Public procurement and Disposal Manual

Part 1
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Acronyms

AO Accounting Officer
BEC Bid Evaluation Committee
BOC Bid Opening Committee
BOS Board of Survey
CE Concession Entity
COM Counsel of Ministers
CQS Consultants Qualification Selection Method
DC Direct Contracting
EOI Expression of Interest
FBS Fixed Budget Selection Method
FGS Federal Government of Somalia
FP Financial Proposal
GCC General Condition of Contract
GRN Goods Receipt Note
<table>
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<th>Description</th>
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<tr>
<td>IAC</td>
<td>Inspection and Acceptance Committee</td>
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<td>IC</td>
<td>Individual Consultant</td>
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<td>ICB</td>
<td>International Competitive Bidding</td>
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<td>IPPR</td>
<td>Independent Procurement Review Panel</td>
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<td>ISO</td>
<td>International Standard Organization</td>
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<tr>
<td>ITB</td>
<td>Instruction to Bidders</td>
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<td>JV</td>
<td>Joint Venture</td>
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<td>LEB</td>
<td>Lowest Evaluated Bid</td>
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<td>LCS</td>
<td>Least Cost Selection Method</td>
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<td>MA</td>
<td>Manufacturers Authorization</td>
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<td>NCB</td>
<td>National Competitive Bidding</td>
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<td>PC</td>
<td>Procurement Committee</td>
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<td>PE</td>
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<td>PPA</td>
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<td>PPCDA</td>
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<td>QBS</td>
<td>Quality Based Selection Method</td>
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<td>QCBS</td>
<td>Quality and Cost Based Selection Method</td>
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<td>REOI</td>
<td>Request for Expression of Interest</td>
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Standard terminology has been adopted in this Procurement and Concession Manual and certain words may have two or more widely used terminology bearing the same meaning.

1. **Acceptance** – Refers to the acceptance of goods, services or works by the Inspection and Acceptance Committee in part or in full.

2. **Accountable officer** means the person appointed as the Chief Executive officer of a procuring entity.

3. **Authority** means the Public Procurement Authority established under Article 40 of PPDCA Act.

4. **Bid / Tender** mean a quotation or proposal submitted by a bidder in response to a solicitation by a Procuring Entity.

5. **Bidder / Tenderer** mean any participant or potential participant in procurement proceedings.

6. **Bid security** means bank guarantee or other form of security submitted by a bidder together with a bid to secure the obligations of the bidder participating in a bidding proceeding, including the obligation to sign a procurement contract if the bid is accepted, in accordance with the requirements set forth in the Act and the bidding documents.

7. **Bidding / tender documents** mean documents for solicitation of offers, proposals, or quotations and other documents issued by a Procuring Entity on the basis of which bidders prepare bids.

8. **Board** means the Board of the Public Procurement Authority established under Part III of this Act.

9. **Board of Survey** means a board comprising representatives of departments of a Procuring Entity.

10. **Close relative** shall mean and include parents, spouse, children, siblings, in-laws, and first-line uncles, aunts, and cousins.

11. **Concession** means the grant of an interest in a public asset by a Procuring Entity to a non-public entity for a specified period during which the asset may be operated, managed, utilized, or improved by the non-public entity for a fee or royalties or other consideration under the conditions specified in the concession agreement.

12. **Country** means Somali Federal Republic.

13. **Consultant** means the provider of intellectual services, including consultancy services.

14. **Contract** means a written agreement between the Procuring Entity and a supplier, contractor, or consultant resulting from procurement proceedings.

15. **Contract Administrator / Manager** mean the official nominated to manage and supervise the contract execution by AO on behalf of the PE. The contract Administrator / Manager is the only official responsible for the contract management and is responsible for maintaining the contract file during the execution process and thereafter to transfer the file to the respective procurement file as per chapter 8 and sub – section 8:10 of this procurement manual.

16. **Contractor** means a physical or juridical person under contract with a Procuring Entity to provide works of any type.
17. **Candidate** means a person who has submitted an application for prequalification or expression of interest to a Procuring Entity.

18. **Disposal** means selling or giving away of unserviceable, obsolete, or surplus supplies and equipment of a Procuring Entity by any means as provided in this procurement manual.

19. **Goods** means objects of every kind and description, including commodities; raw materials; products; equipment; and objects in solid, liquid, or gaseous form.


21. **Minister** means the Minister of the said Government responsible for matters relating to finance.

22. **Negotiations** – In this manual, negotiation refers to the dialogue between the PE and one or more bidder in arriving at an agreement on prices, timing and deliverables as part of procurement proceedings for the selection of a bidder / contract or the consultant and prior to the award of a contract. See Section 12.17 of this procurement manual.

23. **Performance security** means the bank guarantee or other form of security submitted by a supplier, contractor, or consultant to secure their obligations under a procurement contract, in accordance with the requirements in the bidding documents.

24. **Procurement** means the acquisition by any contractual means of goods, works, intellectual services, or other services; and the term is deemed to include concession agreements and disposals.

25. **Public Entity** means any entity given a budget allocation and responsibility for planning and use of such funds, and embodies the following: the Central Government ministries and their departments and agencies, Government, local authorities, other agencies, state-owned enterprises, statutory bodies, public institutions, and any private entity using public funds.

26. **Procurement Committee** means the group within the Procuring Entity, comprising officials within the entity, whose functions are as listed in Chapter 7 and Sub – section 7.4 of this procurement manual.

27. **Procurement plan** includes the planned activities for a fiscal (or calendar) year whatever is the practice or means the plan consisting of proposed contracts to be procured and prepared by the Procuring Entity.

28. **Procuring entity** means a public entity making a procurement to which this manual applies.

29. **Procurement unit** means the department formally established within the Procuring Entity to carry out the procurement activities of that entity in accordance with the functions as listed in

30. **Procurement File** - The file that contains all supporting documentation pertaining to a specific procurement requirement as detailed in sub – section 8:10 of this manual. The file contents are compulsory requirements for providing audit trails.

31. **Public funds** means any monetary resources of the state budget, or aid, loans, and credits under agreement with foreign donors; or extra-budgetary resources of procuring entities, used in public procurement.

32. **Public officer** means a person holding or acting in an office of emolument in the public Service, and includes officers at the local government level.
33. **President** shall mean the Head of State or Government.

34. **Review Panel** means the Independent Procurement Review Panel as discussed in chapter 6 and sub-section 6:3 of this procurement manual.

35. **Procurement Regulations** mean the Regulations issued by the Minister to fulfill the objectives and to carry out the provisions of the Procurement Act.

36. **Services** mean any activity of an intellectual nature that does not lead to a measurable physical output.

37. **Supplier** means a physical or juridical person under contract with a Procuring Entity to supply goods.

38. **Technical services** mean any service that leads to a measurable physical output.

39. **Works** means all work associated with construction, installation of equipment or materials, and services incidental to construction.
Chapter 1

1. Preliminary

1.1 Introduction

1.1.1 Public procurement and concessions in the Federal Government of Somalia (FGS) is guided by the Public Procurement, Concessions and Disposal Bill (PPCDB) of 2014 which at the time of writing this manual had been endorsed by the Council of Ministers (CoM) but yet to be approved by parliament as a Public Procurement Law through an Act of Parliament. When PPCDA is fully ratified by an Act of Parliament into Law, its main purpose would be to establish institutional structures and systems for managing public procurement and provide procedures for procurement and concessions of goods, works and services and other government procurement activities.

1.2 Purpose of the Manual

1.2.1 The purpose of the manual is to provide a straightforward and detailed guidance on the procedures to be followed when conducting public procurement using government funds. The manual is designed to be simple to use and understand by breaking the overall procurement process down into series of individual procedures showing step by step instructions.

1.3 Scope of the manual application

1.3.1 The manual shall apply to all procurements of goods, works, services, disposal of unserviceable, obsolete or surplus supplies and equipment and concessions agreement by all public Procuring Entities (PE) and Concessions Entities (CE) using public funds at central, regional or local levels of government.

1.3.2 The procurement and concessions activities under which this manual shall apply also includes any procurement financed in whole or in part from public funds.

1.3.3 The Manual shall apply to all the governments institutions and the agencies specified below:
   a) All executive agencies including Government ministries, Authority, bureaus, departments and agencies;
   b) The Judiciary and the Legislature;
   c) Subsidized – agencies:
   d) Independent bodies and Authority set up by the Federal Government (FG);
   e) All public enterprises which are wholly owned by the State or in which the FG has majority interest;
   f) Counties, districts and local authorities;
   g) Public universities, public schools, colleges and hospitals;
   h) Financial institutions, public trusts, pension funds, insurance companies, building societies and similar institutions which are wholly owned by the FG or in which the FG has majority interest;
   i) National security institutions, any private sector entity vested with the responsibility for the execution of activities using public funds and concession Entities.

1.3.4 Non – Application of the manual. This manual shall not apply to the following:
1) To the extent that this manual conflicts with any treaty provisions or with procurement rules of a donor or funding agency pursuant to an agreement entered into by the Government, the requirements of such treaty or agreement shall prevail; but in all other respects, the procurement shall be governed by the Procurement Law.

