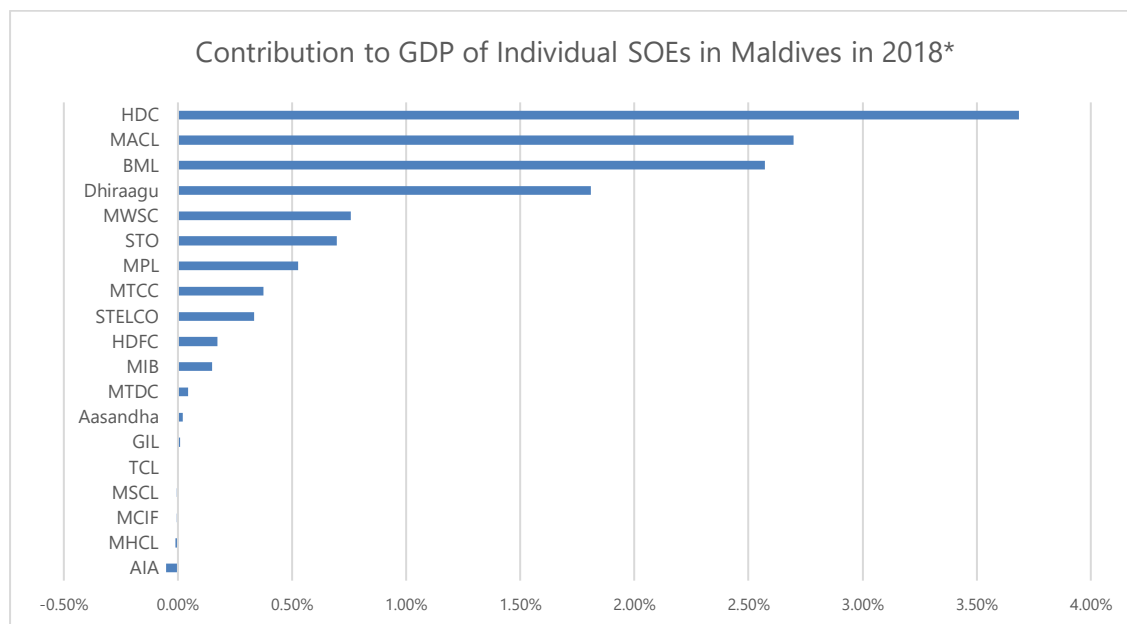
An important indicator for the value SOEs creates to economy is their contribution to GDP as measured by the sum of operating profits and salaries and wages as a percentage of GDP. The contribution to GDP³ of 19 SOES⁴ based on available data amounts to 13.8% in 2018 while in 2017, SOEs contributed to 20.1% of GDP (see Annexes 9 & 10).

¹ Listing of HDFC bond on MSE technically brings total number of listed companies to 7.

² IMF Article IV, 2019

³ MMA Annual Report 2018. GDP for 2018 is projections available as at October 2018 forecasted by Ministry of Finance and Maldives Monetary Authority.

⁴ Excludes GMIZL (for 2018), WAMCO, PSM, MPMRC, MITDC, IAS, FENAKA, KACL, BCC. Aasandha is excluded in operating profit as it does not generate revenue.



* Calculated based on operating profits and salaries & wages of SOEs shared by MoF

As per available data, total revenue generated by 18 SOEs in 2018 was MVR26.2 billion of which 11 SOEs that are non-PLCs and with GoM majority shares accounted for 37.8% of total revenue (see Annex 7). Total assets of 19 SOEs in 2018 was MVR94 billion of which 12 SOEs that are non-PLCs and with GoM majority shares accounted for 57.6% of total assets (see Annex 8).

3.2 Type and quantum of procurement in SOEs

Table 3-1 shows expenditure of procurement of SOEs for goods, works and services in SOEs.

Among the 17 SOEs from which data was received, average expenditure on procurement of goods and services (including works) were distributed evenly. However, significant differences can be observed in the nature of procurement expenditure amongst the largest 4 spenders (in terms of amounts procured) compared with the rest of the entities. As is evident from

Table 3-1, the largest 4 spenders (i.e. MACL, STELCO, MWSC and MPL) makes up over 96% of the total expenditure. For these 4 SOEs, the bulk of procurement have been goods (averaging about 83%) whilst for the rest of the entities, goods procured averaged only 38% of total procurement by value.

Table 3-1: Expenditure on of goods, works and services in SOEs in 2019 (MVR Thousands)

SOE	Goods ¹ ('000 MVR)	Works ² ('000 MVR)	Services ³ ('000 MVR)	Total	Goods (%)	Works (%)	Services (%)
MACL	3,997,400	503,430	44,800	4,545,630	88%	11%	1%
STELCO	1,478,700	12,000	50,000	1,540,700	96%	1%	3%
MWSC	180,030	23,612	9,612	213,254	84%	11%	5%
MPL	121,500	60,300	5,000	186,800	65%	32%	3%
MMPRC	1,854	1,117	107,370	110,340	2%	1%	97%
AIA	50,662	300	3,280	54,242	93%	1%	6%
HDC	13,302	3,132	16,105	32,538	41%	10%	49%
GMIZL	994	12,507	8,519	22,021	5%	57%	39%
IAS	5,732	2,500	7,323	15,555	37%	16%	47%
PSM	1,839	1,598	1,523	4,960	37%	32%	31%
MCIF	38	84	1,770	1,892	2%	4%	94%
FDC	760	-	1,002	1,761	43%	0%	57%
SDFC	1,535	-	126	1,661	92%	0%	8%
MFMC	508	-	862	1,370	37%	0%	63%
MSCL	281	-	328	609	46%	0%	54%
MITDC	104	107	60	271	38%	40%	22%
BCC	63	-	146	209	30%	0%	70%
Average	344,430	36,511	15,166	396,107	49%	13%	38%
Notes: ¹ Includes stock for resale, fuel, stationary, furniture & fittings, machinery and spare parts, IT related equipment, vehicles, land and other fixed assets ² Include new construction, renovations and repair works ³ Includes property rental, consultancy services (audit, accounting, legal and advisory work), software implementation, contracts for non-consulting services such as maintenance, cleaning and others.							

The primary difference between the largest 4 SOEs and the rest are the significant expenditure on fuel, machinery and spare parts, and stock purchases for resale, owing

to the nature and scale of their operations (see *Table 3-2*). On average these 4 categories accounted for over 75% of expenditure in these 4 SOEs, whilst it accounted for only 42% in the rest of the entities.

Table 3-2: Expenditure on Stock, Fuel and Machinery for the 4 largest SOE sampled (MVR Thousands)

SOE	Stock for resale (MVR 000s)	Fuel (MVR 000s)	Machinery and spare parts (excluding IT) (MVR 000s)	As a % of total procured, 2019 (MVR 000s)
MACL	426,600	3,420,000	69,300	86%
STELCO	96,000	1,331,000	30,000	95%
MWSC	-	150,045	15,689	78%
MPL	700	42,000	31,700	40%

The most prominent category of expenditure on works is on new construction contracts, and on renovation and repairs contracts (on average accounting for 71%). The largest non-works category service contracts were for property rental and consultancy contracts together accounting for 5%. See *Table 3-3* for a detailed breakdown of expenditure categories for works contracts.

Table 3-3: Breakdown of expenditure categories for Works and Services Contracts (MVR Thousands)

SOE	New constructions/ structures	Renovations & repairs	Property Rental	Consulting Services ¹	Software implementati on	Non- consulting Services ²	Other
MACL	499,630	3,800	-	500	-	800	43,500
STELCO	2,000	10,000	11,200	1,200	2,600	2,000	33,000
MWSC	7,866	15,745	-	9,014	-	598	-
MPL	10,000	50,300	4,300	500	-	200	-
MMPRC	-	1,117	2,152	787	-	708	103,723 ³
AIA	-	300	1,480	1,300	-	-	500
HDC	3,025	107	-	419	147	7,761	7,777
GMIZL	11,069	1,439	1,453	2,614	-	4,166	286
IAS	-	2,500	2,070	53	3,100	2,100	-
PSM	-	1,598	-	349	147	1,027	-
MCIF	-	84	984	713	-	37	36
FDC	-	-	581	25	113	81	202
SDFC	-	-	-	60	30	36	-
MFMC	-	-	311	531	-	-	19
MSCL	-	-	-	-	6	17	304
MITDC	-	107	60	-	-	-	-
BCC	-	-	135	-	-	11	-
Total	533,590	87,097	24,727	18,065	6,143	19,543	189,347

Percent of total works and services expenditure	61%	10%	3%	2%	1%	2%	22%
Notes ¹ Includes audit, accounting, legal and advisory services ² Includes maintenance, cleaning, etc. ³ Marketing, PR retainer & stand constructions fees							

Less entities were able to estimate the number of transactions in each category of expenditure. Based on the data received from 14 entities, there were 33,513 transactions in 2019, averaging 2,394 transactions per entity. 53% of the transactions were towards purchases of goods, while 14% towards works and 33% towards service contracts (see *Table 3-4* for details).

MPL had the largest number of transactions, totalling over 22,000 during the year (66% of all SOE procurement transactions). 50% of these transactions were towards renovation and repair works contracts, followed by fuel purchases, both categories together accounting for over 75% of their total transactions.

Table 3-4: Estimated number of transactions for goods, works and services procured by SOEs in 2019

SOE	Goods ¹	Works ²	Services ³	Total	Goods (%)	Works (%)	Services (%)
MPL	10,102	11,705	286	22,093	46%	53%	1%
MACL	4,169	163	60	4,392	95%	4%	1%
HDC	540	1,022	240	1,802	30%	57%	13%
GMIZL	207	854	667	1,728	12%	49%	39%
IAS	1,287	18	9	1,314	98%	1%	1%
MMPRC	118	21	1,046	1,185	10%	2%	88%
AIA	367	40	75	482	76%	8%	16%
FDC	39	-	91	130	30%	0%	70%
MSCL	25	-	67	92	27%	0%	73%
SDFC	80	-	3	83	96%	0%	4%
MCIF	21	20	39	80	26%	25%	49%
MFMC	32	-	44	76	42%	0%	58%
MITDC	25	1	3	29	86%	3%	10%
BCC	18	-	9	27	67%	0%	33%
Average	1,216	989	189	2,394	53%	14%	33%
Notes: ¹ Includes stock for resale, fuel, stationary, furniture & fittings, machinery and spare parts, IT related equipment, vehicles, land and other fixed assets ² Include new construction, renovations and repair works ³ Includes property rental, consultancy services (audit, accounting, legal and advisory work), software implementation, contracts for non-consulting services such as maintenance, cleaning and others.							

Excluding MPL, on average SOEs had the greatest number of transactions towards Stationary purchases (20%), Machinery and Spare parts (20%) and Stock for resale (11%).

Table 3-5: Number of Transactions and Total amount spent for categories of procurement in SOEs, 2019

SOE	No of Transactions ¹	Amount MVR (000) ²
Goods		
Stock for resale	1,217	545,446
Fuel	5,845	4,948,449
Stationery	3,761	33,580
Furniture and Fittings	588	11,098
Machinery and spare parts (excluding IT)	3,828	152,139
IT Equipment (hardware and software)	928	34,067
Vehicles	20	69,853
Land	-	7,320
Other	843	53,349
Works		
New constructions/structures	1,823	533,590
Renovations & repairs	12,021	87,097
Services		
Property Rental	329	24,727
Consulting Services (Audit/Accounting/ legal/Advisory)	181	18,065
Software implementation	13	6,143
Non-consulting Services (maintenance, cleaning, etc.)	708	19,543
Other	1,408	189,347
Notes: ¹ Sample size 14 ² Sample size 17		

4 ASSESSMENT OF THE PROCUREMENT SYSTEMS OF SOES

4.1 Procurement Policy Framework

4.1.1 Overview

All SOEs surveyed have written procurement policies in place. SOEs use internally developed policies which had been approved by the **entities** Board of Directors. While Fenaka, MHCL, PSM, STELCO and Aasandha uses a modified version of the procurement guidelines issued by PCB in 2011⁵, other SOEs have used multiple sources for the basis of their policy development.

Majority of the policies were written in English language (78%), while the rest was in Dhivehi language (22%). Level of detail, style and adequacy of presentation of the policies varied considerably among the entities. Proportion of SOEs that covered main content areas of procurement policies are as shown below:

- Easy to follow content page (83%)
- Introduction, objective and scope (100%)
- Code of conduct and conflict of interest (67%)
- Roles and responsibilities (100%)
- Procurement Methods and thresholds (100%)
- Tendering rules/guidelines/procedure (67%)
- Dealing with corruption by bidders (17%)
- Policy review regularity (11%)
- Documentation and Report keeping rules (6%)

Most of the policies were kept either in hardcopy or in .pdf format and is not easy to search or refer when needed.

In 91% of SOEs policies were reviewed as and when a need arises. Such need may arise either internally due to operational difficulty or externally due to an intervention or a recommendation from an external source such as MoF. Even in entities where regular review was required by policy this was not followed.

