

Guidelines on Submission of Memoranda to the Cabinet of Ministers (amended version)

01. Matters for which approval of the Cabinet of Ministers should be sought:

Approval of the Cabinet of Ministers should be sought only for important decisions to be taken on behalf of the Government, excluding those subjects which have been vested in other authorities/institutions either under the Constitution, any written law or administrative regulations. Accordingly, subjects which mainly require Cabinet approval are as follows:

- (i) Important Policy matters other than those for which approval of the Cabinet of Ministers has already been received by virtue of the inclusion in the Budget Speech or by inclusion in a Cabinet Memorandum.
- (ii) Programmes and Projects formulated by the relevant Ministries for implementation of the proposals approved as a policy, as referred to in (i) above.
- (iii) At the outset to instruct the Legal Draftsman to draft legislation or amending legislation for an existing law and once the drafts are ready, to publish the draft Bill so formulated in the Gazette and to present same in Parliament.
- (iv) Orders, regulations or notifications made by the relevant Minister in-charge of the subject, by virtue of the powers vested in him under relevant Act, to be presented in Parliament for approval.
- (v) All Agreements and Memoranda of Understanding (MOU) to be signed with foreign Governments/International Organizations, on behalf of the Government.
- (vi) Award of Tenders exceeding the value limits of the Ministerial Procurement Committee specified in the relevant supplement to the Procurement Guidelines issued by the then National Procurement Agency.
- (vii) Seeking approval to authorize the General Treasury to appoint Cabinet Appointed Procurement Committees (CAPCs), Standing Cabinet Appointed Procurement Committees (SCAPCs), Cabinet Appointed Consultancy Procurement Committees (CACPCs) and Cabinet Appointed Negotiating Committees (CANCs) on Procurements referred at the (vi) above.
- (viii) Request for authority under exceptional circumstances in the national interest, to deviate from the provisions of the Financial Regulations, Establishments Code, Procurement Guidelines and Part II of the Guidelines on Government Tender Procedure issued by the Ministry of Finance etc.

- (ix) Submission of Supplementary Estimates to Parliament for urgent matters of the Government for which expenditure cannot be met by transferring of financial provisions allocated from the Budget or which cannot be postponed until the next Budget.
- (x) Revision of Limits of Advance Accounts enumerated in the Second Schedule of the Annual Appropriation Act.
- (xi) Approval to provide for and determine all policy matters relating to Public Officers subject to the Constitutional Provisions, in terms of Article 55(1) of the Constitution.
- (xii) Matters pertaining to the appointment, promotion, transfer, disciplinary control and dismissal of all Heads of Departments, including District Secretaries, under the powers vested with the Cabinet of Ministers in terms of Article 55(2) of the Constitution.
- (xiii) to present Annual Reports and Statements of Accounts/Annual Performance Reports by Public Corporations and Statutory Boards to Parliament (inclusive of the Report to be submitted in terms of the Cabinet decision of 27th June 2012 relating to this matter).

02. Subjects which should not be submitted to the Cabinet of Ministers for approval:

- (i) **Subjects (including those specified in List I of Ninth Schedule of the Thirteenth Amendment to the Constitution) vested in other authorities, other than the Cabinet of Ministers, in terms of the provisions of the Constitution or any other subordinate legislation including Orders, Publications, Rules/ By laws and Regulations or the Financial Regulations, the Establishments Code, Rules of the Public Service Commission, Procurement Guidelines etc.**
- (ii) should desist from taking decisions which are not consistent with the decisions taken by the Board of Directors of Public Enterprises, State Corporations and Statutory Boards based on commercial viability of the relevant institutions, unless they are essential in the national interest.
- (iii) Matters pertaining to legal action pending before a Court of Law (However, Cabinet approval is necessary to arrive at a settlement between relevant parties pertaining to a legal matter).
- (iv) For implementation of a Court Order (only in an instance when submission of an appeal is not contemplated, even though there is provision to do so).

- (v) Appointment of Advisors/Consultants outside the approved cadre, even for specialized professional/technical fields and skilled trades, without prior approval of the General Treasury.
- (vi) Subjects vested in other authorities in terms of a decision taken by the Cabinet.