2) Procurement of military or national security equipment subject to the following provisions:
   
i. Where the Minister responsible for Defense, or the head of any national security agency determines that any procurement related to national defense or national security requires the application of special procedures, the procedures set out in this manual may be modified by the Authority for the specific purpose, but the modification shall be governed strictly by
   
   a) Considerations relating to defense or security. For the purpose of Article 5(2)(i) of the PPCDB, procurement of items such as general supplies, uniforms, Stationery, office equipment and ordinary vehicles for the military or security agencies shall not be classified as related to national defense or national security.
   
   b) The Authority in consultation with the Procuring Entity charged with responsibility for defense or national security may make general or specific procedures relating to military and national security procurement.

1.4 Changes to the Manual

1.4.1 It is highly recommended that once the parliament enact the Bill into Public Procurement, Concessions and Disposal Act, that this manual shall be revised accordingly to incorporate all the procurement changes that may come about with the new procurement legislation. This being the first edition of FGS procurement and concessions manual, it is foreseeable that the manual can further be developed and improved following users’ utilization and comments.

1.5 Organization of the Manual

1.5.1 The manual is organized into two parts which are:

1) Part one (1) highlight procurement and disposals procedures.

2) Part two (2) highlight procedures that government institutions that are mandated with concessions procurement should follow.

1.6 Core Principles of Public Procurement

1.6.1 Procurement policy and practice must conform to certain core principles and should therefore provide for:

   a) Economy
   b) Efficiency
   c) Fairness
   d) Transparency; and
   e) Accountability and Ethical Standards.
1.6.2 **Economy:**

Procurement is a purchasing activity whose purpose is to give the purchaser best value for money. For complex purchases, value may imply more than just price, for example, since quality issues also need to be addressed. Moreover, lowest initial price may not equate to lowest cost over the operating life of the item procured. But the basic point is the same: the ultimate purpose of sound procurement is to obtain maximum value for money.

1.6.3 **Efficiency:**

The best public procurement is that which is simple and swift, producing positive results without protracted or unnecessary delays. In addition, efficiency implies practicality, especially in terms of compatibility with the administrative resources and professional capabilities of the purchasing entity and its procurement personnel.

1.6.4 **Equity and Fairness:**

Good procurement is one that is fair to those participating in procurement. It should be impartial, consistent and reliable. It offers all interested contractors, suppliers and consultants a level playing field on which to compete and thereby, directly expands the purchaser's options and opportunities. In other words, The FGS aim is to ensure that all eligible suppliers are provided with a notice of all procurement opportunities funded by the government. The principle behind this is not only to ensure equitable grounds for competition between suppliers but also to ensure that all national and international bidders, suppliers, contractors and consultants, as members of Somali society and of donor agency respectively, are provided a fair basis on which to compete for contracts funded by the Government. Procuring entities shall ensure that all prospective bidders are:

a) Managed with a consistent approach and application of laws, regulations and requirements in respect of the procurement process.

b) Offered a level playing field on which to genuinely compete for all contracts

c) Treated in a fair, impartial and unbiased way, so that principles of impartiality and equal opportunity can be demonstrated in all procurement activities.

1.6.5 **Transparency:**

Good procurement establishes and then maintains rules and procedures that are accessible and clear. It is not only fair, but should be seen to be fair. The principal of transparency requires the following:

a) Public notification of procurement opportunities

b) Favors the use of open competitive procedures that include public bid opening

c) Provides a specific mechanism by which a losing bidder may request, and receive, an explanation as to why its bid was not selected

d) Discloses the results of bidding processes, including the names of firms or individuals awarded contracts and the value of the contracts.
1.6.6 **Accountability and Ethical Standards:**

Good procurement holds its practitioners responsible for enforcing and obeying the rules. It makes them subject to challenge and to sanction, if appropriate, for neglecting or bending procurement rules. Accountability is at once a key inducement to individual and institutional Probity, a key deterrent to collusion and corruption, and a key prerequisite for procurement credibility.

1.7 **Fraud and Corruption**

1.7.1 It is the policy of FGS that contractors, suppliers, consultants and their agents (whether declared or not), personnel, subcontractors, sub-consultants and service providers shall observe the highest standard of ethics during procurement and execution of contracts. Payment of informal taxes or levy to control or to influence ethnic groups shall not be allowed in public procurement.

1.7.2 All parties involved in FGS public procurement must observe the highest ethical standards and avoid corrupt, fraudulent, collusive, coercive, fraud or obstructive practices when executing public procurement. In line with Article 15 of the procurement Bill 2014, it defines the terms set forth below as follows:

   a) **Corrupt practice** means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the selection process or in contract execution; and

   b) **Fraudulent practice** means a misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of the Government, and includes collusive practices among bidders and consultants (prior to or after submission of bids and proposals) designed to establish prices at artificial, non-competitive levels and to deprive the Government of the benefits of free and open competition

   c) **Collusive practices** means a scheme or arrangement between two or more bidders, designed to establish bid prices at artificial, non-competitive levels or to influence the action of any party in the procurement process or the execution of a contract

   d) **Coercive practices** means 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

   e) **Obstruction** is deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators (auditor general office reports) in order to materially impede an investigation into allegations of a corrupt, fraudulent, collusive, or coercive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or acts intended to materially impede the exercise of inspection and audit rights.

   f) A Procuring Entity will reject a proposal for award if it determines that the bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question.
g) A Procuring Entity will forward the name of a firm or individual to the Authority recommending debarment pursuant to Article 32 of the Procurement Bill if at any time determines that the firm or individual has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in procurement proceedings.

1.8 Conflict of interest

1.8.1 Public Procuring Entities, bid evaluation committee members, or any other public employee involved in the procurement process in anyway using FGS funds and most especially preparing of bidding documents, evaluation, contract negotiations, contract management and payments should declare any potential conflicts of interest. A conflict of interest will arise when the individual has a direct or indirect relationship with a bidder, consultant, contractor or supplier.

1.8.2 In the event that a member of Bid Evaluation Committee (BEC) or Procurement Committee (PC) or an employee who is directly involved with the procurement process feels that there is the potential for a conflict of interest they should declare it to the chairman of their committees and remove themselves from the procurement process unless otherwise instructed.

1.8.3 Bidders, consultants and contractors with potential conflicts of interest will also be considered ineligible to bid or to submit a proposal. A conflict of interest will exist when a firm that has been previously hired to provide services for the project design, preparation and implementation will again be hired to provide goods, works or services related in whole or in part to the earlier services provided by it. In such a case the firm and all of its affiliates will not be eligible to provide goods, works or services.
Chapter 2

2 Key Institutions in the Management of Public Procurement and Concessions

2.1 The role of parliament in public procurement

2.1.1 The Public Procurement, Concessions and Disposal Bill, 2014 when enacted by an Act of Parliament shall be the main law governing Public Procurement in Somalia. The Act can only be amended by parliament. Parliament therefore has the responsibility of giving guidance on how public procurement should be conducted in the country by enacting appropriate laws.

2.1.2 The Bill has provisioned for the establishment of the Public Procurement Authority (PPA) which is a body corporate. The Authority when it is operationalized shall have powers necessary or expedient for the performance of its functions. The Authority shall be charged with the responsibility of oversight and regulating public procurement deriving its powers from the Procurement Act and the Regulations

2.2 Public Procurement Authority (PPA)

2.2.1 The Authority shall have the oversight responsibility for all public procurement in accordance with the Public procurement Bill

2.2.2 The Authority may acquire, hold, manage, or dispose of any movable or immovable property in connection with the discharge of its functions and may enter into contracts and transactions that are directly or reasonably related to its functions.

2.2.3 Objectives of PPA in the procurement process

   a) To harmonize the processes of public procurement and to ensure that the intents and purposes of the Bill are achieved.

   b) Except in dealing with its own procurement as a Procuring Entity, the Authority shall not in any way be operationally involved in the work of Procuring Entities such as conducting procurement proceedings, making contract award decisions, or resolving procurement disputes. Any dispute in a procurement process shall be handled according to dispute procedure set out in the bidding documents.

2.2.4 Functions of PPA

The Authority shall in furtherance of the Bill perform the following functions:

   a. Disseminate information related to PPCDB to the Public Procuring Entities

   b. Monitor and enforce compliance with the Bill

   c. Formulate, promote, support, and implement capacity-building programs

   d. Formulate policy and standards for procurement, disposal, and concession

   e. Develop and issue procurement, disposal, and concession standard documents

   f. Review and assess the operations of public procurement, disposal, and concession and make improvements as and when necessary
g. Prepare an annual report on the overall functioning of the public procurement, disposal, and concession system, including a profile of procurement activities, to be presented to the Minister of Finance to be tabled before Parliament.

h. Conduct, at least annually, a public procurement forum bringing together public sector, private sector, members of public, and development partners to address issues related to public procurement.

i. Publish a quarterly bulletin on public procurement, disposal, and concession, which shall include as applicable, procurement notices, notices on concessions, list of debarred firms, notices of invitation to bid, and information on contract awards; and a list of complaints and appeals received and their outcomes.

j. Advise Government on issues related to the procurement matters.

k. Investigate and debar from participating in public procurement, disposal, and concession any bidders who have committed fraud and corruption pursuant to PPCDB Article 15 or who have seriously neglected their obligations under a public procurement disposal and concession contract or done anything in contravention of the procurement Bill.

l. Maintain a list of suppliers, contractors, consultants, and prospective bidders who have been debarred from public procurement disposal and concession and communicate the list to procurement entities on a regular basis.

m. Conduct in accordance with Articles 151 and 157 of the PPCDB independent inspections and reviews of complaints and appeals related to the procurement processes.

n. Provide interpretations of the procurement Bill and other instruments governing the procurement processes.

o. Provide administrative and secretarial services to the Independent Procurement Review Panel.

p. Perform such other functions as are incidental to the attainment of the objectives of the PPCDDB.