⁵ "Strategy and Guideline for procurement of goods and services for SOEs", passed by PCB board meeting 35/2011 dated 12 December 2011

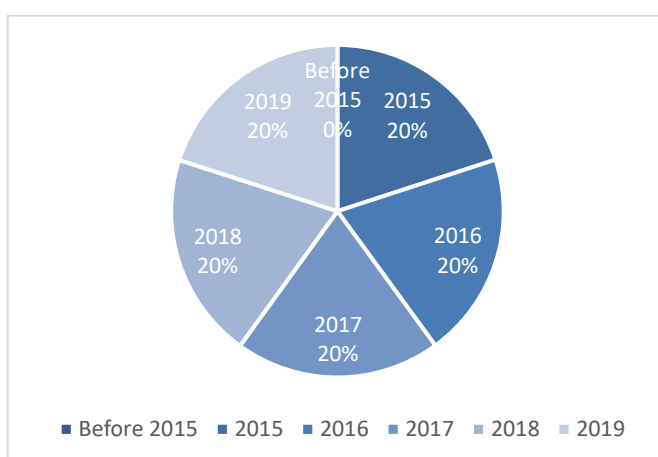


Figure 4- 1: When was the Procurement Policy last reviewed?

4.1.2 Scope of application and coverage of SOE procurement policies

For all SOEs, the scope of application of the policy covered all purchases of goods, works and services, including consulting services for all procurements using company or borrowed funds. Thresholds and approval limits are adequately documented within the policies. In SOEs where exceptions to the rules laid out in the policy exist, it is limited to cases relating to emergency situations.

Procurement policies of SOEs are accessible only to relevant staff, but typically not easily accessible from a centralized location. No SOE sampled has their policy in available in public domain.

4.1.3 Procurement methods

All policies provided an appropriate range of procurement methods comprising competitive and less-competitive bidding. The policies typically defined the situations in which open tendering or alternative procurement methods can be used and specified approval levels in which each can be utilized.

The following procurement methods are generally allowed by policy in SOEs.

1. Direct awards - Single Source and Direct Purchases
2. General Procurement (3 quotations)
3. Select Competitive Bidding
4. Public Competitive Bidding

4.1.3.1 Single Source Procurement

This is a non-competitive procurement sourcing process whereby goods and services are procured through a single source, or a preferred vendor.

With the exceptions of AIA, all other SOEs allowed for direct awards of contracts, either through single sourcing, or direct purchases.

Table 4-1 Table 4- 1 shows the circumstances permitted in the policies to warrant single source, sole source or direct purchases.

Table 4-1: Circumstances permitted under policies to warrant single source, sole source or direct purchases

Items under a certain monetary limit (small purchases)	100%
Item is available only from a single source (e.g. patent/ copyright ownership; exclusive manufactures/ distributors/ agents; spare parts for existing equipment etc.)	61%
After solicitation of a number of sources, competition is determined inadequate	30%
Modification or an extension of an existing contract where it is determined that retendering will not provide value to the entity	22%
The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation	17%
New technologies or equipment not been used before	9%
Based on discretion and judgement of HOD, or MD	9%
Urgency not limited to public exigency or emergency	9%
Supplied by an SOE	9%
Supplied by an SOE and reasonable justification is provided	4%
Supplied by an SOE and no reasonable satisfactory alternative is available	4%
Open to judgement, but requires BOD approval	4%
Needs to be bought for trials or testing	4%
Where tender is not practical, and it is sensible to purchase from a pre-qualified supplier	4%
Fuel purchases	4%
Raw materials from manufacturers, if it can be established that the quotation is within world market price for such materials	4%
Where the supplier / contractor is a party that has been identified from past tender bids for particular goods or services	4%
The good or service is procured as a professional, technical, specialized service/good	4%
When contractor finance is sort	4%
From an approved vendor list	4%
Approved talent pool	4%
Under framework agreement	4%
Open to judgement, but requires approval by the MD and 1 Board Director	4%
To purchase items which are procured online, pay for online subscriptions and cloud services and other items of similar nature	4%

Single source limits for “small item” or petty cash purchases ranges between MVR 500, to MVR5,000. Only 26% of SOEs has a limit on the threshold. The Table 4-2 shows the limits that are subject to approval of the Board of Directors for this method of procurement. No significant link could be established between the size, or nature of SOE and this approval limit.

Table 4-2: Thresholds requiring approval of Board of Directors Approval for Single Source method of procurement

Threshold	Percentage of SOEs
Over MVR 500,000	16%
Over MVR 1,000,000	16%
Over MVR 1,500,000	21%
Over MVR 2,500,000	11%
Over MVR 3,000,000	26%
Over MVR 5,000,000	11%

4.1.3.2 Shopping (Quotations)

Shopping is a procurement method based on comparing price quotations obtained from several suppliers, or vendors, without a public announcement.

Shopping is an allowed method of procurement in all SOEs for items under a certain value threshold. This is the most used method by SOEs in terms of number of procurement transactions. Most SOEs do not maintain an approved vendor list and relies on an unofficial list of vendors compiled in-house for the purpose of obtaining quotations. Some SOEs do not rely on any list at all but use vendors that they have become familiar with over time or find possible vendors through informal sources such as departmental contacts and friends.

Once the vendors have been identified, the most common methods for requesting quotations from vendors are via:

- Phone call
- Email
- Fax
- Letter, closed envelope

Standard forms are sometimes sent with the request for vendors to submit their quotations. Submissions of quotations are accepted via the same methods as stated above. Minimally 3 quotations are required for this type of procurement, unless conditions are met for single sourcing requirements or thresholds.

As can be seen from Table 4-3 **Table 4-3** approving authorities and limits set by SOEs for shopping varies drastically among the SOEs.

Table 4-3: Approving Authorities and approval limits for shopping

SOE	Approving Authority	Limit (MVR)
HDC	(1) Head of Procurement (2) Head of Procurement + Director of Finance Alternative method – Head of Department + MD	(1) 5,001 - 49,999.99 (2) 50,000 - 249,999.99
IAS	(1) 0 – MVR 750,000 – Head of Commercial, Head of Admin & Maintenance, Head of Human Resources (2) > MVR 750,000 – MD & Head of Procurement	(1) 0 – 99,999 (2) 100,000 - 999,999
MACL	(1) Procurement & Stores GM (2) BOD endorsed personnel (Department head, MD also allowed)	(1) < 3,000 (2) 3,000 - 25,000
MPL	(1) CEO (3) Head of Procurement (4) Board of Directors + CEO + FC + procurement dept (5) Head of respective requesting department (6) HOP + FC + CEO (7) CEO + FC + PD	(1) up to 100,000 (special circumstances) (2) up to 100,000 (3) Non-Current Assets < 500,000 (4) Non-Current Asset > 500,000 (5) Mercantile, Inventory & services (MIS) up to MVR 2,500 (6) MIS 2,500 - 500,000 (7) MIS > 500,000
MWSC	(1) up to 249,999: 2 person authorized to execute business & financial transactions, (2) up to MVR 499,999: Head of Financial Management + Head of Supply & Logistics / exe management team member or Deputy Divisional Manager + any other authorized signatory	< 300,000
STELCO	(1) & (2) Head of Procurement	(1) < 50,000 (2) 50K-100K
GMIZL	MD	(1) < 5,000 & < 15,000, (2) <100,000
MMPRC	Senior staff (Director or above)	5,000 - 100,000
AIA	(1)(2) Head of Purchasing Unit (3) By MD or DMD	(1) ≤ 500 to 5,000 (2) ≤5,000 to 50,000 (3) ≤50,000 to 100,000
Aasandha	(1) Head of Procurement	(1) 2,001.00 – 25,000.00
BCC	(1) Financial Controller with consultation of MD	(1) 50,000.00 – 49,999.99
KACL	(1) Head of Procurement (2) MD	(1) < 5,000 (2) 5,000 - 50,000
Fenaka	(1) n/a (2) MD/CEO	(1) 3,001 – 25,000 (2) 25,001 - 225,000.00
MHCL	(1) Head of Procurement (2) MD or person appointed by MD	(1) < 2,000 (2) 2,000 - 50,000
MCIF	Within budget – (1) Manager Administration (2) Manager Admin + Head of Accounts Unbudgeted / Exceeding budget – (1) & (2) MD + Head of Accounts	(1) up to 5,000 (2) 5,000 - 100,000
MSCL	(1) n/a (2) MD	(1) 5,000.00 – 100,000.00 (2) > 100,000.00
MITDC	(1) & (2) Head of Procurement or Head of Finance	(1) < 9,999.99 (2) 10,000.00 - 49,999.99
WAMCO	(1) & (2) Director logistic & maintenance	(1) 1,000 - 10,000 (3) 10,000 - 50,000
PSM	(1)(2) Head of Finance	(1) < 5,000 (2) 5,000 - 25,000
SDFC	MD/BOD	3,000 - 49,999.99
FDC	(1) MD	(1) 5,000 - 34,999.99
MFMC	(1) Head of Department/MD/DMD (2) MD/DMD (3) MD	(1) < 2,000 (2) 2,000.1 – 9,999.99 (3) 10,000 –249,999.99
RDC	Head of Procurement	10,001.00 - 149,999.99

4.1.3.3 Selective Competitive Bidding

Selective Competitive Bidding is an alternative procurement method developed to address the limitations of the open tendering procedure. In Selective Competitive Bidding the request for tenders, quotations, proposals etc is limited to a select number of suppliers/vendors, contractors or service providers. In this type of

procurement, vendors are typically selected based on their proven experience or recognized ability to undertake a particular work.

With the exceptions of MPL, Aasandha, MSCL and WAMCO Selective competitive bidding is allowed in all SOE procurement policies sampled. Following are the circumstances allowed in the policies to allow select competitive bidding:

- Purchases under a certain threshold limit only - 35%
- It is impractical due to time/cost constraints to invite public tenders - 26%
- Only a small number of vendors can participate in the bidding process due to the nature or purpose of the contract - 26%
- Where public tenders are invited and no offer has been received, or any offer received is not acceptable - 26%
- When Public Competitive Bidding is regarded as inappropriate - 22%
- Management discretion - 4%
- It is required to give opportunity to contractors with necessary experience and competence to submit the bids - 4%

Table 4-4: Approving Authorities and approval limits for Selective Competitive Bidding

SOE	Approving Authority	Limit (MVR)
HDC	Head of Department + Director of Finance + Any EXCO member Alternative method – Head of Department + MD	250,000 - 449, 999.99
IAS	Same as open (1) > MVR 750,000 – MD, Head of Procurement (2) > MVR 1,500,000 – BOD	Above 1,000,000
MACL	(1) Department Head (MD also allowed) (2) MD (3) MD – BOD endorsement required	(1) 25,000 – 499,999 (2) ≥ 500,000 (3) ≥ 5 million
MPL	n/a	n/a
MWSC	(1) 2 person authorized to execute business & financial transactions, (2) Head of Financial Management + Head of Supply & Logistics / exe management team member or Deputy Divisional Manager + any other authorized signatory, (3) Head of Financial Management + Head of Supply & Logistics / executive management team member + any other Executive Management member (4) Managing Director or Deputy Managing Director + Executive Management member or Head of Financial Management, (5) MD/Board Chair + any one of the Board Directors	(1) 249,999 (2) 499,999 (3) 999,999 (4) 2,499,999 (5) ≥ 2,500,000
STELCO	Head of Procurement	50K-100K
GMIZL	(1) MD (2) MD/BOD	(1) <100,000 (2) > 100,000
MMPRC	(1) MD (2) Procurement & Tender Evaluation Committee	(1) 100,000 – 1,000,000 (2) 1,000,000 - 2 Million
AIA	Exceptions to public competitive bidding is allowed but authority level and limit is not specified.	
Aasandha	n/a	n/a
BCC	Same as open (1) MD (2) BOD	(1) 50,000 – 3 Million, (2) > 3 Million
KACL	Same as open (1) Bid Committee (2) BOD	(1) 50,000 – 1.5 Million (2) > 1.5 Million
FENAKA	(1) CEO/MD or MD appointed person (2) BOD or BOD appointed person	(1) 225,000 – 5M (2) > 5 Million
MHCL	(1) By MD or person appointed by MD, as per recommendation from TEC	(1) 50,000 – 1,000,000
MCIF	Within budget (1) MD + Head of Accounts (2) One Board Member + MD + Head of Accounts	(1) 100,001 – 1 Million (2) > 1 Million

	Unbudgeted/Exceeding budget (1) MD + One of the Board Directors (2) Board Quorum	
MSCL	n/a	n/a
MITDC	Same as open (1) Head of Procurement or Head of Finance (2) Head of Finance + MD or EXCO (3) & (4) EXCO (5) EXCO + BOD	(1) 10,000.00 - 49,999.99 (2) 50,000.00 - 149,999.99 (3) 150,000.00 - 499,999.99 (4) 500,000.00 - 2,999,999.99 (5) > 3,000,000.00
WAMCO	n/a	n/a
PSM	Head of Procurement + Head of Finance + MD	(1) 25,000 - 300,000
SDFC	(1) MD/BOD (2) BOD	(1) 50,000 to 249,999.99 (2) > 250,000
FDC	MD + Authorized signatory	35,000 - 99,999.99
MFMC	(1) Head of Department/MD/DMD (2) MD/DMD (3) MD	(1) < 2,000 (2) 2,000.1 - 9,999.99 (3) 10,000 - 249,999.99
RDC	Same as open (1) Head of Procurement + Head of Finance (2) Head of Procurement + Head of Finance + one EXCO member (3) Head of Finance + MD (4) BOD Alternative method (2) & (3) EXCO (4) BOD	(1) 150,000 - 499,999.99 (2) 500,000 - 999,999.99 (3) 1 Million - 3 Million (4) > 3 Million

4.1.3.4 Public Competitive Bidding

In all SOEs procurement above a specified threshold mandates public competitive bidding, either through open bidding or closed bidding. Open Bidding is the process where price quotations are opened in the presence of all bidders or a representative, whereas in closed bidding price quotations are not disclosed to the bidders.

