

KNOWLEDGE CENTRE

Exclusions

EX:1

Relevant Facts or Questions Asked

A Procuring Entity (PE) sought guidance as follows:

The clarity on how to proceed with procuring the following services for its Employee Welfare Programme (EWP):

- Individual counselling
- Hotline for after office hours
- Costs for seminars or workshops, duration and recommended number of participants.
- Costs for Crisis counselling or Critical Incident Response.

Issues Arising

Whether pursuant to The First Schedule of The Public Procurement Act 2015 (as amended) (“the Act”) counselling services may fall to be considered as exempt “medical services”.

Advice

1. The word “medical” is defined as an adjective as “relating to the science or practice of medicine” and as a noun as “an examination to assess a person’s state of physical health or fitness”;
2. Broadly interpreted, therefore, the exemption would operate on services associated with or related to the science or practice of medicine, and services related to the examination and assessment of a person’s state of physical health or fitness by suitably trained and licensed medical professionals practising in a recognised field of medicine.

3. In the foregoing regard, it is this Ministry's opinion that counselling services would not fall to be considered as "medical services" unless these services are to be provided by a licensed professional mental health practitioner.
4. If the PE accepts this interpretation, then the PE should treat the matter as covered procurement and subject it to the procedures set out in the Act.
5. It is noted that the Public Procurement Commission (PPC) does not currently have a category for this kind of service, and the PE may avail itself of the PPC's power to permit procurement contracts to be raised with an approved unregistered supplier pursuant to Section 18 of the Act.
6. Conversely, if the PE does not accept this interpretation, then it may place a contract for the services without regard to the prescribed methods or approval mechanism set out in the Act, and be prepared to defend its decisions.
7. The PE is cautioned that it must conclude all procurement contracts in a manner consistent with the principles and objects of sound procurement, including integrity, value for money, fair and equitable treatment, etc.

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