2.3 Independent Procurement Review Panel (IPRP)

2.3.1 Purpose of the Review Panel is to conduct independent administrative review of complaints and appeals made by bidders on bids and contract award decisions and make decisions thereon.

2.3.2 The Authority shall provide the Review Panel with administrative and secretarial services, including funding and logistical support, to meet its obligations.

2.4 Procuring Entities

2.4.1 Definition of a Procuring Entity (PE)

2.4.2 Any public entity that is provided with an administrative structure and a budget and is given responsibility for planning and use of public funds is declared as a Procuring Entity. In this context, a Procuring Entity refers to any Government Ministry or Department, undertaking procurement and / or asset disposal.
according to the bill. A Procuring Entity is subject to the rules laid down in the Procurement Bill and any other relevant legal instrument of FGS.

2.4.3 Functions of PE

i. To conduct procurement and disposal in accordance with the provisions of Bill and subject to such other conditions as may be laid down from time to time by PPA.

ii. The technical departments of the Procuring Entity shall be responsible for preparing schedules of requirements, including cost estimates, specifications, and terms of reference; participating in bid and proposal evaluations, and supervision of contracts; and certifying receipt of goods and completion of contract works and consulting services.

iii. The PE shall be headed by an Accounting Officer in accordance with the procurement Bill and shall be held responsible and accountable for compliance by the Procuring Entity with the Bill.

iv. The Procuring Entities shall be listed in the Schedule of procurement and shall be published regularly in the Authority’s bulletin and the website.

2.4.4 The Organization of the management of PE activities within each procuring entities shall be guided by:

1. The requirements as laid down by the PPCDB.

2. The policies and procedures of the PPCDB

3. The policies and procedures in this Manual.

4. The working practices, policies and procedures of the Procuring Entity.

5. The organizational and management structure of the Procuring Entity

6. The scope of procurement functions within the Procuring Entity

7. The authority and responsibilities given to the Procurement Unit

8. The quality, quantity and experience of staff within the Procurement Units

9. The accuracy and integrity of records and archives (procurement audit trail)

10. The role and responsibilities of Auditors
Chapter 3

3. Internal organization of Procuring Entities relating to procurement

3.1 The Head of Procuring Entity or the Accounting Officer

3.1.1 The head of the Procuring Entity shall be responsible and accountable officer in accordance with the PPCDB and shall ensure full compliance by the Procuring Entity to the Bill. He shall have the overall responsibility for the execution of the procurement, disposal, and concession process in a Procuring Entity and, in particular, shall be responsible for but not limited to the following:

1. Establishing a Procurement Committee in accordance with the procurement Bill.
2. Establishing a Procurement Unit staffed to an appropriate level.
3. Awarding and communicating Contract Award decisions.
4. Certifying the availability of funds to support the procurement activities.
5. Signing contracts for the procurement activities on behalf of the Procuring Entity
6. Investigating complaints by suppliers, contractors. or consultants and other stakeholders.
7. Submitting a copy of complaints and reports of the findings to the PPA.
8. Ensuring that the implementation of the awarded contract is in accordance with the terms and conditions of the contract.
9. Reviewing complaints and appeals by bidders pursuant to Article 150 of the Procurement Bill.
10. To ensure that the procurement plans are prepared; and
11. To ensure the procuring entity properly documents procurement proceedings and manages records in accordance with the Bill.

2. The Accountable Officer may delegate his responsibilities under the procurement Bill in writing.

3.1.2 The decisions of a Procuring Entity in respect of its procurement functions shall be taken in a corporate manner.

3.1.3 The Accountable Officer shall be responsible for ensuring compliance with the provisions of the Bill and shall not be absolved from accountability or responsibility because of delegated functions

3.2 Procurement Committees (PC’s)

3.2.1 Procurement Committees (PC’s) shall be established in all procuring entities. The PC’s main responsibility is to ensure that procurement activities are conducted in compliance with the Bill. This is done by reviewing key recommendations and documents submitted to it by the procurement unit, at key stages throughout the procurement process and approving or rejecting those recommendations and documents. The PC’s will be committees appointed by the Head of the Procuring Entity in accordance with the Bill.

3.2.2 No member of the PC may delegate his / her duties or responsibilities to any other person unless in circumstances approved by the accounting officer (holidays, sickness, study tours etc.)
3.2.3 Functions of the PC

3.2.3.1 The following shall be the functions of PC

a) Review procurement plans in order to ensure that they support the objectives and operations of the Procuring Entity and comply with the national budget process.
b) Monitor on a quarterly basis the implementation of the procurement plan and take appropriate action in cases of poor or inadequate performance.
c) Review the schedules and specifications for procurement and ensure that the procurement procedures to be followed are in strict conformity the provisions of the Bill and its operating guidelines.
d) Review bid and proposal evaluation reports and proposed contract awards and give approval or otherwise to enable the Procurement Unit to continue with the procurement process

e) Review all proposed contracts
f) Review and approve annual procurement report prepared by the Procurement Unit; and

g) Approve applications for contract modifications in the following cases

h) Where the original contract award was subject to Procurement Committee approval and

i) Where the contract modification would cause the total contract value to be within the authority limits of the Procurement Committee.

3.2.3.2 Functions of PC with regard to procurement of goods, works and non – consultancy services

a) Approve the specifications of goods and Works
b) Approve bid evaluation report
c) Approve proposed contract for the award
d) Approve TOR for non – consultancy services

3.2.3.3 Functions of PC with regard to Consultancy Services

a) Approve TOR
b) Approve evaluation report of the EOI and short list of the consultants
c) Approve both Technical evaluation and the combined evaluation reports
d) Approve draft negotiated contract including minutes of contract negotiations.

3.2.3.4 Functions of PC with regards to Individual consultancy services

a) Approval of the TOR
b) Approve the evaluation report of the short list
c) Approve the negotiated contract

3.2.4 Meetings of PC

3.2.4.1 The meeting of PC shall be conducted as follows:

a) A Procurement Committee shall meet at least once a month or as often as required to perform functions per Article 64 of the procurement Bill
b) A notice with respect of Committee meetings shall be given at least seven (7) days prior to the scheduled date of the meeting.
c) The quorum of a meeting shall be the chairperson and two (2) other members.

3.3 **Procurement Ad hoc Committees**

Includes: Bid / proposal Opening Committees, Bid / Proposal Evaluation Committees, Negotiation Committees, Inspection and Acceptance Committees. The functions of each of the above committees are discussed below:

3.3.1 **The Bid / Proposal Evaluation Committee (BEC)**

3.3.1.1 For each procurement within the threshold of the procurement committee, the procuring entity shall establish an evaluation committee for the purposes of carrying out the technical and financial evaluation of the tenders / bids or proposals.

3.3.1.2 **Composition of evaluation committees (proposal / bids)**

i. The members of the Bid / Proposal Evaluation Committee shall be recommended by the Procurement Unit to the Accounting Officer. Shall be persons with the required expertise and may be external to the Procuring Entity if necessary.

ii. The committee shall be composed of members with the necessary skills, knowledge and experience, relevant to procurement requirements. Where appropriate, the member of the Evaluation Committee shall be on the basis of their knowledge and expertise in the supplies, works or services, as well as procurement procedures and the law. Evaluation Committees will be composed of up to five (5) members, with the required technical expertise suitable for the evaluation of specific bids. The committee membership should be an odd number in total and may include members who have skills in the following areas:

1. Relevant technical expertise and knowledge
2. End user representation;
3. Procurement and contracting skills;
4. Financial management or analysis skills; or
5. Legal expertise (where possible).

iii) An evaluation committee shall consist of a chairman and at least four other members all appointed by the accounting officer or the head of the procuring entity upon recommendation by the procurement unit.

iv) No person shall be appointed under paragraph 6.6.3 (i) if such person is a member of the bid adjudication committee of the procuring entity.

3.3.2 **Inspection and Acceptance Committee (IAC)**

3.3.2.1 A procuring entity shall establish an Inspection and Acceptance Committee.

3.3.2.2 The inspection and acceptance committee shall be composed of a chairman and at least two other members appointed by the accounting officer or the head of the procuring entity on the recommendation of the procurement unit.
3.3.2.3 **Functions of Inspection and Acceptance Committee (IAC)**

3.3.2.4 The inspection and acceptance committee shall immediately after delivery of the goods, works or services do the following:

   a) Inspect and where necessary, test the goods received;
   b) Inspect and review the goods, works or services in order to ensure compliance with the terms and specifications of the contract;
   c) Accept or reject, on behalf of the procuring entity, the delivered goods, works or services.