Public competitive bidding is the most used method by SOEs in terms of value of procurement, essentially because high-value contracts are mostly awarded in this manner. Exception to this rule are threshold based (low value) or in some cases where such goods/services falls within described allowances for sole/single source procurement method.

Thresholds for application of competitive bidding vary considerably among SOEs as shown in Table 4-5 Over 50% of SOEs requires receipt of at least 3 competitive bids in order to proceed with awarding contracts. If three bids are not received a second call is made, after which SOEs proceed with selection regardless of the number of bids received.

Except MITDC, in all cases such bids are evaluated by a specific bid evaluation committee. In MITDC the Executive Committee also evaluates bids.

Table 4-5: Approving Authorities and approval limits for Public Competitive Bidding

SOE	Approving Authority	Limit (MVR)
HDC	(1) Head of Department + Director of Finance + Any EXCO member (2) Director of Finance + MD (3) BOD	(1) 450,000 - 999,999.99 (2) 1,000,000 to 2,999,999.99 (3) Above 3,000,000

	Alternative methods – (1) (2) EXCO (3) BOD	
IAS	(1) > MVR 750,000 – MD, Head of Procurement (2) > MVR 1,500,000 – BOD	Above 1,000,000
MACL	(1) MD (2) MD – BOD endorsement required	(1) ≥ 500,000 (2) ≥ 5 million
MPL	n/a	n/a
MWSC	(1) 2 person authorized to execute business & financial transactions, (2) Head of Financial Management + Head of Supply & Logistics / exe management team member or Deputy Divisional Manager + any other authorized signatory, (3) Head of Financial Management + Head of Supply & Logistics / executive management team member + any other Executive Management member (4) Managing Director or Deputy Managing Director + Executive Management member or Head of Financial Management, (5) MD/Board Chair + any one of the Board Directors	(1) 249,999 (2) 499,999 (3) 999,999 (4) 2,499,999 (5) ≥ 2,500,000
STELCO	(1) Audit Committee (2) BOD	(1) 100,000 – 3 Million (2) > 3 Million
GMIZL		
MMPRC	(1) MD (2) Procurement & Tender Evaluation Committee (3) BOD	(1) 100,000 – 1,000,000 (2) 1,000,000 - 2 Million (2) > MVR 2,000,000
AIA	(1) 5 member TEC recommendation and MD approval (2) 7 member TEC recommendation and Board approval	(1) ≤ MVR 100,000 to 500,000 (2) > 500,000
Aasandha	(1) by MD/CEO or person appointed by MD/CEO as per recommendation from Evaluation Committee (2) by BOD or person appointed by BOD as per recommendation from Evaluation Committee	(1) 25,000 – 2 Million (2) > 2 Million
KACL	(1) Bid Committee (2) BOD	(1) 50,000 – 1.5 Million (2) > 1.5 Million
FENAKA	(1) CEO/MD or MD appointed person (2) Board of Directors or Board appointed person	(1) 225,000 – 5 Million (2) > 5 Million
MHCL	(1) By MD or person appointed by MD, as per recommendation from TEC (2) BOD	(1) 50,000 – 1,000,000 (2) > 1,000,000
MCIF	Within budget (1) MD + Head of Accounts (2) One Board Member + MD + Head of Accounts Unbudgeted/Exceeding budget (1) MD + One of the Board Directors (2) Board Quorum	(1) 100,001 – 1 Million (2) > 1 Million
MSCL	(1) Evaluated by TEC (2) Evaluation by TEC & endorsed by the BOD	(1) 100,000.00 – 500,000.00 (2) > 500,000.00
MITDC	(1) Head of Procurement or Head of Finance (2) Head of Finance + MD or EXCOM (3) & (4) EXCOM (5) EXCOM + BOD	(1) 10,000.00 - 49,999.99 (2) 50,000.00 – 149,999.99 (3) 150,000.00 – 499,999.99 (4) 500,000.00 – 2,999,999.99 (5) > 3,000,000.00
WAMCO	(1) MD (2) BOD	(1) 50,000 – 1.5 Million (2) > 1.5 Million
BCC	(1) MD (2) BOD	(1) 50,000 – 3 Million, (2) > 3 Million
PSM	(1) by MD or person appointed by MD (2) 1.5> governing board as per evaluation report	(1) > 300,000
SDFC	(1) MD/BOD (2) BOD	(1) 50,000 to 249,999.99 (2) > 250,000
FDC	(1)(2) MD + Authorized signatory (3) MD + BOD	(1) 35,000 - 99,999.99 (2) 100,000 - 499,999.00 (3) > 500,000
MFMC	(1) Head of Department/MD/DMD (2) MD/DMD (3) MD (4) & (5) Procurement Committee (6) BOD	(1) < 2,000 (2) 2,000.1 – 9,999.99 (3) 10,000 – 249,999.99 (4) 250,000 – 499,999.99 (5) 500,000 – MVR 999,999.99 (6) > 1,000,000
RDC	(1) Head of Procurement + Head of Finance (2) Head of Procurement + Head of Finance + one EXCO member (3) Head of Finance + MD (4) BOD	(1) 150,000 - 499,999.99 (2) 500,000 - 999,999.99 (3) 1 Million – 3 Million (4) > 3 Million

	Alternative method (2) & (3) EXCO (4) BOD	
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4.1.4 Emergency Procurement

Emergency procurement has been highlighted by all stakeholders interviewed, both SOEs and external, as one of the most abused methods of procurement.

Emergency procurement is allowed in all of the policies reviewed. In many SOEs, single sourcing is allowed under emergency regardless of the value of such a procurement. For most SOEs, this exception to the general rule requires the explicit approval of the Managing Director, and in a very small percentage of times, it requires approval of the BoD.

While a provision to circumvent normal procurement methods in cases of emergency is required for practical purposes, the application of such an exception can be easily misused. This is especially the case when emergency situations are not well defined in the policy as is in the case of majority of SOEs.

4.1.5 Bid Evaluation Committees

Bid Evaluation Committees vary in composition and sizes across SOEs. Committee size is specified in 74% of the SOEs studied. Sizes are either 3 members (6%), 5 members (47%) or 7 members (35%) or a range between 2-5 (6%). In one SOE policy states a minimum number as 3 members (6%).

Bid evaluation committee composition is addressed in 52% of the policies. Of these:

- 52% mandates Accounts/Finance departments to be represented in the committee.
- 42% mandates procurement departments to be represented in the committee.
- 8% specifically excludes procurement department from being included in the committee.
- 8% states that Board of Directors can be members of the committee

Committee tenor is specified only in 30% of the policies and are either 1 year (71%) or 2 years (29%).

Only 16% of the policies states clearly the authority who can overrule their decisions - by BoD (8%), Either BoD or Executive Committee (8%).

Bid Evaluation Committees is an effective tool in SOEs to ensure that 4-eyes principle is followed in most of the high-value bid evaluations and all SOEs observed that there is no powerplay exhibited within their functioning. Furthermore, since power to such

committees are given by board approved policy and their decisions can only be overridden by the BoD (and in one case MD), the committee members feel empowered in their role. However, SOEs stated that sometimes it is difficult to convene meetings of the committees due to time constraints of the members, delaying the procurement decision making process. Some of the creative ways companies have introduced to overcome this issue include:

- Scheduled regular meetings, instead of ad hoc meetings;
- introducing a committee allowance as an incentive;

Companies that practice these have stated that efficiency has increased since its introduction.

Many SOEs noted that lack of procurement knowledge and technical knowledge within committee members as the biggest challenges to effective functioning of the committees. To overcome lack of technical knowledge, most committees invite a technical staff relevant to the item being procured to be part of the committee as a non-permanent member.

4.1.6 Advertising rules and time limits

Only 52% of policies reviewed stated specifically any rules on advertising/announcements. Furthermore, where such rules were mentioned, it was only in relation to public competitive bidding. While all the companies stated that public announcements must be made in appropriate news media, only 58% stated that announcements must be published in the Government Gazette, and only 42% stated it must also be published in the company website.

75% of policies that discussed rules of advertising/announcements listed out minimum information that must be specified in the notice. Minimally these included:

- Summary of item/service required
- Time, date, venue of pre-bid meeting or submission

If pre-bid meeting were not part of the bidding process, bid notices were also required to state:

- Evaluation criteria
- Time, date and venue of bid opening

Only 2 SOEs addressed period of notice for procurement announcements. While some policies stated that sufficient time should be given as a principle between

publication and submission of bids/proposals, no minimum periods were specified in any of the policies.

4.1.7 Procurement documentation and specifications

Standard set of written procurement documentation is not being used by SOEs with the exception of MWSC. However, policies do state general principles and while only 39% specified the minimum content that need to be incorporated into tender documents.

All SOEs stated that technical specifications are developed by requesting departments, while rest of the tender documentation are developed by either procurement department or legal department.

4.1.8 Evaluation and award criteria

Most SOEs require bid evaluation criteria to be disclosed in the announcement or bid documents for public competitive bidding.

However, detailed guidance on evaluation and award criteria are provided only in 34% of the policies, and in less than 10% of the SOEs a scoring guide for evaluation is provided. Where a scoring (weightage) has been explicitly specified, the policy states that it to be used as only as guide (i.e. based on the nature, complexity and requirements, the scoring percentages can be revised). Following criteria have been suggested in the policies:

- Proposed Price
- Payment terms
- Knowledge and experience
- Quality
- Delivery Period
- Reliability (measured in terms of sound financial statements, reputation, references)
- Vendor capability for post purchase servicing.
- Prior business relationship with the company

In majority of the SOEs evaluation criteria are developed individually for each bid.

While some policies state that evaluation criteria should be based on the nature and complexity of the type of good/service being procured, lack of clear guidance on how effective scoring can be established in each of these types of procurement has led to many of the SOEs relying primarily on price.

For complex procurements (especially works and service contracts) awarding primarily based on price has led to less than optimal outcomes according to SOEs' procurement departments. However, due to lack of guidance and knowledge on

procurement, SOEs are more comfortable relying on objective criteria that can easily be justified if questioned or investigated in relation to how a bid was awarded. In practice, criteria other than price that are often applied include:

- Prior experience on similar projects (where marks are allocated per project up to a maximum)
- Educational qualification (established as a minimum criteria)
- References (where marks are allocated per letter up to a maximum, regardless of what the letter states)
- Methodology (not much emphasis is given in most cases)
- Duration (maximum points to be awarded to the party with minimum duration with no relation to a practically possible or allowable duration)

4.1.9 Submission, receipt and opening of tenders

Procurement policies require information on bid submission, receipt and opening to be disclosed in the bid announcement or within the bid document for open tenders. However, only 21% of SOEs have given explicit instructions in the policy on how to handle bid submission, receipt and bid opening. These SOEs have stated that all public tenders should be opened in the presence of the bidders or their representatives. In case of closed bidding, only one company has stated in their policy that all competitive closed bids must only be opened at the bid evaluation committee in the presence of a quorum.

In practice, most public tenders are opened immediately following submission, in front of the bidders and proposed prices are shared with the bidders. However, this information is not disclosed publicly.

4.1.10 Right to challenge and appeal

While good procurement principles are often stated in the policies, specific mention in relation to bidders right to challenge and appeal is not covered in procurement policies.

In practice, SOE surveyed did not have established mechanisms to handle grievances. Any bidder queries or complaints are channelled through procurement department or the Bid Evaluation Committee. It was also noted that SOEs hardly received complaints directly about a bidding process. Queries received are thematic around the following:

- Reasons for retendering,
- Duration of evaluation process and
- Justifications why a bid was lost (asked rarely).

It should be noted that SOEs did not consider internal grievance handling mechanism as a priority need. They believed that the role is being played by the ACC, making any

internal process redundant. Discussions with ACC revealed that many complaints are received by bidders and general public with regards to SOE bidding process. The main types of complains can be classified into following areas:

- Evaluation criteria tailored to favour a certain party
- Length of placing the advertisement being too short
- Duration provided for bid preparation being impractically short
- Bid documentation are vague

ACC is a watchdog organization that only undertakes an investigation as and when they deem appropriate. ACC is fully independent of the SOE bidding/tendering process.

4.1.11 Contract management

Contract management and contract provisioning is another area that is not comprehensively covered in SOE policies. Only 34% of SOE procurement policies gives guidance in relation to contract management. Standard contract is part of the bidding document for some of the SOEs, but since there is no standard bid document set, contracts are also drawn up for each bid.

In practice contracts are drafted by procurement departments based on templates developed by legal departments. After a contract is signed, management of the contract including ensuring delivery of the goods or completion of the works is the responsibility of the requesting department.

4.1.12 Contract Variations and Advance Payments

Contract variations are often cited as a common loophole for abuse by stakeholders. Only 35% of the policies explicitly address contract variations. Limits on variance are as follows:

- Less than 10% of original contract – 63%
- Up to 15% of original contract – 13%
- Up to 20% of original contract – 13%
- Up to 25% of original contract – 13%

Approvals for contract variations are needed only beyond allowed limits in the policy. In most cases Managing Director's approval suffices. However, in less than 20% of the SOEs such approvals need to be sought from the Board of Directors.

Main issue in relation to contract variation is the lack of explicit disallowance of variations beyond a certain limit, as well as vagueness of definition of circumstances

under which contract variations are allowed, making the policy on variations easy to misinterpret and abuse.