03. **Preparation of Cabinet Memoranda:**

- (i) Preparation of Cabinet Memoranda should be done by the Secretary to the Ministry, on the instructions received from his/her Hon. Minister, taking into consideration the matters referred to in paragraphs (01) and (02) above, only on subjects where Cabinet approval should be obtained.
 - (a) **Even though the relevant Minister is responsible for the proposals in the Memorandum, the Secretary to the Ministry should be responsible for the accuracy of the facts contained therein.** As such, where the covering letter sent to the Cabinet Office with the Cabinet Memorandum is not signed by the Secretary to the Ministry, it should be counter-signed by a Senior Officer of the Ministry.
 - (b) **It should be ensured that the proposals submitted are in line with the broad Government Policy framework and that the proposals have been submitted after a careful study of all related information.**
 - (c) If the proposal in the Memorandum relates to other Ministries or has an impact, discussions should be held with the relevant Ministries to reach prior agreement. It is more appropriate in such instances, for the relevant Ministers to submit a joint Memorandum.
 - (d) Memoranda seeking approval for Bills to be presented in Parliament, should be submitted together with the Bill prepared in the three languages and the clearance from the Hon. Attorney General to the effect that the Bill is not inconsistent with the provisions of the Constitution, is not subject to any restriction imposed by the Thirteenth Amendment to the Constitution and may be legally enacted by Parliament.
 - (e) Regulations to be made under various Acts to be submitted to the Cabinet for approval prior to presentation to Parliament and Memoranda pertaining to Agreements to be signed by the Government, should be submitted with the concurrence of the Legal Draftsman and after obtaining the approval of the Hon. Attorney General.
 - (f) In submitting Memoranda pertaining to procurement matters, it should be specifically stated that all unsuccessful bidders have been notified of the decision of Procurement Committee, the stipulated time period has been granted to them to appeal to the Procurement Appeal Board (PAB), as

stipulated in Chapter 8 of the Government Procurement Guidelines – 2006 and that the PAB has received/not received any appeal. In instances where appeals have been made to the PAB, the recommendation of the PAB on such appeals should also be mentioned in the Memorandum and a copy of such recommendation should be annexed.

- (g) If the matter referred to in the Memorandum had been discussed by the Cabinet of Ministers previously, the relevant Cabinet Memorandum Number and the Date of the Meeting should be indicated in the new Memorandum.
- (h) When a report pertaining to a matter has been called for by the Cabinet of Ministers and the relevant report is submitted in the form of a New Cabinet Memorandum, the facts contained in the original Memorandum should also be briefly incorporated in the new Memorandum.
- (ii) **Since it is not possible to take a decision on a matter without the observations of the Minister of Finance and other relevant Ministers, the Ministry originating the Memorandum should submit same well in advance to the Cabinet Office, with copies to the Ministry of Finance and relevant other Ministries, to enable the Ministers of such Ministries to make their observations after careful study.**
- (iii) Cabinet Memoranda received in the Cabinet Office will be referred to the relevant Cabinet Sub-Committee dealing with the subject, if any, in the first instance. Such Memoranda will be taken up for discussion by the Cabinet of Ministers, only with the recommendations of the relevant Cabinet Sub-Committee.
- (iv) **Cabinet Memoranda should be submitted in the three languages.** However, considering the difficulty encountered in submitting lengthy annexes prepared, in all three languages without causing delays, action should be taken in this regard as follows:
 - (a) if the Annexes relevant to the Memoranda belong to the following categories, they should be sent in all three languages:
 - * Bills drafted by the Legal Draftsman to be presented in Parliament or an order submitted for approval by Parliament as a by law to a certain legislation (other than documents prepared by the relevant Ministry as a guidance to the Legal Draftsman).
 - * a document to be published for the information of the general public, on approval by the Cabinet of Ministers.
 - * documents that will not be published but intended to be used by officials of various levels, such as policy statements prepared for a particular sector.

- * submission of draft Circulars seeking Cabinet approval.
- * agreements to be submitted to Parliament, after obtaining Cabinet approval.

(b) if certain Annexes are to be prepared in all three languages utilizing much labour for the use of only a few, the benefits of such efforts will be minimal. Since much time has to be spent for preparation of such documents, it may cause delay in the submission of Cabinet Memorandum. If there is any discrepancy between the versions prepared in all three languages pertaining to Reports of Procurement Committees which are liable to be challenged in a Court of Law, there could be confusion. Taking these matters into consideration, submission of Annexes such as Reports of Procurement Committees and Technical Evaluation Committees in one language (in the language originally prepared by the Officials' Committee) would suffice. However, in such instances, action should be taken as follows:

- (i) a synopsis of the important matters mentioned in the Reports of Procurement Committees and Technical Evaluation Committees should be incorporated in the Cabinet Memorandum.
- (ii) if it is seen that the Cabinet Memorandum becomes lengthy due to the inclusion of the above preliminary matters, a brief Note of same prepared in all three languages could be annexed to the Memorandum.

(Even in instances under (i) and (ii) above, the Annexes such as Reports of Procurement Committees and Technical Evaluation Committees signed by the relevant officials should be annexed in full, in the language originally prepared by the Official's Committee)

(c) Documents sent by the relevant Ministry to the Legal Draftsman as a guidance; as well as policy statements in draft form, could be submitted in one language, giving a resume of the salient features indicated in them, in all three languages.

(v) The matters for which Cabinet approval is sought should be specifically stated in the final paragraph of the Memorandum.