3.3.2.5 The inspection and acceptance committee shall:

   a) Ensure that the correct quantity of has been received;
   b) Ensure that the goods, works or services meet the technical standards defined in the contract;
   c) Ensure that the goods, works or services have been delivered or completed on time, or that any delay has been noted;
   d) Ensure that all required manuals or documentation have been received; and
   e) Issue interim or completion certificates or Goods Received Notes (GRN), as appropriate and in accordance with the contract.

3.3.3 **Bid / Proposal Opening Committee**

3.3.3.1 **Composition of Bid / Proposal opening committee**

   Head of PE shall appoint a Bid / Proposal Opening Committee (BOC) comprised of a chairperson, procurement officer, finance officer and any other member considered important for the exercise (Staff from the user department).

3.3.3.2 **Functions of the Bid / Proposal Opening Committee**

   The purpose of the bid / proposal opening committee is to ascertain that all the bids / proposal submitted by the bidders are opened in the manner indicated in the bidding documents, RFP or relevant document.

3.4 **The Procurement Unit**

3.4.1 A procuring entity shall establish a procurement unit which will be headed by a procurement manager appointed by the accounting officer.

3.4.2 The level of qualification and experience required of procurement professionals shall be stipulated by the Authority. Nonetheless, the Accountable Officer (AO) may determine the composition of the Procurement Unit, which shall be staffed with at least one (1) person trained and knowledgeable in procurement.

3.4.3 The Head of PU shall be responsible for the approval of all other procurement reports and documents not approved by the PC. These will include Request for the Expression of Interest (REOI), RFP and Bid Documents. This is in addition to other procurement activities that may be delegated from time to time.
3.4.4 The functions of a Procurement Unit shall be to:

1. Maintain and update annually standing lists of registered tenderers / bidders required by the procuring entity and liaise with the Authority in respect of the Authority’s register of suppliers and procuring agents.
2. Prepare, publish and distribute procurement and disposal opportunities including invitations to tender, pre-qualification documents and invitations for expressions of interest.
3. Co-ordinate the receiving and opening of bid documents
4. Maintain and safeguard procurement and disposal documents
5. Submit shortlists and lists of pre-qualified bidders to the procurement committee for approval
6. Issue procurement and disposal documents to potential suppliers
7. Propose the membership of evaluation committee to the accounting officer for approval
8. Co-ordinate the evaluation of bids, quotations and proposals
9. Recommend a negotiating team for appointment by the accounting officer where negotiations are allowed by the procurement Bill and participate in such negotiations
10. Prepare and publish notices of award and notices of bid acceptance
11. Prepare contract documents, in line with the award decision
12. Prepare and issue rejection and debriefing letters
13. Prepare contract variations and modifications to documents
14. Maintain and archive documents and records of the procurement and disposal activities for the required period
15. Provide information, as required, for any petition or investigation to debar a tenderer or contractor or any investigation under review procedures
16. Implement the decisions of the procurement, tender and disposal committees, including co-coordinating all activities of these committees
17. Act as a secretariat to the procurement and disposal committees
18. Liaise with the Authority and other bodies on matters relating to procurement and disposal
19. Prepare and submit to the Authority reports required under the procurement Bill.
20. Monitor contract management by user departments to ensure implementation of contracts in accordance with the terms and conditions of the contracts
21. Report any significant departures from the terms and conditions of the contract to the head of the procuring entity
22. Recommend the delegation of a procurement or disposal function to another procuring entity by the head of the procuring entity whenever a need arises
23. Prepare consolidated procurement and disposal plans
24. Advise the procuring entity on aggregation of procurement to promote economies of scale
25. Co-ordinate internal monitoring and evaluation of the procurement functions
26. Carry out periodic market surveys to inform the placing of orders or adjudication by the relevant award committee
27. Conduct periodic and annual stock taking
28. Certify the invoices and payment vouchers to suppliers
29. Approve extension of the tender validity period
30. Verify that the available stock levels warrant initiating a procurement process
31. Carry out any other functions or duties as may be provided under the Bill or the procurement manual and any other functions that might be stipulated by the Authority.

3.5  Procurement entity user Department

3.5.1 The Head of the procurement user department which is the initiator of requests for procurement, or an asset disposal action shall be responsible for the following:
1. Initiating procurement and disposal requirements and forwarding them to the procurement unit for action
2. Participating in the evaluation of tenders / bids, proposals and quotations
3. Reporting any departure from the terms and conditions of the contract to the procurement unit
4. Forwarding details of any required variations to contracts to the procurement unit for consideration and action
5. Maintaining and archiving records of contract management
6. Preparing any reports required for submission to the procurement unit, the procurement committee, head of procuring entity or the accounting officer
7. Undertaking conformity assessments of supplied goods, works and services with the specifications of the contract documents
8. Endorsing the issuance of goods, works and services, received notes
9. Preparing technical specifications and submitting the same to the procurement unit
10. Assisting in the preparation of procurement and disposal plans
11. Carrying out any other functions and duties as may be provided under the procurement Bill or this Manual, or as may be stipulated by the Authority.
12. Provide technical assistance to the Procurement Unit for the preparation of Terms of Reference (TOR), Scope of Works (SOW), Bill of Materials (BOM)
Chapter 4


4.1 Qualifications of Bidders

4.1.1 It is the responsibility of the PE to state clearly any qualification criteria in the pre-qualification or bidding document and to ensure that bidders provide signed statements or documentary evidence to certify their qualifications.

4.1.2 In order to be awarded a contract, or, if prequalification proceedings are being held or in order to participate in the procurement proceedings, a bidder must qualify by meeting the criteria set by the Procuring Entity. Those criteria should include the following:

1. Professional and Technical Capacity: Suppliers, Contractors and Service Providers shall show that they possess:
   a) The professional and technical qualifications and experience to undertake the work/supply/service for which they are bidding;
   b) Suitable equipment and other physical facilities or proven access through contractual arrangement to hire/lease of such equipment/facilities for the desired period, where necessary;
   c) Satisfactory production/manufacturing capacity, where necessary;
   d) After-sales service, where necessary;
   e) Managerial capability, where necessary;
   f) Prior experience of the work/supply/service for which they are bidding;
   g) Satisfactory reputation for diligent and non-problematic performance of contracts (repeated arbitration or legal proceedings against the bidder taints its reputation); and appropriate personnel required to perform the contract, both in terms of numbers and skills.

2. Legal requirements:
   a) Suppliers, Contractors and Consultants shall show that they are legally entitled to enter into any subsequent contract that might arise from the procurement proceedings. This means that persons and/or firms shall demonstrate to the Procuring Entity that there is no legal reason, e.g. an order of a judicial court that prevents them from entering into a contract.
   b) Such a reason might be that a privately owned company was bankrupt and as a result both the person owning the company, and the company itself, were banned by a court from entering into any contract.

3. Financial Capability and Status: Suppliers, Contractors and Consultants shall show that they are:
   a) having satisfactory financial resources;
   b) not insolvent, e.g. the person or firm is not financially capable to perform the contract for which they are bidding;
   c) not in receivership, e.g. the firm was in serious financial difficulties and a court had, at the request of creditors, stopped the firm from managing itself and had placed an independent accountant in charge of the company’s business operations;
d) not bankrupt or in the process of being wound up, e.g. the person or firm's financial situation is that they have more debts than income and can no longer function;

e) Not suspended from undertaking their business for financial reasons; and subject to legal proceedings for any of the above reasons/grounds.

4. Taxation Obligations: Suppliers, Contractors and Consultants shall show that;

a) They have fulfilled their obligations to pay taxes and other obligations as may be required in the bidding or pre-qualification documents.

b) To verify the information provided by the bidders, the Procuring Entity may require submission by the bidder of documentary evidence or other information from appropriate authority or organization that shows the potential Supplier, Contractor or Consultant meets stated requirements.

5. The Procuring Entity is not precluded from entering into the contract with the person under Article 89 of the Procurement Bill that limits the contracts with employees and entities in which they have personal interest or with which they have personal relations.

6. The bidder is not debarred from participating in procurement proceedings.

7. Any other criteria that may be set by the PPA through issued Circulars.

4.1.3 The information and evidence required has to be specified in details in the bidding document or in the prequalification documents and the set criteria shall apply to all bidders equally without discrimination.

4.1.4 Note that if a bidder who submits false, inaccurate or incomplete information about his qualifications, should be disqualified and this may lead to debarment from further bidding in accordance with Article 32 (2)(a) of the procurement Bill.

4.1.5 Publicly owned enterprises and state corporations shall be eligible to participate in procurement proceedings only if they can establish that they are legally and financially autonomous, operate under commercial law, and are not dependent agencies of the relevant Government entities; and shall be subject to the same bidding requirements as other bidders.