Advance payments are allowed in 52% of the policies, of which 90% are based on contract value. Advance payment ranges between 15% to 50% of contract value, depending on the type and value of the contract. For entities where the policy is silent on the advance payment, advance payments are often negotiated between bidder and the SOE on a case by case basis. Advance payments are not prohibited by any SOE procurement policy.

4.1.13 Electronic Procurement (e-Procurement)

All procurement policies reviewed were silent on e-procurement (i.e. policies neither allowed nor disallowed e-procurement). However, 2 SOEs have embarked on establishing e-procurement systems. Both these e-procurement systems are still in the infant stages of the development and utilization. *Box 4:1* and *Box 4:2* shows brief on the systems being used by MPL and Aasandha respectively.

E-procurement in Maldives Ports Limited

Maldives Ports Limited (MPL) started their procurement webpage in October 2019. The main purpose of opting for an open procurement was to ensure transparency, build trust amongst the public and to guarantee accessibility to all potential bidders/suppliers in the market.

Currently the procurement dedicated webpage shows announcement of all public tenders, information sheet/terms of reference and status of the announcement (i.e. open, close, cancelled). MPL has also developed a vendor portal which has been live since February 2020 but is currently open for vendor registration only. Vendors have been proactively registering via the portal and the Company has also publicly announced for vendor registration with a deadline until 15th March. Vendor registration will be a continuous process within a set guideline once the portal becomes fully functional to allow new vendors to register with the Company. MPL plans to digitalize the entire procurement process allowing the vendors to submit quotations and proposals via the portal.

The Company highlighted that the overall procurement has become easy and efficient since implementing the procurement webpage, as they can always direct potential bidders/vendors to the webpage for all required information pertaining to the bid.

The Company has only faced minor challenges with the vendor registration through the portal, such as failure to upload documents by the suppliers during registration. Such issues are also resolved quickly as the portal was developed inhouse. While moving to e-procurement, the company foresees that there could be small scale suppliers/companies who might not be familiar with the use of internet and a digital system. Additionally, other challenges foreseen in the procurement process are lack of response by suppliers within the timeline provided and inability to identify paper companies at an initial stage as this will be checked during the evaluation stage by the bid committee.

Box 4:1: The case of e-procurement in MPL

Aasandha Company Limited

Aasandha commenced using a dedicated webpage for disclosing procurement information to public via a dedicated webpage in November 2019. The main purpose of starting an open procurement was to ensure transparency.

Phase 1 of the open procurement was inaugurated on 1st November 2019, i.e., publishing all the procurement above MVR 25,000 in the webpage. Phase 2 of the open procurement will include publishing all procurement (including request for quotations) and vendor registrations thereby allowing auto-notifications to be sent to relevant vendors when a new announcement has been published. At the end of Phase 2, statistics on procurement will also be published and available to the public. The Company aims to implement the entire platform by early 2021.

Box 4:2: The case of e-procurement in Aasandha

4.1.14 Norms for safekeeping of records, documents and electronic data

Only 26% of SOE policies have clear guidelines on safekeeping of records related to procurements. In these cases, the policies covered the following areas:

- Minimum level of documentation to be retained (reasonable level of cost/price analysis, basis of selection, justification for any lack of competition or competitive bidding)
- Responsibility for maintaining records archive (procurement department or administration department)

Records maintenance is often applicable for procurement activities above a certain minimum threshold.

4.2 Implementing policy and tools to support policy framework

4.2.1 Procedures and detailed regulations

Majority of the SOEs (83%) have some form of written procurement procedure for operationalising the policy. In few SOEs the procedures are approved by the MD, whilst no procedures are approved by the BoD unless it forms part of the policy and to the extent it is covered by the policy.

4.2.2 Model procurement documents for goods, works and services

Informal model bid documents are used by most of the SOEs (83%). Only one of the reviewed SOEs had a preapproved set of a model bid documents. Lack of a standard,

preapproved model documentation set leads to considerable time being spent on documentation preparing stage of procurement.

4.2.3 Standard contract conditions

Over 55% of SOEs use a standard contract templates for contracting. These contract templates are developed by the legal departments and updated by procurement departments as and when needed. Only for very large value public bidding are contract templates attached as part of bid documents provided to the bidders.

4.3 Organizational and Management Capacity

4.3.1 Procurement expenditure and the budget cycle

All SOEs undergo an annual budgeting process, where expenses, both recurrent and capital expenditure is budgeted. These budgets are approved by BoD. In most SOEs there are mechanisms to ensure expenditures have been budgeted and funds are available prior to initiating any procurement. This is done through obtaining an approval from Finance Department.

Budgeting process for recurrent expenditure is mainly based on prior year expenses with a projected growth factor. Budgeting for capital expenditure is more complex. In doing so, SOEs relies on inflated market prices obtained through public sources or via consultation with known suppliers. In SOEs where budgets require approval of MoF, budget estimation is given less thought due to the general view that only a portion will be approved. In these cases, expenditure is undertaken based on requirement and approved funding, rather than through a pre-planned process.

Except in a very rare circumstances, having a budgetary allocation is enough to get approval to undertake the necessary expenditure. On occasion however, SOEs have reported bid cancellation post receipt of proposals due to lack of funds. Invoices for procurement of goods, works and services are generally paid on time, unless such funding depends on MoF. Where MoF has to release payments, considerable delays can be observed in settling payments for invoices.

4.3.2 Organisation, funding, staffing, and level of independence and authority

Majority of the SOEs (78%) have dedicated procurement departments. Head of Procurement department have significant authority and independence to carry out

the function without influence and hindrances. Over 72% of the heads of departments reports directly to the MD (or CEO).

Only in 2 instances (MACL and BCC) it was noted that procurement resided under the finance department and reported to Head of Finance. In 11% of the SOEs, procurement department resides under corporate services.

Size of the department greatly varied depending on the size of the SOE. The largest procurement department was in MPL with 31 staff (MPL total staff number 1,977) and the smallest department was at MITDC and MSCL with only 1 staff handling procurement. All SOEs stated that sufficient staff and funding was allocated to the department to function effectively.

4.3.3 Avoiding conflict of interest

While 55% of SOEs reported to have a written conflict of interest policy, majority (67%) of procurement policies discussed some aspect of potential conflict of interest and its avoidance. Even in SOEs where there are no explicit policies on the subject, self-declaration and avoiding conflict of interest in all matters form part of the employment contract.

In all cases declaring conflict of interest is totally on the employees. SOEs have no formal mechanisms to ensure such declarations are made or can be checked during bid evaluation or awarding.

Even in SOEs where there is a requirement to declare their interests, such information is maintained with employee personnel files. Therefore, such information is not use for the purposes of avoidance of conflicts in decision-making. Only 16% of SOEs required an additional approval to make purchases from related parties of members of the Board or Senior Management. This approval is needed from BoD.

Lack of a strong system in place to avoid conflict of interest in the procurement process has been noted as a main weakness of SOEs procurement by all stakeholders. This is especially noted in relation to transactions with related parties of member of the board, senior executives and members of the bid evaluation committee.

4.3.4 Definition, responsibilities and formal powers of procurement department personnel

In all procurement policies reviewed, roles and responsibilities of relevant departments and personnel are defined. However, it has been noted by external stakeholders that whenever a problem arises, SOEs are often unable to identify

persons responsible for such problems. This indicates that although written in policy, in practice, roles and responsibilities are not clearly defined.

4.3.5 Training, advice and assistance

All SOEs noted lack of opportunities to provide adequate procurement related training for their staff locally in a cost-effective manner. Hence, staff competency is generally limited to experience. New staff orientation and training is not provided in-house due to lack of capacity in-house.

4.3.6 Monitoring performance to improve the system

No SOE has established performance management and monitoring system in their procurement departments to enable them to methodically improve the system over a period of time. Very few SOEs produce dashboard style performance reports, and these reports are primarily used for internal monitoring of progress and tracking.

4.4 Procurement Operations and Market Practices

4.4.1 Planning

Procurement planning, needs analysis and market analysis are generally not undertaken by SOEs. Where needs analysis is undertaken it may be done for major capital expenditure by either finance departments or requesting departments. Such assessments are required to justify major capital expenditure that needs BoD approval. However, such assessments are generally on project feasibility rather than on planning the most effective procurement.

Because there is very little planning around procurement, procurement departments tend to be often in a rush, trying to meet ad-hoc demands placed upon them. They are also often unable to take advantage of bulk purchases, even for recurring procurements such as stationery or seek more cost-effective alternatives which may require lengthier delivery periods.

Lack of procurement planning is not just a problem of the procurement department but is a larger organizational issue across SOEs. Most SOEs do not undertake budgeting process in a way that can easily feed into a procurement plan. Procurement departments are often unable to pre-plan their activities. Hence, this department functions very much on ad-hoc basis on the quirks of other departments of the organization.

4.4.2 Selection and contracting

In selection and contracting practices, SOEs tend to follow thresholds set out in the procurement policy as a general guideline. In practice, method of procurement selected from allowed methods largely depends the urgency of the requirement and its complexity. This practice also stems largely from lack of planning around procurements.

While 50% of the SOEs inform unsuccessful bidders in writing, reasons for such are not disclosed, sometimes not even when specifically requested by the respective bidders. No SOEs disclose winning bidder information to the public.

4.4.3 Contract management in practice

Once bids are awarded, contracts are signed in a timely manner. After contracts are signed, contract management functions are handed over to the requesting departments, including inspection, quality control, supervision of work and final acceptance of products. Procurement departments are not directly involved in this function.

4.5 Accountability, Integrity and Transparency of the Procurement System

4.5.1 Adequate and timely access to information by the public

SOE procurement systems are generally not very transparent. The only information generally available to public is tender notices (RFQ and RFP) and related information that are placed in the government gazette and the company website. Except in the 2 SOEs where e-procurement process are currently being rolled out, no mechanism is planned to make this information publicly available.

4.5.2 Co-ordination of controls and audits of procurement process

Only 55% of SOEs stated that procurement departments have regular auditing of the function. Auditing of procurement departments are undertaken by the inhouse internal audit departments, either annually or bi-annually. SOEs that have not had their procurement process audited are the ones that do not have an effective internal audit function.

In some instances, AGO undertakes performance audits and special audits of SOEs in which procurement activity is also audited. However, these audits are done on ad hoc basis.

Once audits are completed and presented to the Audit Committees and the management, the follow up on audit findings and recommendations largely depends

on the effectiveness of the internal audit function and that of the Board Audit Committee.

4.5.3 Anti-corruption measures in place

In 61% of SOEs procurement policy outlines a section on dealing with corruption by bidders. Where SOEs have policies on dealing with corrupt practices of vendors, the following types of practices have been defined:

- "corrupt practices" - offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the implementation of the procurement policy or in contract execution.
- "Fraudulent practices" - a misrepresentation or omission of facts in order to influence a procurement process or the execution of a contract.
- "collusive practices" - a scheme or arrangement between two or more bidders with or without the knowledge of the contract, designed to establish bid prices at artificial, non-competitive levels.
- "coercive practices" - harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process or affect the execution of a contract.

Under such policies following actions have been allowed:

- Rejecting a proposal for award if it suspects or determines that the bidder recommended for award has directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for the contract in question.
- Cancelling the portion of the project allocation to a contract if it suspects or determines at any time that representatives of the bidders or of a beneficiary of the project engaged in corrupt, fraudulent, collusive, or coercive practices during the procurement or the execution of that contract, without the bidder having taken timely and appropriate action satisfactory to the company to remedy the situation.
- Can sanction a firm, company or individual, including declaring ineligible, either indefinitely or for a stated period of time to be awarded a project if it at any time determines that the firm, company or individual has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing a contract.

In practice however, there has not been any cases identified internally where these actions have been applied. In fact, only 27% of SOEs have made it obligatory to maintain a blacklist of vendors.

SECTION 2: REPORT ON REVIEW OF CURRENT PUBLIC FINANCE FRAMEWORK

1 INTRODUCTION

This section reviews the public procurement system and its adaptability to the SOE procurement framework.

2 PUBLIC PROCUREMENT SYSTEM

2.1 Legal and Regulatory Framework

Public procurement is governed by the Chapter 10 of the Financial Regulations (gazetted on 21 February 2017). This is a second-tier legislation under The Finance Act, 2006. Chapter 10 is entitled “State Procurement System, Objectives and Policies”. The presentation of the Regulation mixes policy objectives with mandatory regulations, which may cause confusion in its implementation.

The Regulation has 5 different tiers of authority as shown in Table 2-1 below. Unlike the SOE procurement system, government has an additional 2 tiers – the NTB and the IATC. IATC was established to ease the speed at which procurement process is undertaken. However, in practice this Committee has not been active and most of the procurement over the MVR 2.5m limit is undertaken by the NTB.

Table 2-1: Threshold and Authority limits allowed in government Procurement Regulation

Threshold	Authorized by
Less than MVR 2,000	Procurement officer of the relevant agency/ministry in the concerned ministry or agency without committee oversight
Between MVR 2,000 and MVR 35,000	Financial controller of the relevant agency/ministry without committee oversight
Between MVR 35,000 and MVR 2,500,000	Bid Committee of the relevant agency/ministry. Bid Committee comprises between three and seven members appointed by the minister or head of the agency.
More than MVR 2,500,000	National Tender Board (NTB). The NTB shall comprise seven members appointed by the President of the Republic of Maldives upon the advice of the Minister of Finance.
Cost between MVR 2,500,000 and MVR 5,000,000	NTB may delegate to the Inter-Agency Tender Committee (IATC).

All methods commonly found in the SOEs procurement policies are also allowed in the regulation. They are:

(a) Single sourcing - Single sourcing is allowed for all purchases under MVR2,000. For any procurement exceeding this limit single sourcing can be used only under the following circumstances:

- Where there is only one party that provides the required goods, services or works
- In situations of emergency where there is insufficient time to carry out procurement activities in the usual allowed methods.
- Where there is a need to procure from the same party who had previously delivered the required goods or services or works, in order to maintain the same standard or to ensure compatibility or continuity
- Where additional goods or services or works is required in relation to a contract that had been executed, and increased competitiveness or any added benefit is not expected from open bidding.

(b) Shopping method: Shopping method is allowed for purchase of goods, works construction, or consultant services if the value does not exceed MVR 35,000. Minimum of 3 quotations are needed.

(c) Restricted Tendering: This type of procurement is only allowed where additional goods or services or works is required in relation to a contract that had been executed, and increased competitiveness or any added benefit is not expected from open bidding and In situations of emergency (as defined in Clause 10.26 of the Regulation) where there is insufficient time for open tendering. When these conditions are met, this method does not have a threshold limit.

(d) Open/Public tendering: This is the preferred method prescribed in the Regulation and shall always be used, unless conditions validate the use of other types procurement. The Regulation allows the State to limit participation by to Maldivian parties only if the estimated procurement value does not exceed MVR 2,500,000. It also allows tenders to be advertised in international media if the procurement value exceeds MVR 15,000,000.

The main differences between SOEs policies and this Regulation are the level of threshold applicable to each of the methods, especially in the case of single sourcing and shopping method. Furthermore, the additional limitations placed on “Restricted Tendering” in public finance is impractical to follow in the corporate sector, where this method is often used effectively with less restrictions on its use.

While public tendering is the preferred method for both SOEs and public procurement, one of the major challenges in its usage is the vendor market limitation: i.e. in complex procurements there is a limited number of vendors that meets the minimum requirements. Currently the Regulation requires 3 competitive bids to be received to proceed. In practice many tenders have to be re-advertised because less than 3 bids are received, delaying the procurement process considerably. Because of this, SOEs tend to prefer restricted tendering in situations where there are limited number of vendors. If an allowance can be made in the SOE regulation where RFP or RFQ is through public advertisement (with reasonable time inbuilt for bid submission), process can move forward even with one viable bid, then open/ public tendering method will become considerably more attractive method for procurement from the viewpoint of SOEs.

Exceptions allow in the Regulations are as follows:

(a) Emergency situations (defined in 10.26) - Emergency situations are defined in the Regulation as follows:

1. The State of Emergency is declared in accordance with Article 253 of the Constitution of the Republic of Maldives.
2. Encounter an incident that may risk a human life or have an adverse impact on the living standard of a community or endanger the environment.
3. Encounter a situation that may interrupt an essential service to the public.
4. State properties and buildings or goods and buildings for public use are at risk of danger that necessitates immediate action to rectify or to restore it to the original condition.
5. A project work is getting unreasonably delayed due to the unavailability of required small purchase items.
6. Repairs and maintenance works on State buildings and properties shall made as per Clause 10.26(a) of the Regulation only if it conforms to the definition of Emergency Situations under the same Clause.

(b) Other Exceptions (Clause 10.27): The Regulation lays out two circumstances under which public tendering can be circumvented.

1. Awarding to a company that government holds majority shares, or to a company listed on the Maldives Stock Exchange that government holds shares, or to a national level organization or association recognized by the government, to provide a required public service. This process is managed and approved by the NTB under advice of the Minister of Finance.

2. Projects financed by foreign nations or concessional loans and projects declared as megaprojects by the government may be awarded, without open tender, to a party decided by the President of the Republic of Maldives with the advice of the Cabinet. It should be ensured that the party to whom the contract is to be awarded is financially and technically competent to deliver the project.

A well-defined “emergency situations” similar to this Regulation can be adopted for SOEs to strengthen their current policy. In doing so however, it must remove room for subjective interpretation and discretion as much as possible, to ensure organisational inefficiencies and premeditation are not the reasons leading to emergency purchases.

Other circumstances that allows the State to bypass the bidding process as described above discourage competitiveness of the procurement process and undermine the integrity and transparency of the procurement process, while creating room for corruption. Hence, such allowances should be excluded from SOE procurement policies.

Agency Tender Committee (ATC) and NTB (bid evaluators) – The Regulation leaves the membership of ATC and NTB to be decided entirely at the discretion of the respective ministers and the President, respectively. The quorum required for each committee is simple majority of members, which is considered acceptable. This approach is similar to what SOEs use in formation of its Bid Evaluation Committees, where the full discretion is left up to the MD/CEO. Only in a few circumstances are the membership defined by job titles.

The Regulation thoroughly covers **segregation of duties** of procurement policy formulation and conducting operational procurement. However, specific duties and responsibilities of the evaluation committees are not well defined.

Bid Evaluation Criteria – Criteria are not explicitly mentioned in the Regulation. However, in practice all evaluations are done through scoring.

Code of Conduct and Conflicts of interest – These areas are covered in detail in the Act and can be adopted to SOEs effectively. According to the Regulation, members of the evaluation committees (NTB, IATC and ATC) are required to disclose any conflict of interest in an agenda item under review and recuse themselves from involvement in decision making on that item. The regulation also refers to a code of conduct for all GOM officers involved in procurement related activities, but the code has not yet been issued. However, such a code of conduct will be advisable for SOEs as well.

Advertising rules – Regulation requires open tender opportunities to be published on the Government Gazette. Opportunities may also be published on public noticeboards and in newspapers as deemed appropriate. Government Gazette has over the years become established and used by vendors. Although it lacks many functions desirable in such a website (such as advance searchability, is only in Dhivehi language, misclassification of jobs etc), the website has made public tender notifications much more accessible to potential vendors and the public. Already many of SOEs use the Gazette as their primary advertising hub in parallel to their company websites.

Documentation and Recordkeeping – Regulation also requires publication of details of contracts awarded online and on public notice boards but the details to be published are not specified. This is presently done on the MoF website. Record maintenance is mandatory for a minimum period of five years after a contract is concluded. SOE policies have gaping holes in relation to documentation and record keeping. Hence, similar rules will increase transparency and reliability of SOE procurement process and should be adapted into SOE procurement policies.

Bid Documentation – There are no formal set of standard bidding documents in use in any sector of the Government. NTB reported that they rely on model bid documents adapted from the World Bank (WB), however these are not formally part of the procurement regulations. Similar documentations could be drawn for SOEs and annexed to the procurement procedures in order to improve the current process in SOEs.

User Manual: There is also no formal procurement manual to assist procurement practitioners. MoF has issued guidance material on procedures to be adopted but not amounting to a comprehensive manual.

2.2 Institutional Framework and Management Capacity

Government procurement planning has been strengthened considerably in the recent past since the SAP system's material management module went online and creating a linkage between budget system and procurement.

Procurement management capacity is limited across the country (government agencies and SOEs alike). There is no adequate public procurement capacity development and professionalization program. The Civil Service Training Institute (CSTI) introduced procurement training in 2016 with assistance on program design from the WB. However, training opportunities needs to be created for public sector

as a whole in order to ensure staff are trained and kept up to date on important aspects of procurement.

2.3 Procurement Operations and Market Practices

For the State, market access is largely through the daily online Government Gazette and some ministry websites. Whilst print newspapers have all but vanished, online news sites are becoming more popular in the recent past and bound to become the preferred way to access information. There are two contractors' associations sharing market information among over 200 members. There is a lack of formal associations for suppliers of goods.

ACC is the watch-dog institution which received complaints and allegations regarding the public procurement process. NTB also receives complains or queries arising during the bidding process.

2.4 E-procurement System

MoF is currently in the process of developing e-procurement system. See *Box 2:1* for a brief description. SOEs will benefit greatly having access to such a system. However, matters of integrity, information security and accountability should be ensured through written policy and guidelines in order to build public confidence and acceptance.

Beelan Portal - Government E-procurement System

Ministry of Finance is currently in the process of developing an e-procurement system for the government/public sector. The system is expected to be rolled out to Government ministries by mid-2020. The primary purpose of the project is to transform the procurement process to an entirely e-procurement process in order to improve efficiency in the procurement process, overcome geographical challenges in submitting bids, improve security, ease of payment and avoid duplication of documents.

The Portal is expected to be encrypted and secure, to be used by both international and local vendors. At the inception, the following information will be made available through this system.

- Upcoming tenders
- Stage of the bid
- Awarded contracts
- Awarding price
- Winning bidders

Vendors can register through the system. Vendors will also receive notifications of the result of the bid and unsuccessful vendors will be notified the reasons for not winning the bid.

MoF states that various components of the e-procurement process have already been developed. However, integrating all the components is the main challenge with limited technical resources in the Ministry. For example, Bandeyri Portal is already deployed, to enhance implementation of the state budget by facilitating credit funding requests, budget control transactions & special single-source assignments for projects and services carried out by ministries.

Furthermore, developing the infrastructure in a sustainable manner is difficult. The lack of an e-signature act brings into question the legal validity of it. The Team at MoF developing the Platform is small and this adds to the challenges.

Box 2:1: E-procurement system being developed by MoF

2.5 Integrity and Transparency of the Public Procurement System

Presently limited procurement information is made public, including tender notices, bid documents, and information on winning tenders. However, several measures are currently in implementation which will greatly enhance the transparency and integrity of the public procurement system. These include:

- setting up an effective internal auditing process within government agencies and ministries.
- E-procurement system

These processes could be effectively adopted in the SOEs to enhance their procurement process, its integrity and transparency as well.

3 STRENGTHS

The main strengths of the procurement system that can be adopted or adapted to the SOE sector can be summarised as follows:

- (a) Multiple methods along competitive and less competitive methods are allowed in the Regulation. However, default and preferred method for procurement is open competitive, and single source is only allowed in restricted circumstances.
- (b) Clear guidance on limits and authorities on procurement expenditure.
- (c) Budget availability and approval is required to commence procurement process.
- (d) High-value procurement is centralised, and the process is overseen by an independent procuring body (NTB).
- (e) Existence of formal internal controls and audit framework in the public sector.
- (f) Clear guidance on dealing with ethical issues and conflict of interest situations.

4 WEAKNESSES

Main weaknesses in the public procurement process which should not be adopted to the SOE procurement framework are:

- (a) Direct awarding of contracts, without bidding, to a wholly or partly owned SOE, or to a national level organization or association recognized by the government, subject to written approval from the NTB with the advice from the Minister.
- (b) Discretions related to awarding of projects declared by the government as 'megaprojects' directly to a party decided by the President with the advice of the Cabinet.
- (c) Lack of a formal complaints handling and adjudication mechanism.
- (d) Although e-procurement is enabled in the recently revised Regulations, it is not practised yet to any degree as no guidelines and procedures have been issued.

SECTION 3: CONCLUSIONS AND RECOMMENDATIONS

1 INTRODUCTION

Procurement policies and systems used widely varies across SOEs. While some of the SOEs' processes are fairly robust and aligned towards transparency and accountability, others are less transparent, and leaves much room for improvement. If a comprehensive set of rules can be established for all SOEs, not only will it improve across the board and permeate transparency and stakeholder confidence around SOEs' procurement process, but also will pave the way to provide effective training and guidance to SOEs for further improvement.

This section of the report presents the conclusions and recommendations for the structure and content of the harmonized procurement guidelines for SOEs, based on the findings from the review of the SOE procurement policies, government procurement regulations and international best practices. It also present recommendations on other aspects of the procurement process that needs to be enhanced to achieve a functional and efficient procurement system within SOEs.

2 SOE PROCUREMENT POLICY AND GUIDELINES

2.1 Scope of application and coverage of SOE procurement policies

Procurement policies of SOEs are currently inconsistent, difficult to follow, not easily searchable, or accessible, even to the employees of the organization. The content coverage and comprehensiveness of the procurement policy differs considerably among SOEs. While only a few SOEs have a fairly comprehensive procurement policy with clear definitions and guidelines, many are barely adequate with large gaps and loopholes that create space for corruption and abuse of the system. There is a general lack of transparency and accountability around the procurement process that can be overcome by implementing a comprehensive, standardized, easy to follow and accessible procurement policy guideline for SOEs.

The harmonised policy and guidelines developed for SOEs should clearly lay out mandatory provisions, non-mandatory provisions and policy guidelines. Mandatory provisions are provisions that all SOEs must follow, regardless of size and nature of business. Non-mandatory provisions can be adapted to suit the particular needs and

nature of business. Such deviations from the harmonised policy should be approved by PCB and endorsed by the BoD of the respective SOEs.

Additionally policy and guidelines:

- (a) applicability and changes to policy or procedures should be easy to identify and trace.
- (b) It should provide guidance on governance and issues relating to conduct, dealing with conflict of interest, related party transactions,
- (c) It should cover goods, works and services, including consulting services for all procurement using internal funds.
- (d) It should be published and easily accessible to the public at no cost.