4.2 Non-Discrimination to participate in bidding process

4.2.1 Suppliers, contractors, or consultants are permitted to participate in procurement proceedings without limitation or restriction on the basis of nationality, except in cases where the bidder is not eligible under Article 6 of the procurement Bill or debarred under Article 32 of PPCDB.

4.2.2 Goods, suppliers Goods, suppliers, contractors, and consultants from a country may be ineligible for consideration under the procurement Bill if:

a) The law of Somali Federal Republic or official regulation prohibits commercial relations with that particular country, or

c) A firm which has been engaged by a Procuring Entity to provide consulting services for the preparation or implementation of a project, and any of its affiliates shall not be eligible to participate in procurement of goods, works, or services related to the project, except in cases of turnkey or design and build contracts.

d) A firm which has been engaged by a Procuring Entity to provide goods, work, or technical services, and any of its affiliates shall not be eligible to provide consulting services for the preparation or implementation of a project, except in cases of turnkey or design and build contracts.

4.3 Pre-qualification of Bidders

4.3.1 Pre-qualification procedure is used to identify bidders who have adequate capabilities, resources and experience to perform a contract, prior to the invitation and submission of detailed bids. This can be beneficial for high value or complex procurement, as:

   a) The preparation of detailed bids can be costly and this may discourage competition if bidders feel that they are competing against a large number of bidders;

   b) The evaluation of a large number of detailed tenders can require excessive time and resource from the procuring entity;

   c) The supplier’s capabilities, resources and experience may be key to the successful performance of the contract and therefore bidding should be limited to qualified bidders.

   d) For a group of similar contracts to avoid the need for repeated qualification evaluation procedures.

4.3.2 Staff Involved

The Procurement Unit manages the pre-qualification process, consulting with the end-user or other technical specialists, on drafting the pre-qualification criteria. Expert advice may also be sought, where required, on the application of the criteria.

4.3.3 The pre-qualification process is effectively a mini tendering/bidding process, involving the invitation, receipt and evaluation of applications to pre-qualify.

4.4 Pre-Qualification Document

4.4.1 The pre-qualification document shall contain all the information deemed necessary for the bidders to prepare and to submit their applications to pre-qualify. It includes such information as:

   a) The name, address and contact details of the Procuring Entity

   b) Details of the procurement requirement, including the nature and quantity of goods, works or services and the location and timetable for delivery or performance of the contract.

   c) The qualification criteria,

   d) Instructions on the preparation of applications to pre-qualify, including any standard forms to be submitted and the documentary evidence and information required from bidders.

   e) Instructions on the sealing, labeling and submission of applications to pre-qualify, including the location and deadline for submission; and

   f) Information on how applications will be evaluated

   g) Information on how applicants will be informed of the results
h) Contact person, address, email, phone and fax numbers and date limit for obtaining clarifications such as verifying the equivalence of documentary evidence.

4.4.2 Prequalification documents may be sold in order to recover costs, but the price shall be calculated to cover only those costs related to printing, copying, and distribution and shall not include any element of profit.

4.4.3 The price of solicitation documents shall be determined as provided for in the Regulations.

4.4.4 All applications for pre-qualification received should be recorded and should be evaluated. The evaluation can only be based on the criteria, scoring method and scale detailed in the prequalification document. The result of the evaluation should be a pass or fail for each applicant. The evaluation should be carried out by an Evaluation Committee. Minutes, signed and dated, of all the evaluation proceedings should be kept and the evaluation report should form the basis for the PC to make its decision about the bidders that have qualified or are disqualified. After the completion of the pre-qualification exercise the Procuring Entity shall promptly make available to each applicant the results of the assessment of qualifications.

4.4.5 All applicants who meet the criteria for prequalification shall be invited to bid.

4.5 The Prequalification Notice to prequalify suppliers

4.5.1 Publication of a notice to pre–qualify shall include all the necessary information for a bidder to make an informed judgment on whether his company is qualified and the contract is of interest. It should include the following:

a) Name, address and contact details of the Procuring Entity
b) An outline of the procurement requirement, including the nature and quantity of goods, works or services and the location and timetable for delivery or performance of the contract
c) A statement of the key requirements and criteria to pre-qualify
d) Instructions on obtaining the pre-qualification documents, including any fee payable and the language of the documents; and
e) Instructions on the location and deadline for submission of applications to pre-qualify.

4.5.2 Mode of publication: The invitation to pre-qualify notice must be published in order to ensure effective competition and should follow these principles.

a) Published in the printed media and in at least one publication of wide enough circulation to reach sufficient bidders to ensure effective competition; and/or

b) Published on the internet, including any website established by the PPA; and Posted on a public notice board that is used for advertising of procurement tenders by the Procuring Entity and is readily accessible to the public

c) Where bidding is international, the notice shall also be published in media of wide international circulation or on widely read internet sites, in the English language.

4.5.3 The Procuring Entity shall ensure coordination of the publications and that sufficient time is allowed between the effective dates of publication and the date for submission for the bidders to review the procurement requirement, prepare their bids and send them including via international courier where applicable. Candidates should be given at least not less than 14 days to prepare and submit their
applications to be pre-qualified. Where foreign bidders are expected to participate, more time should be allowed and shall be not less than 21 days.

4.6 Table 1: Step by step prequalification procedures for goods / works / non – consulting services

<table>
<thead>
<tr>
<th>#</th>
<th>Steps in a prequalification Procurement Process</th>
<th>Tasks performed</th>
<th>Responsibility</th>
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<tbody>
<tr>
<td>1.</td>
<td>Draft a prequalification bid document</td>
<td>a) Develop prequalification criteria</td>
<td>a) User Departments</td>
</tr>
<tr>
<td></td>
<td></td>
<td>b) Description of goods, works and services to which prequalification applies</td>
<td>b) procurement unit</td>
</tr>
<tr>
<td></td>
<td></td>
<td>c) Complete the prequalification document</td>
<td>c) procurement committee</td>
</tr>
<tr>
<td>2.</td>
<td>Draft an invitation to pre-qualify</td>
<td>a) Submit the pre-qualification document and invitation to pre-qualify notice to the Head of PU for approval,</td>
<td>Procurement Unit</td>
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<td></td>
<td></td>
<td>b) Publish an invitation to pre-qualify in widely circulated local newspapers and designated websites.</td>
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<tr>
<td>3.</td>
<td>Issue prequalification documents to bidders who request for them</td>
<td>a) Issue the Prequalification documents issued to bidders.</td>
<td>Procurement Unit</td>
</tr>
<tr>
<td></td>
<td></td>
<td>b) Make a record of all the documents issued</td>
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<tr>
<td>4.</td>
<td>Receive applications up until the deadline for submission</td>
<td>a) Receive the documents in the tender box</td>
<td>Procurement Unit</td>
</tr>
<tr>
<td></td>
<td></td>
<td>b) Documents received through the post or by hand delivery recorded and secured</td>
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<tr>
<td>5.</td>
<td>Pre-qualification bid opening</td>
<td>a) Open the applications and record the names of all applicants at the bid closing date.</td>
<td>a) Procurement Unit</td>
</tr>
<tr>
<td></td>
<td></td>
<td>b) No public tender opening is required.</td>
<td>b) Bid opening committee</td>
</tr>
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</table>
### 4.6.1 Approvals required in the prequalification procedures

The Head of PU must approve the pre-qualification document and invitation notice to pre-qualify. The PC will be required to approve the specifications, evaluation report and list of pre-qualified bidders.

### 4.6.2 Documents / Records Required:

The pre-qualification document must be drafted using the appropriate standard pre-qualification document of the Federal Government of Somalia. A copy of the approved pre-qualification document, and the PC’s written approval, must be retained on the procurement file. The procurement file must also contain records the following documents:

- a) Potential bidders to whom the pre-qualification documents were issued;
- b) Potential bidders that submitted applications;
- c) The detailed evaluation reports by BEC;
- d) Approvals by PC;
- e) Final list of pre-qualified bidders;
- f) Any other correspondences relating to the prequalification process.

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</table>
| 6. | **Evaluation of all bids received at submission date** | a) Appoint an evaluation committee  
b) Assess each application against the criteria defined in the pre-qualification document  
c) Determine whether each bidder is qualified or not qualified.  
d) Record the results of the evaluation |
|   |   | a) Procurement Unit  
b) Bid evaluation committee |
| 7. | **Prepare a list of prequalified bidders** | a) Prepare an evaluation report showing the qualified bidders’.  
b) Make recommendation to the PC to approve the prequalified bidders |
|   |   | a) Bid evaluation committee  
b) Procurement Committee |
| 8. | **Develop a data base of prequalified bidders** | a) The procurement to develop a data base of all the prequalified bidders for various categories of goods, works and routine services  
b) List can be used for RFQ and Restricted tendering methods in appropriate cases. |
|   |   | Procurement unit |
Chapter 5

5 Procurement Planning

5.1 What is Procurement Planning?

5.1.1 Procurement planning is the process of deciding what to buy, when and from what source. During the procurement planning process the procurement method is assigned and the expectations for fulfillment of procurement requirements determined.

5.1.2 This section is to assist the PE to achieve central procurement objectives through effective and efficient procurement planning that ensures timely management. The primary concept behind procurement planning is to assist in the scheduling of key procurement activities within the planned period to ensure goods, services and works are received in the right quantity, right quality, at the lowest possible cost, right time and that the value for money is achieved.

5.1.3 All Procuring Entities shall undertake annual procurement planning, with a view to achieving maximum value for public expenditure and other objectives of the procurement Bill. The Procurement Plan shall support the Procuring Entity’s approved program and budget.

5.1.4 The Procurement Committee shall approve the Procurement Plan and periodically monitor its implementation.

5.1.5 The procurement plan shall be published in respective website after approval.

5.1.6 The Procurement Plan shall be prepared annually based on Government’s fiscal year and shall take into account the Government’s annual budget. In the first instance, the Procurement Plan shall take into account and include all on-going contracts carried forward from the previous fiscal year. The Procurement Plan shall indicate:

   a) Contract number
   b) Goods /works and services description
   c) Quantity required in case of goods
   d) Estimated budget
   e) Procurement method proposed for each package
   f) Bid / proposal advert dates
   g) Bid / proposal receipts and opening dates
   h) Evaluation of bids / proposals
   i) Contract award
   j) Contract management timelines
   k) Contract closure
   l) Processing steps and time schedules.

5.1.7 A Procuring Entity shall not divide a procurement order into parts or lower the value of a Procurement order to avoid the application of the procurement methods prescribed in article 26 of the PPCDB.

5.1.8 The Procurement Unit shall on a quarterly basis, review and update their Procurement Plans and notify any major modifications to the Procurement Committee, Accountable Officer, and Ministry of Finance.
5.2 Developing procurement plans

5.2.1 Procurement plans can be used as a tool to monitor procurement performance on the demand and supply side. Procurement plan can also be used to track suppliers against their delivery terms (supplier side) and track procurement unit (demand side) performance against planned timeliness in the completion of key procurement activities. Below is a summary of the importance of procurement plans:

a) Enable procurement unit to effectively manage and track procurement.
b) Effectively facilitate ease of reporting to the end – user
c) Procurement can be tracked back from the delivery date required ensuring that procurement activities start at the right time.
d) Procurement planning help to manage available resources effectively through prioritizing important procurements

e) They show peaks and troughs of work so that managers can assign appropriate resources.
f) They identify delays and weaknesses in procurement that can then be eliminated or strengthened.

5.2.2 The procurement unit may consider the use of aggregation method at the planning stage where goods that are similar and are likely to attract the same potential bidders are procured under one contract. By aggregating the requirements of different user departments, the PE will achieve economies of scale and thus lower costs and achieve value for money. This is subject to considerations like storage facilities, available cash flow and the available stock. Also the PE should not divide a procurement order into parts to lower the value of a procurement order and avoid the application of the relevant procurement methods as described in chapter 6 and 7.

5.2.3 The procurement unit shall on quarterly basis, review and update their procurement plans and notify any major modifications to the PC.

5.2.4 Sample procurement plans for goods, works and consulting services

Sample procurement plans for goods, works and services are shown in the forms in the next page. Procurement unit shall develop an annual consolidated procurement plan depicting the entity’s annual requirements of goods, works and services. The PU shall consolidate the plans after receiving all departmental individual procurement plans.
### Table 2: Sample – annual procurement plan for goods and non – consulting services

<table>
<thead>
<tr>
<th>Financial year</th>
<th>Procuring entity name</th>
<th>Department</th>
<th>Name of the project (if applicable)</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Contract No.</th>
<th>Description of Procurement package</th>
<th>Unit</th>
<th>Quantity</th>
<th>Procurement Method &amp; Type</th>
<th>Source of Funds</th>
<th>Estimated budget</th>
<th>Time for bid Process</th>
<th>Prepare bid documents</th>
<th>Advertise bid</th>
<th>bid Opening</th>
<th>bid Evaluatio n</th>
<th>Approval to Award</th>
<th>Notification of Award</th>
<th>Signing of Contract</th>
<th>Completion of Contract</th>
<th>Total Time (in Days)</th>
<th>Total Value of Goods procurement</th>
</tr>
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<tbody>
<tr>
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</tbody>
</table>

Prepared by: Head of the Procuring Unit - signed …………………………… Date ………………………

Approved by: PC – Signed …………………………………………………………………….. Date ………………………
### Table 3: Sample – annual procurement plan for Works

<table>
<thead>
<tr>
<th>Contract No.</th>
<th>Description of Procurement package</th>
<th>Unit</th>
<th>Quantity</th>
<th>Procurement Method &amp; Type</th>
<th>Source of Funds</th>
<th>Estimated budget</th>
<th>Time Code for Process</th>
<th>Prepare bid documents</th>
<th>Advertise bid</th>
<th>Bid Opening</th>
<th>Bid Evaluation</th>
<th>Approval to Award</th>
<th>Notification of Award</th>
<th>Signing of Contract</th>
<th>Completion of Contract</th>
<th>Total Time (in Days)</th>
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**Total value of works procurement**

Prepared by: Head of the Procuring Unit - signed ................................. Date .................................

Approved by: PC – Signed ................................................................. Date .........................................
### Table 4: Sample – annual procurement plan for Consulting Services

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Prepared by: Head of the Procuring Unit - signed ........................................ Date ..................................

Approved by: the PC – Signed ................................................. Date ..................................
Chapter 6

6. Procurement Methods – Competitive Bidding Methods Process

6.1 What is a procurement method?

6.1.1 A procurement method is the technique that procurement entity uses to acquire goods, works and services. The procurement methods described in this chapter are applicable to the procurement of goods, works and non-consulting services when using open competitive bidding process. Other alternative procurement methods will be discussed in the next chapter. The method selected depends on a number of factors including the type of goods, works or service being procured, the value of the good, works or service being procured, the potential interest of foreign bidders and even the cost of the procurement process itself.

6.2 Selecting a procurement method

6.2.1 The procurement method to be adopted by a procuring entity will depend on the nature and size of procurement and the urgency with which the goods, works or services to be procured are required. The key to the selection of method is to understand what situations are suitable for each of them. Depending on the nature and size of the procurement and its elements, Procuring Entity may use any of the methods set out in this Manual to procure goods, works and services. The choice of procurement method should depend on:

(a) The nature of the goods and services to be procured;
(b) The value of the procurement;
(c) The local availability and cost of goods and services;
(d) Critical dates for delivery;
(e) Agreement with the funding agency (where applicable)
(f) Transparency of procedures proposed.

6.2.2 There are various procurement methods that a procuring entity may use in the procurement of goods, works and services. This chapter will specifically focus on open competitive bidding method of procurement which are International Competitive Bidding (ICB) and National Competitive Bidding (NCB). Other alternative methods of procurements that could also be used as per PPCDB Part IV Section C will be fully discussed in the next chapter 7.

6.2.3 Public procurement by PE will be undertaken by means of advertised open competitive bidding process as it shall provide with equal access to all eligible and qualified bidders without discrimination. Other procurement methods discussed in chapter 7 shall be used as exception as provided in the Procurement Bill under Part IV–C. The importance of open competitive bidding process is that it does not only provide for a transparent and accountable process but it also provides a mechanism for selecting a bid / proposal that gives value for money due to wide range of competition.

6.3 Procurement methods under open competitive bidding process.

6.3.1 Under open competitive bidding, there are two methods of conducting procurement and are discussed below:
a) **International Competitive Bidding (ICB)**

The purpose of ICB is to give all prospective and qualified bidders adequate and timely notifications of procurement requirements and to give them equal access and a fair opportunity to compete for contracts for required goods and services. Bidding opportunities must be advertised both internationally and nationally and all eligible bidders given reasonable period to participate. These notification requirements distinguish ICB from other methods of procurement. ICB may be the most suited method of Procurement, for large contracts for goods, works and services under following circumstances:

i) When the capacity of the domestic contractors, suppliers and service providers are limited;

ii) For foreign funded projects, where the funding agency agreement requires the Procuring Entity to resort to ICB procedures;

6.3.2 When ICB is used, domestic preference criteria stipulated under the PPCDB Article 33 shall be used. All other conditions including currencies, taxes and other statutory levies shall be equally applied to foreign and domestic bidders. Any supplier, service provider or contractor, who desires to obtain the bidding document, whether a foreign or domestic bidder shall be allowed to purchase same, provided the bidder is prepared to pay the specified fees. The Procuring Entity is required to give worldwide publicity to the bid notice in various media to ensure maximum competition.

6.3.3 When ICB is used: as per PPCDB Article 71, The Procuring Entity is required to:

i) Advertise, in at least, two widely circulated national newspapers and one relevant internationally recognized publication such as in UN Business Development Online, Development Gateway Market (DG Market)

ii) Transmit such invitations to embassies and trade representatives of countries from where suppliers and contractors are likely to participate, and post them in relevant websites.

iii) Advertise in any official websites of the procuring entity and the Bureau as well as the Tenders Journal.

iv) For Foreign bidders, evidence of company registration in their home country shall be admissible under ICB.

v) Bidders to be allowed at least 45 calendar days to prepare and submit their bids

b) **National Competitive Bidding (NCB)**

NCB is the competitive Bidding procedure that shall be applicable when the Goods or Works or services are available within Somalia and the value of procurement is within the threshold given at section 7.5.