2.2 Procurement Principles

Procurement principles are the foundation of SOE procurement guidelines. As parastatal organizations, procurement principles for SOEs greatly overlaps principles of public procurement. Procurement at SOEs shall be built upon fundamental principles of:

- Lowest Total Cost of an Acceptable Solution – ensuring economy and efficiency, purchasing decisions should aim to achieve an acceptable solution at the lowest total cost. Lowest total cost should be determined by considering all significant costs, and whole of life costing should be used.
- Fair Competition – All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. Practices that are restrictive of competition or undermine fair treatment should be carefully avoided.
- Transparency and Accountability - Transparency and accountability are important in procurement undertakings of SOEs. In every instance, procurement decisions must be based on value and benefit to the company, free of conflict of interest. Information on the procurement process must be made widely available. Building stakeholder confidence in procurement system is important.
- Environmental Impact – SOEs must be fully committed to responsible environmental management, shall consider and evaluate relevant environmental factors in the procurement of goods and services.

2.3 Procurement methods

Policies of all SOEs allow a broad array competitive and non-competitive procurement methods. However, criteria for application of different methods are vague and lacks clear definitions, giving excessive discretion to the procurement department, senior management, and/or the Managing Director.

Procurement policy should clearly define the situations in which open tendering or alternatives procurement methods should be used. Acceptable justification and approval levels should be clearly specified for alternative methods. In essence, the application of procurement methods and processes should be proportional to the value and risks of the underlying project activities. For procurement projects with low value or lower risks, lighter methods such as restricted tendering, request for quotations can be opted where benefits of more “process-heavier” methods are not evident or justified. Open (competitive) tendering should be the standard procurement method, unless it is not befitting in terms of cost-benefit or other justifiable practical reasons.

Clear guidance should be placed on methods that are particularly susceptible to abuse. For instance, possibilities to circumvent standard competitive methods under the guise of an “emergency purchase” or fractioning of contracts to avoid open competition should be prohibited. The policy should restrict individual employees’ or procurement officials’ discretion to clearly.

The following procurement methods are recommended to be defined and allowed in the policy with clear guidelines demarking the boundaries of their application:

(a) Single/Sole Source Procurement

The use of single-source procurement is one of the most frequently misused type of procurement method. It can be misused to routinely avoid more competitive procedures. For example, urgency is often cited as the reason not to use open tendering. However, justifying single-source procurement on the grounds of an emergency should be permitted only in the exceptional circumstances, where there is an extremely important need and where any other method of procurement would be impractical given the time constraints. This method of procurement should not, be used simply because of poor planning of the organization that needlessly give rise to “emergency” situations.

It is recommended the single or sole sourcing is restricted to the following conditions:

- The item falls within Procurement Threshold 1 (see section 2.5 (a))
- The item is available only from a single source (e.g. patent/copyright ownership, exclusive manufacturers/distributors/agents, spare parts for existing equipment)

- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation (see section 2.4)
- After solicitation of a number of sources, competition is determined inadequate

(b) Shopping (Quotations)

“Shopping” is obtaining quotations (a minimum of 3) from parties providing the goods or services and making comparison between the quotations and obtaining the goods or services from the most suitable party, without a public announcement.

This method should be allowed only for small purchases, i.e. for securing services, supplies, or other goods that do not cost more than Procurement Threshold 2 (see section 2.5 (b)) or in cases of emergency (see section 2.4). SOEs shall obtain price or rate quotations from an adequate number of qualified sources to ensure that the selection process is competitive.

(c) Select Competitive Bidding/Restricted Tenders

Restricted tendering refers to reaching selectively to competent parties or persons, without any public announcement, requesting for participation in tendering for procurement of goods, works or services. Bidders are selected based on their proven experience or recognized ability to undertake a particular activity. RFQ or RFP may be used under this method of procurement.

It is recommended that Selective Competitive Bidding be allowed only under the following circumstances:

- It is impractical due to time/cost constraints to invite open tenders;
- Only a small number of suppliers can participate in the bidding process due to the nature or purpose of the contract;
- When Open Competitive Bidding is regarded as inappropriate;
- Where open tenders are invited and no offer has been received, or any offer received is not acceptable.

(d) Public Competitive Bidding/Open Tenders

Public Competitive Bidding is a method where interested parties are invited through public advertisement to tender on a common basis. RFQ or RFP may be used in Public Competitive Bidding.

This should be the method of choice wherever and whenever cost and time permits. It should also be the only method allowed over a certain threshold unless such a procurement falls under acceptable exceptions (such as single source or emergency

cases). This method requires one competitive bid to be received to proceed, provided adequate duration is provided for bid submission.

In order to give equal opportunity to all competent parties to bid for projects, open tenders should be publicly announced and published in a way accessible to all (see section 2.7).

2.4 Emergency Procurement

Emergency requests shall be managed by the most competitive and appropriate method the exigency permits (i.e.: open competitive bidding, selective bidding, direct purchase, in that order) irrespective of the Procurement Threshold.

To avoid misuse of this exception, situations under which emergency procurement is recommended to be restricted to the following:

- If encountered with an incident that may risk a human life or have an adverse impact on the living standard of a community or endanger the environment.
- Encounter a situation that may interrupt an essential service to the public.
- Company properties and buildings or goods and buildings for public use are at risk of danger that necessitates immediate action to rectify or to restore it to the original condition.

Emergency procedure should be clearly stated in the policy and should require the following:

- Submission of an emergency declaration form to Procurement Department with justification of the nature of the emergency; and
- shall be awarded with the approval of the Procurement Committee and from the MD/CEO

2.5 Procurement Thresholds

The policy should provide SOEs with viable procurement thresholds under which certain procurement methods are allowed: The following 4 thresholds are proposed. The monetary values applicable to these thresholds are shown in Table 2-1.

(a) Threshold 1

- Preferred procurement method: Quotation / Direct Purchase
- Documentation of vendor selection is not required.
- The Head of the relevant department shall place his/her name and date against the signature on the selected quotation as confirmation to purchase from the specified vendor.

(b) Threshold 2

- Preferred procurement method: Quotation
- A minimum of three (3) bids, written or verbal, are required.
- Each vendor must be provided with the same precise and accurate description of the specifications and technical requirements for the good or service.
- Web price lists and catalogue listings can be considered verbal bids.
- Vendor Selection form approved by the Head of Procurement Department is to be attached to the Purchase Order (PO).

(c) Threshold 3

- Preferred procurement method: RFQ or RFP under Open Competitive Bidding or Selective Competitive Bidding.
- Where it is not practical to use Open Competitive Budding, Selective Competitive Bidding may be used. And where neither Open Competitive Bidding nor Selective Competitive Bidding is practical, Direct Purchase may be used. If any method other than Open Competitive Bidding process is to be used, the justification for the deviation is to be properly documented and approved by the Procurement Committee.
- A minimum of three (3) bids, written, are required.
- An RFQ must be provided to each vendor with the same precise and accurate description of the specifications and technical requirements for the good or service.
- Cost/price analysis to be conducted and shall select the vendor offering the best mix of quality, service and price for the specified need.
- The Procurement Committee shall undertake evaluation of all Threshold 3 purchases. The Committee may use the services of independent technical experts in the technical evaluation.

(d) Threshold 4

- Open Competitive Bidding (RFQ or RFP) should be the default method for purchases over this threshold.
- Where it is not practical to use Open Competitive Budding, Selective Competitive Bidding may be used. And where neither Open Competitive Bidding nor Selective Competitive Bidding is practical, Direct Purchase may be used. If any method other than Open Competitive Bidding process is to be used, the justification for the deviation is to be properly documented and approved by the Procurement Committee.
- The Procurement Committee shall undertake evaluation of all Threshold 4 purchases. The Committee may use the services of independent technical experts in the technical evaluation.

Table 2-1: Values applicable for Procurement Thresholds

Applicable SOEs	Threshold 1	Threshold 2	Threshold 3	Threshold 4
Annual Procurement total below MVR 100m	for purchases below MVR 3,000	for purchases between MVR 3,000 and MVR 9,999.99	for purchases between MRV 10,000 and MRV 99,999.99	for purchases above MRV 99,999.99. a) Expenditure on an investment (defined as an asset, plant, machinery or a proposal for a business/project undertaking) above MVR 99,999.99 shall be subject to prior approval of the BoD. b) All purchases above MVR 250,000 shall be approved by the BoD.
Annual Procurement total above MVR 100m	for purchases below MVR 3,000	for purchases between MVR 3,000 and MVR 34,999.99	for purchases between MRV 35,000 and MRV 499,999.99	for purchases above MRV 499,999.99. a) Expenditure on an investment (defined as an asset, plant, machinery or a proposal for a business/project undertaking) above MVR 499,999.99 shall be subject to prior approval of the BoD. b) All purchases above MVR 1,000,000 shall be approved by the BoD.

2.6 Bid Evaluation Committees

While SOEs currently have Bid Evaluation Committee, such committees are not organized or managed well. Lack of defined responsibilities, scheduled meetings, and record maintenance of the Committees leaves much to be desired.

Bid Evaluation Committees are one of the most essential elements of the procurement process. They are the body responsible for evaluation bids and quotations received for procurements over a certain threshold limit. In order to function effectively, the following recommendations made with regards to the Committee:

- (a) Appointment: Appointment of members of the Committee should be by the MD/CEO of the SOE.
- (b) Term: The Committee shall be reconstituted every year. Reappointment of existing members to be allowed.
- (c) Number of members: 5-7 members
- (d) Chairperson: The highest ranking officer of the SOE in the Committee. If there are more than one member of the same hierarchical level, MD shall appoint the Chairperson.
- (e) Quorum: Approvals of matters before the Committee shall be by simple majority of the members.

- (f) Ensure members are sufficiently oriented/trained on procurement policy and evaluation process.
- (g) General Functions: The Procurement Committee shall be responsible for:
 - o Overseeing all aspects of tender evaluation.
 - o Making decisions regarding all procurements above Threshold 2.
 - o Ensuring cost-effectiveness, transparency and fairness of the procurement process.
 - o Ensuring complaints and appeals pertaining to procurement processes are reviewed and responded effectively
 - o Maintaining minutes of meetings and records of all decisions and recommendations.
 - o Reporting all activities undertaken by the Committee to the Board of Directors on a bi-annual basis.

2.7 Advertising rules and time limits

SOE procurement policy should document requirements to publish procurement opportunities (advertisement) in order to promote transparency and accessibility through easily accessible networks/news media.

It is recommended that the advertisement be published in the official Gazette and a widely used website (or company website) or electronic portal with free national and international access.

Publication of opportunities should provide sufficient time, consistent with the method, nature and complexity of procurement, for potential bidders to obtain documents and respond to the advertisement. The minimum time frames for submission of bids/proposals should be defined for each procurement method, and these time frames are extended when international competition is solicited.

Generally, not less than 3 (three) weeks from the date of the invitation to bid or the date of availability of bidding documents, whichever is later, shall be allowed. Where large works or complex items of equipment are involved, this period shall generally be not less than 6 (six) weeks to enable prospective bidders to conduct investigations before submitting their bids. In such cases, the bidder is encouraged to convene pre-bid meetings and arrange site visits.

2.8 Bid documentation and specifications

The bidding documents should contain sufficient information necessary for a prospective bidder to prepare a bid for the procurement opportunity. The detail and complexity of documents to be included in a bid may vary with the size and nature of the proposed bid package and contract, they should generally include:

- invitation to bid;

- instructions to bidders and bid data sheet;
- form or letter of bid;
- form of contract;
- conditions of contract, both general and particular;
- specifications and drawings;
- relevant technical data (including of geological and environmental nature);
- list of goods or bill of quantities;
- delivery time or schedule of completion; and
- necessary appendices, such as formats for various securities.

The basis for bid evaluation and selection of the lowest evaluated bid shall be clearly outlined in the instructions to bidders and/or the specifications. If a fee is charged for the bidding documents, it shall be reasonable and reflect only the cost of their typing, printing or publishing in an electronic format, and delivery to prospective bidders, and shall not be so high as to discourage qualified bidders.

If bidding documents are distributed electronically, the electronic system must be secure to avoid modifications to the bidding documents and shall not restrict the access of Bidders to the bidding documents.

It is recommended that appropriate Standard Bidding Documents (SBDs) be designed for SOEs. These can be issued by the SOEs with minimum changes, as necessary to address project specific conditions. Any such changes shall be introduced only through bid or contract data sheets, or through special conditions of contract, and not by introducing changes in the standard wording of the SBDs. SBDs should also include standard contract conditions for most common types of contracts.

2.9 Evaluation and award criteria

Evaluation criteria of SOEs vary greatly and have been pointed out as a cause of concern by stakeholders. The reason for such concern includes, lack of transparency around it, lack of objectivity or vagueness, and concentration on price as a primary means of awarding without giving enough levy for other criteria that may be essential for achieving the desired outcome.

In order to ensure efficiency, fairness and transparency in the procurement process it is essential to pre-disclose a fairly objective criteria that will be used in the evaluation of bids and proposals. Wherever practical set objective criteria, which will give less room for subjective interpretation of the bid evaluators.

For evaluating quotations obtained via shopping method price may be the most suitable criteria. However, evaluating and considering the price alone does not in all cases ensure value for money. The principle requires the evaluation of relevant costs

and benefits, along with an assessment of risks and non-price attributes and/ or life cycle costs, as appropriate.

Bid evaluation criteria should be relevant to the type of procurement undertaken (goods, works and consultancy and non-consultancy services). Bidding documents should specify the evaluation criteria applied and the manner in which they will be applied for the purpose of determining the lowest evaluated qualified bid.