6.3.4 When NCB is used, the procuring entity is required to:

a) The advertisement shall be placed simultaneously in the local newspapers with a wide circulation

b) All suppliers both foreign and national are eligible to bid

c) The minimum period for the availability of documents to suppliers is 30 days.

d) Bid price shall be local currency
6.4 The Procurement Cycle (procurement process cycle)

6.4.1 The procurement process is structured around six key stages and the relevant sections are shown in the flow chart 1 in the next page.
Flow chart 1: Procurement cycle

1. Initiate and Plan Procurement

This stage requires
- Requisition
- Description of Requirements
- Methods and Procurement Planning

2. Identify Sources and Draft Invitation Document

This stage requires
- Pre-qualification document
- Invitation Notices
  - Bidding, Documents

3. Manage the Bidding Process

This stage requires
- Publication of Notices and Issue of
- Documents Pre-bid Conferences and
  Bidder Clarifications Receipt and
  Opening of Tenders

4. Evaluate Offers

This stage requires
- Evaluation for goods, works and
  services Post-qualification

5. Award Contract

This stage requires
- Acceptance Notices
- Contract Documents and Purchase Orders
- Contract Award Notice & Debriefing Unsuccessful Bidders

6. Contract Administration

This stage requires
- Contract Administration
- Contract Amendments
- Contract Completion

6.4.2 Approvals required during the procurement process:

Approvals are required at certain key points in the procurement process. These are intended to ensure that procurement activities comply with the Procurement Bill and the manual and that procurement is being conducted in a manner which is fair, transparent and likely to achieve value for money.
### 6.4.3. Table 5: Procurement Approvals required are summarized below

<table>
<thead>
<tr>
<th>Step in the Process</th>
<th>Approval Required For</th>
<th>Approval Body</th>
</tr>
</thead>
<tbody>
<tr>
<td>Raising a requisition</td>
<td>Availability of funding</td>
<td>a) Accounting Office (AO) or Head of the procuring entity</td>
</tr>
<tr>
<td></td>
<td>Approval to purchase</td>
<td>Head of the procuring entity</td>
</tr>
<tr>
<td>Selecting a procurement method</td>
<td>Use of methods other than open bidding</td>
<td>a) Head of the Procuring entity</td>
</tr>
<tr>
<td></td>
<td></td>
<td>b) Procurement Committee</td>
</tr>
<tr>
<td>Pre-qualification</td>
<td>Pre-qualification document and invitation to pre-qualify notice</td>
<td>Head of the procuring entity</td>
</tr>
<tr>
<td>Drafting an invitation document</td>
<td>Bidding, RFP or RFQ document and invitation to bid notice,</td>
<td>Head of the procuring entity</td>
</tr>
<tr>
<td>Evaluation</td>
<td>Evaluation report and recommendations</td>
<td>PC/ Head of the procuring entity (depending on the threshold given at Sec 7.5)</td>
</tr>
<tr>
<td>Contract award</td>
<td>Contract award decision, is approved as part of the evaluation report</td>
<td>PC/ Head of the procuring entity (depending on the threshold given at Sec 7.5)</td>
</tr>
<tr>
<td></td>
<td>Commitment of funds for contract</td>
<td>a) AO &amp; b) PC</td>
</tr>
<tr>
<td>Contract document</td>
<td>Draft Negotiated Contract and Minutes of Negotiations</td>
<td>PC/ Head of the procuring entity (depending on the threshold given at Sec 7.5)</td>
</tr>
<tr>
<td>Contract amendment</td>
<td>Contract amendment</td>
<td>PC/ Head of the procuring entity (depending on the threshold given at Sec 7.5)</td>
</tr>
<tr>
<td></td>
<td>Commitment of any additional funds for contract amendment</td>
<td>a) AO &amp; b) PC</td>
</tr>
</tbody>
</table>
6.4.4 Procurement Process step by step under open competitive bidding methods (ICB and NCB) for goods, works and non-consulting services are shown in the schematic Chart below. The table also provides a summary of the process critical tasks at each of the stage and also the teams or staff responsible for each task.

6.5 Flow Chart 2: Procurement Process, Tasks and Responsibilities

<table>
<thead>
<tr>
<th>#</th>
<th>Steps in a Procurement Process</th>
<th>Tasks performed</th>
<th>Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Needs Assessment</td>
<td>Identification of needs</td>
<td>User Departments</td>
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<tr>
<td></td>
<td></td>
<td>Initial description of requirements</td>
<td></td>
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<td>Preparation of work plans and schedules</td>
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</tr>
<tr>
<td>2</td>
<td>Procurement Planning</td>
<td>Consolidate procurement requirements</td>
<td>a) User Units</td>
</tr>
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<td></td>
<td>Identify procurement method</td>
<td>b) Procurement</td>
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<td>Schedule procurement activity</td>
<td>c) PC</td>
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<td>Supply market research</td>
<td>d) AO</td>
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<td></td>
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<td>Approval of procurement plan</td>
<td>e) Stores unit</td>
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<td></td>
<td><strong>In case of goods</strong> <em>(Check stock card and physical balance)</em></td>
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<td>Review Purchase Orders pending delivery</td>
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<td>Check latest delivery in Receipt Bay</td>
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<tr>
<td>3</td>
<td>Procurement Requisition and Specifications</td>
<td>Requisition procurement as planned</td>
<td>a) User Department</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Description of Requirements i.e. finalize specifications / terms of reference / statement of works / BOQs</td>
<td>b) Project (s) (if any)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>c) Procurement Unit</td>
<td>d) PC</td>
</tr>
<tr>
<td>4</td>
<td>Confirm Procurement Method</td>
<td>Select a procurement method depending on thresholds involved</td>
<td>a) Procurement Unit</td>
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<td>Advise PC on methods</td>
<td>b) Procurement Committee</td>
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<tr>
<td>#</td>
<td>Steps in a Procurement Process</td>
<td>Tasks performed</td>
<td>Responsibility</td>
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</tbody>
</table>
| 5  | Prepare Bidding Documents     | Draft bidding documents based on procurement method  
                                          Approval of bidding document | a) Procurement Unit |
| 6  | Advertising and inviting bids process | Advertise / invite bids, pre-qualification and Expressions of Interest | Procurement Unit |
| 7  | Bid Administration Process     | Issue of bid documents  
                                          Pre-bid Conferences  
                                          Bidder Clarifications  
                                          Receipt and Opening of bids | a)User Unit  
                                          b)Projects  
                                          c) Procurement Unit  
                                          d)Procurement Committee |
| 8  | Bid Evaluation                 | Preliminary Examination  
                                          Detailed Evaluation  
                                          Financial Comparison of bids  
                                          Evaluation for goods, works and services  
                                          Post-qualification  
                                          Approval of evaluation report | a) Evaluation Committee  
                                          b) Procurement Unit  
                                          c) Procurement Committee |
| 9  | Award Decision                 | Acceptance Notices  
                                          Contract Award Notices  
                                          Debriefing Unsuccessful Bidders  
                                          Adjudication/award or reject | a) Procurement Committee  
                                          b)Procurement Unit |
| 10 | Contract Document and Signing  | Preparation of Contract Documents and Purchase Orders  
                                          Approval of contracts  
                                          Signing of contract | a)Procurement Unit  
                                          b)Procurement Committee  
                                          c) Accounting Officer / (Head of PE)|
<table>
<thead>
<tr>
<th>#</th>
<th>Steps in a Procurement Process</th>
<th>Tasks performed</th>
<th>Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>11</td>
<td>Contract Management</td>
<td>Contract Administration</td>
<td>a) User Units</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Contract monitoring, supervision and performance evaluation</td>
<td>b) Projects</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Contract Variations</td>
<td>c) Procurement Unit</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Contract Amendments</td>
<td>d) Procurement Committee</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Approvals</td>
<td>e) Accounting Officer</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Contract Completion</td>
<td></td>
</tr>
</tbody>
</table>

6.6 Identification of needs, description of requirements, Preparation of work plans and schedules

6.6.1 The head of the user departments of PE’s are responsible for the identification of goods, works and services required in the financial year under review. Each of the department shall identify their annual requirements and the head of the department shall prepare a simple work / procurement plans and schedules of requirements for the department including budgets estimates. Once the plan is approved, shall be sent or discussed with the head of the procuring unit for inclusion into the procuring entity’s annual procurement plan. User departments will ensure to prepare a list of goods works and services whose budget is approved by the accounting officer and appropriated to the department for use.

Summary of the procedure – step 2: Procurement Planning

This stage has been discussed under chapter 5 in details including how the user department and the procuring unit are expected to prepare annual procurement plans for goods, works and services. However, after the identification of needs requirement in stage 1 of the procurement process, it is the responsibility of the procurement unit to identify the appropriate procurement method to apply for each contract. The procurement unit shall also schedule all the procurement activities in form of procurement plans and to conduct market research with a view to getting current market prices for goods, works and services. Procurement unit will be expected to seek approvals from both the PC and the Accounting officer for the approval of the procurement plans and the total procurement budget to facilitate the unit to buy goods, works and services for PE.