For goods and equipment, other factors considered may include payment schedule, delivery time, operating costs, efficiency and compatibility of the equipment, availability of service and spare parts, and related training, safety, and environmental benefits. The factors other than price to be used for determining the lowest evaluated bid shall be, to the extent practicable, expressed in monetary terms in the evaluation provisions in the bidding documents.

For complex procurement such as infrastructure or consultancy services, technical capacity and quality are key criteria for selection. Technical qualifications can be assessed by a pass/fail review. However, a scored evaluation of technical qualification against stated criteria can also be necessary to select the most advantageous proposal. The bid document should specify how these aspects are to be considered.

Procurement policy should also lay out the conditions under which selection of consulting services may be based exclusively on technical capacity and when price and quality considerations are appropriate (see Single Sourcing (a)).

2.10 Submission, receipt and opening of tenders

Opening tenders in the presence bidders or their representatives is an important step towards increasing transparency of the procurement process.

For open bids, the time of deadline for receipt of bids, or promptly thereafter, is the most appropriate time for bid opening. This information should be announced, together with the place for bid opening, in the invitation to bid (advertisement).

Once opened, the name of the bidder and total amount of each bid, and of any alternative bids, if they have been requested or permitted, shall be read aloud (and posted on the electronic platform when electronic bidding is used) and recorded when opened, and a copy of this record should be promptly sent to all bidders who submitted bids in time. Bids received after the time stipulated, as well as those not opened and read out at bid opening, shall not be considered.

Clarity on how bids are submitted is critical in minimizing rejection of otherwise compliant proposals. The bid documents should set out clear provisions in this respect (For example, the number of copies, the sealing and marking of envelopes and in the case of electronic bidding, the security and confidentiality requirements should all be specified).

2.11 Right to challenge and appeal

In order to attract competitive bidders, it is essential to maintain confidence in the procurement process. A critical aspect for achieving confidence is the establishment of the right to challenge decisions or actions by initiating a review of procurement decisions. This right should be given by the in the SOE procurement policies.

SOEs should set up an internal mechanism (or a grievance committee) to handle bidders' grievance to review any grievances received by the bidders. This committee should be independent of the members of the Bid Evaluation Committee to ensure fairness and objectivity in their assessments.

The role of the independent body that bidders or public can appeal in relation to SOE procurement process is ACC. As an independent state institution, ACC has no direct interest in the procurement process, does not report to the procuring entity.

2.12 Contract management

Contract management in SOEs are vaguely defined. This becomes especially problematic in cases where contractors fail to meet certain contractual obligations.

In order to ensure complete and timely implementation of the contract, and to avoid confusion in case of problems, the following functions and responsibilities for managing contracts should be defined in the procurement policy:

- monitoring the timely delivery of goods, works and services, including consulting services
- inspection, quality control, supervision of civil works and final acceptance of products; monitoring of contract performance clauses designed to ensure social or environmental standards (e.g. application of specific environmental management measures for construction works)
- review, issuance and publication of contract amendments
- examination of invoices and timely processing of payments, including administration of guarantees
- handling of disputes/termination of contracts

2.13 Contract Variations and Advance Payments

Contract variations are another significant area that can be easily misused by bidders and/or organizations.

In order to minimize misuse, following types of variations of contracts should be subject to approvals from MD:

- (a) a material extension of the stipulated time for performance of a contract; or

- (b) any substantial modification of the scope of services or other significant changes to the terms and conditions of the contract; or
- (c) any variation order or amendment (except in cases of extreme urgency) which, singly or combined with all variation orders or amendments previously issued, increase the original contract amount over 10% (ten percent); or
- (d) the proposed termination of the contract.

Any variation order or amendment (except in cases of extreme urgency) which, singly or combined with all variation orders or amendments previously issued, increase the original contract amount over 10% (ten percent) should require approval of BoD.

2.14 Electronic Procurement (e-Procurement)

Although not common among the SOEs presently, e-procurement will become a preferred mode of procurement in the foreseeable future. Therefore, it is important that the procurement framework being developed for SOEs ensure that:

- (a) It allows e-Procurement solutions covering the public procurement cycle, whether entirely or partially.
- (b) It ensures the use of tools and standards that provide full access to the system, taking into consideration privacy, security of data and authentication.
- (c) It requires that interested parties be informed which parts of the processes will be managed electronically.

2.15 Norms for safekeeping of records, documents and electronic data

Safekeeping of reports, documents and data are not only important in cases of problems where ACC or an investigative authority summons such files, it is also an essential element in reviewing and improving performance of the function.

A system for safekeeping of records and documents should cover the entire procurement process including contract management, and, should include physical and/or electronic:

- public notices of procurement opportunities
- the procurement method, including justification
- a complete set of bidding/selection documents, including clarifications and any amendments
- bid/proposal opening records
- evaluation reports, including clarifications sought and provided during the evaluation process
- award decisions, including all elements on which the decision was based
- award notices (if applicable)
- formal challenges (requests for review and appeals) by bidders and outcomes
- final signed contract documents and amendments

- contract variations, modifications and changes
- certificates and reports of inspection, quality control and acceptance
- claims and dispute resolutions
- payments
- disbursement data (as required by the country's financial management system)
- any correspondence, meeting notes and minutes, including contract negotiations (if applicable).

3 ORGANIZATIONAL AND MANAGEMENT CAPACITY

3.1 Procurement expenditure and the budget cycle

While the budgeting cycle and procurement planning is not directly linked, SOEs have generally established a system to ensure budget availability prior to approving procurements.

3.2 Organisation, funding, staffing, and level of independence and authority

In order for the procurement process to function effectively, it is important that the procurement department be given due importance, independence and authority. Presently SOEs do recognize this aspect.

All SOEs procurement departments that are reporting to executive levels, most reporting directly to MD, and are well staffed. While establishing a separate department is desirable for SOEs with significant procurement, it is not necessary for smaller SOEs. However, it is important to maintain separation of duties between financial, contractual and project implementation authorities to avoid collusion in the process.

3.3 Avoiding conflict of interest

Avoidance of conflict of interest is critical to maintaining integrity of the procurement system. Hence, guidance on this should be addressed in the procurement policy.

A conflict of interest involves a conflict between an officer's duty to serve the entity's interest, and an officer's private interests. Conflicts of interest may arise when any employee, officer or a director, has a financial, family or any other beneficial interest in the vendor firm selected or considered for an award. There are three types of conflict of interest that should be address in the policy:

- An **actual** conflict of interest – where an officer is in a position to be influenced by their private interests when doing their job.

- A **perceived** conflict of interest – where an officer is in a position to appear to be influenced by their interests when doing their job.
- A **potential** conflict of interest – where an officer is in a position where they may be influenced in the future, by their private interests when doing their job.

The policy should provide clear guidance on how to make conflicts of interest declarations and consequences for failing to do so. Policy should also clearly state that no employee, officer, director or agent shall participate in the selection, award, or administration of a contract if a real or apparent conflict of interest would be involved.

A poorly managed perceived conflict of interest can be as damaging as a poorly managed actual conflict of interest. Therefore, employees, officers and directors involved in procurement must not only behave ethically, they must also be seen to behave ethically.

3.4 Definition, responsibilities and formal powers of procurement department personnel

The personnel of procurement department should have clearly defined job descriptions, powers and responsibilities.

3.5 Training, advice and assistance

Training and development of procurement staff has been noted by SOEs as one of the biggest challenges to maintaining a good procurement system.

Having a common procurement policy and guideline among SOEs would make it easier to address this issue in a holistic manner as it enables PCB to initiate the development of a comprehensive training programme designed for procurement staff.

3.6 Monitoring performance to improve the system

Measuring the performance effectiveness of a procurement system - both transactional and process driven, can be a major driver of performance improvements. Results of procurement processes should be periodically assessed to ascertain the level of performance and its effectiveness and savings resulting from the procurement system.

4 PROCUREMENT OPERATIONS AND MARKET PRACTICES

Procurement planning is one area that is lacking in SOEs. It is recommended that SOEs develop proper policies and plan ahead for conducting procurement activities. Needs analysis and market research should be used to identify and take advantage of optimal procurement strategies.

When planning ahead, the following elements should be taken into consideration:

- In an attempt to manoeuvre procurement activities in a certain way, procurement that is sensible to be carried as a single lot should not be broken down into several lots in ways that undermines competitiveness.
- The goods or services or works required during a reasonable time period should be consolidated so as to maximize benefit against cost of procuring.
- All relevant departments should share information required by the procurement department on goods and services required on a regular basis or goods and services required for specific purposes on a consistent and timely manner.

5 ACCOUNTABILITY, INTEGRITY AND TRANSPARENCY OF THE PROCUREMENT SYSTEM

5.1 Adequate and timely access to information by the public

The procurement system of SOEs are not transparent. The following components have to be emphasised by policy and procedures to ensure a more transparent process:

- The harmonized procurement policies and guidelines governing SOE procurement are published and easily accessible to the public at no cost. Procurement policies of individual SOEs need not be disclosed to the public, as it may be a source of competitive advantage and proprietary, and therefore confidentiality may be important.
- All stakeholders have adequate and timely access to information in each phase of the procurement process related to specific procurements and access to other information that is relevant to promote competition and transparency.

5.2 Co-ordination of controls and audits of procurement process

Auditing the effectiveness of a procurement system - both transactional and process driven, can be a major driver of performance improvements. These audits should be undertaken by the internal audit functions of SOEs and performance measurement

and continuous improvement programmes let by the entities' procurement department.

However, regular audits from external parties (such as the AGO, ACC or externally hired auditors) can play a vital role in harmonizing, monitoring and evaluating the performance of SOE procurement systems as a whole.

5.3 Anti-corruption measures

Anti-corruption measures are included in some of the SOE policies very comprehensively. Anti-corruption measures should cover both employees and service providers. Following provisions are recommended to be included in SOE policy:

(a) Gifts and Gratuities

- Employees, officers, directors involved in procurement shall neither solicit nor accept gratuities, gifts, consulting fees, trips, or any other personal favors other than those of a token kind from a vendor, potential vendor, or from the family or employees of a vendor, potential vendor or bidder; or from any party to a sub-agreement or ancillary contract.
- Guidelines for acceptable token gifts, benefits or business courtesy must be set out in the Staff Code of Conduct or relevant policy and reference must be made to that document.
- Any gift received in connection with procurement shall not be used directly or indirectly by any employee, officer or director involved in procurement. Any such items received must be handed over to the Company, and a record of the items received shall be maintained by the Procurement Department.
- Any effort by a bidder or its representative to influence the bid evaluation decisions, including offer of bribes, gifts or gratuities shall be reported to the Bid Evaluation Committee. Punitive action may be taken against such bidders.

(b) Procurement from related parties of board of directors and senior executives

- Board directors and senior executives must declare related parties and the company should have a mechanism to monitor awarding of contracts to such parties.
- Awarding contracts to parties that are related to board of directors and senior executives should require approval of the BoD.

(c) Corruption and Fraudulent Activities by the bidders

Define the following:

- "corrupt practices" - offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the implementation of the procurement policy or in contract execution

- “Fraudulent practices” - a misrepresentation or omission of facts in order to influence a procurement process or the execution of a contract
- “collusive practices” - a scheme or arrangement between two or more bidders with or without the knowledge of the contract, designed to establish bid prices at artificial, non-competitive levels.
- “coercive practices” - harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process or affect the execution of a contract.

(d) Policy should give allowance to the following actions with regards to such practices:

- Rejecting a proposal for award if it is determined that the bidder recommended for award has directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for the contract in question
- Cancelling the portion of the project allocation to a contract if it suspected or determined at any time that representatives of the bidders or of a beneficiary of the project engaged in corrupt, fraudulent, collusive, or coercive practices during the procurement or the execution of that contract, without the bidder having taken timely and appropriate action satisfactory to the company to remedy the situation
- Can sanction a firm, company or individual, including declaring ineligible, either indefinitely or for a sated period of time to be awarded a project if it at any time determines that the firm, company or individual has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing a contract;

5 ANNEX 1: STAKEHOLDERS CONSULTED

	Company Name	Name of Individual	Designation
1.	Housing Development Corporation Ltd	Fathimath Nihaya	Director
		Ali Ibrahim	Asst. Director
		Ahsan Hassan	Asst Store Manager
2.	Island Aviation Services Ltd	Hussain Safuath	GM - Procurement.
		Mohamed Ziyau	Procurement Executive
3.	Maldives Airports Company Ltd	Hussain Azim	GM - Procurement & Stores, Finance Dept.
		Saif Yoosuf Riyaz	Asst. Manager, Procurement
		Ahmed Shimad	Asst. Manager, Procurement
		Shaahid Aboobakuru	GM – Financial Accounting (HOD Finance)
4.	Maldives Ports Ltd	Mujahid Anees	Asst. General Manager (Procurement HOD)
		Ahmed Suad	Senior Procurement Officer
		Aishath Ali	Manager (Procurement Dept)
5.	Male' Water and Sewerage Company Pvt Ltd	Imran Adam	GM, Supply & Logistics
		Mohamed Nawaz	Inventory Manager
		Rizween Ali	Procurement Officer – (local procurement head).
		Mohamed Nasih	Foreign Procurement Head
6.	State Electric Company Ltd	Mohamed Saleem	General Manager
		Asfa Hussain	Manager
		Mariyam Shaanaz	Manager
		Ahmed Inad	Asst. Manager
		Aishath Shizna	Admin Supervisor
		Yazna Mohamed	Deputy Manager
7.	Greater Male' Industrial Zone Limited	Hamid Saleem	Manager HR & Admin Dept.
		Shahumullah Ali Sajid	Asst Manager - Procurement
		Hamza Abdullah	Procurement Executive
8.	Maldives Marketing and Public Relations Corporation Limited	Thoyyib Mohamed	Managing Director
		Fathimath Raheel	Director
9.	Addu International Airport Pvt Ltd (via telephone)	Mariyam Zeena Shathir	Procurement Manager
10.	Aasandha Company Ltd	Abdulla Nashid	Manager - Corporate Affairs
		Aminath Sheereen	S. Officer, Head of Section - Procurement.
		Yaamin Rasheed	S. Officer, Procurement
11.	Fenaka Corporation Limited	Aishath Aiman	Deputy Director
		Suha Hussain	Assistant Director
12.	Maldives Hajj Corporation Limited	Aishath Gahir	Corporate Affairs Manager.
		Mohamed Saaidh	Senior Officer, Procurement

13.	Maldives Centre for Islamic Finance Limited	Aminath Shahida	Head of HR & Admin
		Hassan Saajid,	Vice Rector of SAIIF
14.	Maldives Sports Corporation Limited	Solah Shihab	Asst Manager - Procurement
15.	Maldives Integrated Tourism Development Corporation Limited	Azhana Shafeeq	Director - Admin & HR.
		Ahmed Haisham Rasheed	Officer, Procurement
16.	Waste Management Corporation Limited	Hussain Ibrahim	Admin & Procurement Manager
		Moosa Raef	Logistics Officer
17.	Business Center Corporation Limited	Abdulla Shaheed	Financial Controller
18.	Public Service Media	Mohamed Saeed	Head of Procurement
		Ibrahim Suhail	Asst Manager - Procurement.
		Mohamed Jumail	Senior Procurement Officer
19.	Fahi Dhiriulhun Corporation Limited	Aishath Shaaifa,	Asst. Manager - Admin
		Hussain Sobir	Accounts Officer
20.	Road Development Corporation Limited	Hassan Saeed	General Manager
		Amany Hassan	Company Secretary
		Hassan Siyad	Procurement Officer
21.	Privatization & Corporatization Board	Hassan Waheed	President
		Asim Mohamed	Vice President
		Ahmed Siraj	Secretary General
		Mohamed Shifah	Director
22.	National Tender Board	Ahmed Mujuthaba,	Chief Procurement Executive, Head of National Tender
23.	Ministry of Finance	Abdulla Hassan	Project Director
		Mohamed Naiz	Chief Information Officer
		Hussain Riza	Developer
24.	Maldives National Association for Construction Industry	Hassan Shameem	Board Member
		Adnan Haleem	Secretary General
25.	Auditor General's Office	Ibrahim Fazeel	Director – SOE & SB Audit Department
		Ahmed Salih	Director - Performance Audit Department
26.	Anti-Corruption Commission	Safaath Habeeb	Legal Officer - Head of Legal & Asset Recovery Unit
		Majid Hassan	Senior Investigation Officer - Head of Investigation Unit
27.	Transparency Maldives	Aiman Rasheed	Acting Executive Director

6 ANNEX 2: LIST OF DOCUMENTS REVIEWED

Documents	
1.	Public Finance Act 2006 and Amendments
2.	Public Finance Regulation 2017/R-20 and Amendment
3.	Proposed changes to the Public Finance Regulation
4.	Procurement Policies of SOEs
5.	2019 Budget of SOEs
6.	2018 Financial Statements of SOEs
7.	Quarterly Financial Statements of SOEs
8.	Delegation of Authority matrix (approval levels) of SOEs
9.	Organizational Chart of procurement department of SOEs
10.	Document on SOE Categorization by Ministry of Finance
11.	Procurement granted to SOEs by the National Tender Board in 2019, 2018
12.	Issues raised by Bidders in the Procurement Forum
13.	Fair Tendering & Contracts – Challenges in the Construction Industry and Possible Solutions by MNACI
14.	High-Level Principles for Integrity, Transparency and Effective Control of Major Events and Related Infrastructures, OECD
15.	Preventing Corruption in Public Procurement, OECD
16.	Methodology for Assessing Procurement Systems (MAPS), 2018
17.	The World Bank Procurement Regulations for IPF Borrowers Procurement in Investment Project Financing - Goods, Works, Non-Consulting and Consulting Services, July 2016 – revised November 2017 and August 2018
18.	OECD Guidelines on Corporate Governance of State-Owned Enterprises, 2015 Edition

7 ANNEX 3: LIST OF SOES INCLUDED IN THE ANALYSIS

#	Name	Proportion of Shareholding	
		GOM	Private sector
1.	HDC	100%	NIL
2.	IAS	100%	NIL
3.	MACL	100%	NIL
4.	MPL	100%	NIL
5.	MWSC	80%	Hitachi 20%
6.	STELCO	100%	NIL
7.	GMIZL	100%	NIL
8.	MMPRC	100%	NIL
9.	AIA	50%	10% MACL, 10% STO, 30% KASA
10.	Aasandha	100%	NIL

11.	KACL	100%	NIL
12.	Fenaka	100%	NIL
13.	MHCL	100%	NIL
14.	MCIF	100%	NIL
15.	MSCL	100%	NIL
16.	MITDC	100%	NIL
17.	WAMCO	100%	NIL
18.	BCC	100%	NIL
19.	PSM	100%	NIL
20.	SDFC	85%	5% Male City Council, 5% Addu City Council, 5% Fuvahmulah City Council
21.	FDC	100%	NIL
22.	MFMC	100%	NIL
23.	RDC	100%	NIL
24.	Tradenet	100%	NIL

8 ANNEX 4: LIST OF SOES EXCLUDED IN THE ANALYSIS

#	Name	Proportion of Shareholding	
		GOM	Private sector
1.	BML	50.80%	33.73% Public, 4.07% MTCC, 7.33% Govt. Emp. PF, 4.07% Rayyithunge Account
2.	Dhiraagu	41.80%	52.0% Batelco, Public 6.2%
3.	HDFC	49%	ADB 18%, IFC 18%, HDFC India 15%
4.	MTDC	47%	53% public
5.	MTCC	64%	MNSL 4.65%, Public 31.15%
6.	STO	81.63%	18.37% Public
7.	MIV	25%	70% ICD, 5% Amaana Takaful

9 ANNEX 5: QUESTIONNAIRES RECEIVED

#	Name	Proportion of Shareholding	
		GOM	Private sector
1.	HDC	100%	NIL
2.	IAS	100%	NIL
3.	MACL	100%	NIL
4.	MPL	100%	NIL
5.	MWSC	80%	Hitachi 20%
6.	STELCO	100%	NIL
7.	GMIZL	100%	NIL

8.	MMPRC	100%	NIL
9.	AIA	50%	10% MACL, 10% STO, 30% KASA
10.	MCIF	100%	NIL
11.	MSCL	100%	NIL
12.	MITDC	100%	NIL
13.	BCC	100%	NIL
14.	PSM	100%	NIL
15.	SDFC	85%	5% Male City Council, 5% Addu City Council, 5% Fuvahmulah City Council
16.	FDC	100%	NIL
17.	MFMC	100%	NIL
18.	Tradenet	100%	NIL

10 ANNEX 6: QUESTIONNAIRES NOT RECEIVED

#	Name	Proportion of Shareholding	
		GOM	Private sector
1.	RDC	100%	NIL
2.	MHCL	100%	NIL
3.	KACL	100%	NIL
4.	FENAKA	100%	NIL
5.	Aasandha	100%	NIL
6.	WAMCO	100%	NIL

11 ANNEX 7: REVENUE OF SOES (MVR)

Company	2017	2018
1. STELCO	1,675,906,409	1,757,355,443
2. MPL	628,209,833	758,200,640
3. MSCL	234,905	290,118
4. HDFC	119,507,928	126,306,836
5. Dhiraagu	2,620,300,000	2,762,487,000
6. STO	7,505,223,841	9,404,114,486
7. MWSC	1,053,271,759	1,254,442,095
8. MCIF	34,174	233,871
9. MIB	111,375,422	144,671,427
10. MTCC	1,294,177,082	1,281,440,000
11. MTDC	68,403,721	70,605,050
12. MACL	4,025,474,455	4,746,544,013

13.	BML	2,293,181,000	2,516,518,000
14.	AIA	44,292,080	52,609,106
15.	GIL	24,281,789	9,405,894
16.	TCL	72,866,194	22,143,670
17.	HDC	881,905,561	1,230,927,307
18.	MHCL	90,239,587	79,137,122
<p><i>GIL and TCL financials for 2018 are from Jan 2018 – 15 April 2018. The Companies were merged to form GMIZL. Audited financial statements were not available for GMIZL, KACL and BCC</i></p> <p><i>2018 audit is still ongoing for WAMCO, PSM, MMPRC, MITDC, IAS and FENAKA.</i></p> <p><i>SDFC was incorporated in early 2018. FDC, MFMC, RDC and Tradenet were incorporated in 2019.</i></p>			

12 ANNEX 8: TOTAL ASSETS OF SOES (MVR)

Company	2017	2018
1. STELCO	2,838,185,318	3,821,473,542
2. MPL	1,080,720,158	1,378,134,036
3. MSCL	4,492,104	4,052,586
4. HDFC	1,588,926,689	1,751,435,800
5. Dhiraagu	3,198,021,000	3,147,421,000
6. STO	6,205,708,600	6,340,945,893
7. MWSC	2,130,010,935	2,182,050,130
8. MCIF	2,140,714	1,246,681
9. MIB	3,282,143,568	2,768,101,647
10. MTCC	2,353,478,766	2,175,485,906
11. MTDC	716,691,839	725,572,850
12. MACL	9,817,724,117	13,411,058,519
13. BML	22,364,967,000	22,973,103,000
14. AIA	651,654,670	605,956,323
15. GIL	101,013,411	106,683,789
16. TCL	4,291,684,590	4,278,448,461
17. HDC	18,915,459,226	27,920,632,408
18. MHCL	128,774,252	135,248,739
19. Aasandha	620,444,410	317,136,988
<p><i>GIL and TCL financials for 2018 are from Jan 2018 – 15 April 2018. The Companies were merged to form GMIZL. Audited financial statements were not available for GMIZL, KACL and BCC.</i></p> <p><i>2018 audit is still ongoing for WAMCO, PSM, MMPRC, MITDC, IAS and FENAKA</i></p> <p><i>SDFC was incorporated in early 2018. FDC, MFMC, RDC and Tradenet were incorporated in 2019.</i></p>		

13 ANNEX 9: SALARIES AND WAGES OF SOES (MVR)

Company	2017	2018
1. STELCO	73,210,075	81,474,648
2. MPL	107,156,664	106,015,700
3. MSCL	2,076,932	2,104,869
4. HDFC	7,668,667	8,348,445
5. Dhiraagu	197,007,000	205,329,000
6. STO	114,431,037	122,989,001
7. MWSC	38,693,997	44,310,283
8. MCIF	2,948,251	2,768,437
9. MIB	31,832,163	35,527,951
10. MTCC	155,123,335	187,685,374
11. MTDC	4,220,778	3,689,651
12. MACL	527,999,449	546,980,093
13. BML	242,035,000	255,977,000
14. AIA	14,162,685	15,872,731
15. GIL	6,055,529	1,996,489
16. TCL	13,575,706	5,791,136
17. HDC	30,374,246	55,008,060
18. MHCL	3,299,896	3,036,192
19. Aasandha	14,969,872	15,142,796
<p><i>GIL and TCL financials for 2018 are from Jan 2018 – 15 April 2018. The Companies were merged to form GMIZL. Audited financial statements were not available for GMIZL, KACL and BCC</i></p> <p><i>2018 audit is still ongoing for WAMCO, PSM, MMPRC, MITDC, IAS and FENAKA</i></p> <p><i>SDFC was incorporated in early 2018. FDC, MFMC, RDC and Tradenet were incorporated in 2019.</i></p>		

14 ANNEX 10: OPERATING PROFIT OF SOES (MVR)

Company	2017	2018
1. STELCO	142,042,504	160,516,991
2. MPL	192,128,156	273,639,233
3. MSCL	(5,774,767)	(5,957,058)
4. HDFC	93,294,650	116,262,524
5. Dhiraagu	1,079,003,000	1,102,647,000
6. STO	287,451,929	380,472,026
7. MWSC	346,473,451	503,151,969
8. MCIF	(7,337,711)	(7,175,922)

9.	MIB	53,990,732	72,802,543
10.	MTCC	154,932,416	83,214,909
11.	MTDC	1,014,112	27,809,908
12.	MACL	1,278,248,046	1,401,048,795
13.	BML	1,416,431,000	1,601,899,000
14.	AIA	(43,868,763)	(54,252,419)
15.	GIL	12,779,753	5,745,799
16.	TCL	15,326,679	(5,941,976)
17.	HDC	6,889,470,890	2,606,444,428
18.	MHCL	(20,583,064)	(11,608,402)
<p><i>Aasandha does not generate revenue on its own.</i></p> <p><i>GIL and TCL financials for 2018 are from Jan 2018 – 15 April 2018. The Companies were merged to form GMIZL.</i></p> <p><i>Audited financial statements were not available for GMIZL, KACL and BCC.</i></p> <p><i>2018 audit is still ongoing for WAMCO, PSM, MMPRC, MITDC, IAS and FENAKA</i></p> <p><i>SDFC was incorporated in early 2018. FDC, MFMC, RDC and Tradenet were incorporated in 2019.</i></p>			