Refer to a detailed procurement planning provided in chapter 5 of this manual.

6.7 Procurement Requisitions

6.7.1 A requisition must be raised to start any procurement process. It serves a number of purposes, including:
a) Documenting the goods, works or services required;
b) Confirming the availability of funding, based on the estimated value of the procurement requirement;
c) Confirming that goods can be obtained from stores, where appropriate; and
d) Documenting the approval to proceed with the procurement.

6.7.2 The end user is responsible for raising a requisition and obtaining all necessary approvals.

**Note below step by step for raising a procurement requisition.**

1. The procurement process will start with the identification of a need for goods, works or services.
2. For goods, check whether the items required are in stock or not. For stockable items, proceed to step 3. For non-stockable items, proceed to step 4.
3. For stockable items, raise a Requisition voucher and present it to the stores department for the issue of the required items.
4. For items that are not in stock and are stockable items, obtain a written confirmation of this and proceed to list the goods, works or services required on a requisition form. Where a long list has already been prepared, such as for spare parts, office stationaries, computers etc. the list may be attached to the requisition, with a summary description on the form.
5. Prepare an initial description of requirements.
6. Estimate the value of the goods, works or services. The estimate may be based on recent, similar contracts, market research or an estimate by a technical specialist, such as an engineer for construction contracts. Seek assistance from the Procurement Unit, where required.
7. Obtain confirmation of the availability of funding for the requirement, through the signature of the authorized official on the requisition form.
8. Obtain approval to proceed with the procurement from the accounting officer or any other authorized official, on the requisition form.
9. Finalize the description of requirements, as far as possible and attach it to the requisition form.
10. Pass the requisition to the Procurement Unit.
11. The Procurement Unit will check the requisition and description of requirements and discuss any clarifications or changes required with the end user.

**6.7.3 Approvals Required for Requisition**

1. The requisition form must be signed by the appropriate official, to provide the following approvals:
a) Availability of funding for the procurement requirement, based on the estimated value on the requisition form; and

b) Confirmation of the need for the goods, works or services listed on the requisition form and approval to proceed with the procurement process for those items.

6.7.4 **Documents or Records Required during requisition**

6.7.5 A requisition form must be completed and passed to the Procurement Unit, who will open a procurement file for the requirement. The end user should also keep a copy of the requisition for his own records. The requisition form must include the following:

a) the name of the end user department raising the requisition and the contact name for queries

b) a list of the goods, works or services required, including quantities and units of measure;

c) the estimated unit and total value for each item;

d) the location for delivery or performance of the goods, works or services;

e) the date or dates for delivery, completion or performance of the goods, works or services;

f) confirmation of availability of funding;

g) confirmation that the items were not available from stores, where appropriate and

h) Approval to proceed with the procurement.

6.7.6 A detailed description of requirements should be attached to the requisition form.

6.7.7 The Procurement Unit will allocate a procurement reference number to each procurement requirement.

6.8 **Preparation of Descriptions of Requirements for goods & Non-Consulting services**

6.8.1 This section covers the procedures for preparing descriptions for goods and non-consulting services. Procedures for consultancy services are discussed in chapter 8.

6.8.2 **Why prepare the description?**

The description of requirements is a key document, which is used throughout the procurement process. It is used to:

a) Inform the Procurement Unit and PC what the end user needs to purchase, providing the basis for the procurement planning and budgeting;

b) inform bidders of the procuring entity’s requirements through inclusion in
the bidding document;

c) provide the technical standard against which tenders are evaluated;

d) form part of the contract, defining the goods to be supplied; and

e) Set the technical standard against which the goods supplied can be inspected, prior to acceptance.

6.8.3 Staff involved in the preparation of Description of goods

The description of requirements for goods should be prepared by the end user, who should obtain additional technical advice if required. The end-user should consult the Procurement Unit, if necessary, on the procurement rules which apply to the description of requirements.

6.8.4 Steps by steps preparation of descriptions of goods

1. The preparation of the description of requirements will normally start with a general, summary description of the requirement e.g. 4WD vehicle or desktop computer.

2. Prepare a complete list of the items required – see guidance note 1 below for the information to include.

3. Consider the purpose the goods are being purchased for and any special requirements e.g. to use desktop publishing programs.

4. Prepare a specification for each item required – see guidance note 2 below for further details.

5. Prepare the required delivery schedule – see guidance note 3 below for further details.

6. Send the description of requirements, along with the requisition, to the Procurement Unit for action

6.8.5 Guidance Note 1: List of goods

a) The list of goods should briefly describe each of the goods that the procuring entity requires and specify the quantities of each. Consideration should be given to including any spare parts or consumable items required, either by specifying the items required or requesting the spares or consumables normally required for a specified period of operation, such as one year. The list of goods should also describe any incidental works or services required, such as installation and commissioning, preparation of the site for installation or user training.

b) Each item should be numbered sequentially on the list for reference purposes. Along with the quantity, the unit of measure must also be specified e.g. kilograms, liters, reams etc. Complete items, such as vehicles or computers, should be given a unit of
measure of “each”. An example of a typical list of goods is shown below:

<table>
<thead>
<tr>
<th>Item number</th>
<th>Brief Description of Goods and Related Services</th>
<th>Quantity</th>
<th>Unit of Measure</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Computer</td>
<td>2</td>
<td>Each</td>
</tr>
<tr>
<td>2</td>
<td>LaserJet Printer</td>
<td>1</td>
<td>Each</td>
</tr>
<tr>
<td>2a</td>
<td>Toner Cartridge for item 2</td>
<td>2</td>
<td>Each</td>
</tr>
</tbody>
</table>

### 6.8.6 Guidance note 2: Preparing Specifications

a) The specifications should define the technical characteristics and quality standards of the goods required by the procuring entity. Well-prepared specifications will facilitate the preparation of bids by bidders and the evaluation of bids by the procuring entity Where required.

b) The end user should seek technical advice from other government bodies or external specialists in preparing specifications.

c) Technical specifications should specify the minimum requirements of the procuring entity. The evaluation will then assess whether tenders / bids reach this standard. Credit will not be given for exceeding the standard.

d) Technical specifications should contain a complete, precise and unambiguous description of the goods required, by specifying the following:

i. The functions or characteristics required e.g. color printing for a printer, double-sided copying for a photocopier, dimensions of items, the dosage of a drug, air-conditioning in a vehicle.

ii. The performance required e.g. the speed of a printer, a photocopier or a computer processor or the accuracy of laboratory equipment; and/or

iii. The quality standards for equipment, materials or workmanship.

iv. Specifications must be generic i.e. they must not refer to a particular trademark, brand name, make or model, patent, catalogue number or any other detail which would limit the specification to a specific manufacturer. For example, a specification for a printer must not state Hewlett Packard or Canon, but should give the technical characteristics of the printer e.g. “Laser - Jet printer, black and white, minimum print speed 20 pages per minute, minimum print quality 1200x1200 dpi, minimum input capacity of 200 A4 sheets” etc.

v. In exceptional cases, where there is no sufficiently precise way of describing the goods without use of a brand name or similar, the words “or equivalent” must be included. The
use of particular makes or models may also be permitted for reasons of compatibility e.g. spare parts or consumables for a piece of equipment.

vi. Standards specified must not be restrictive. Where possible, recognized international standards should be used. Where other standards are used, they should normally be followed by a statement that “other authoritative standards that ensure at least a substantially equal quality will also be acceptable”

vii. Where appropriate, specifications should also include:

a) The purpose and intended use of the goods.

b) Details of the conditions in which the goods must operate e.g. temperature or humidity ranges or, where no specific or unusual conditions apply, state “suitable for use in Somalia”.

c) Descriptions of required manufacturing processes, workmanship or materials.

d) Drawings of the goods, including site plans for installation.

e) Any environmental or safety features required of the goods.

f) Packaging, marking and labeling requirements

g) Details of inspection or testing requirements, including performance parameters, including outputs, timescales, and any indicators or criteria against which the satisfactory performance of the goods will be tested.

h) Any documentation required e.g. manuals, user guides, licenses, test certificates etc.

6.8.6.1 Where appropriate, procuring entities should make use of standardized specifications or specifications used previously. Details should also be included of any incidental works or services required. For example:

- where the supplier is responsible for preparing a site for installation, the current state of the site and the work required should be stated e.g. a particular thickness of concrete base for machinery.

- the number of people to be trained in use, maintenance or repair of equipment, the location for training, the standard to be attained etc.

6.8.7 GuidanceNote 3: Delivery Schedule

The delivery schedule should specify the delivery period and place for each of the goods. Where any related works or services are included, the delivery schedule should also state the completion period and the site.

In preparing the delivery schedule, the following guidance should be taken into account:

a) The delivery and completion periods should be realistic. Unrealistically short delivery or completion expectations may result in restricted competition or may prompt complaints from prospective bidders.

b) The delivery and completion periods are best expressed as a number of days, weeks or months from the date of contract award, as precise dates cannot be determined until the contract has been placed.
c) The delivery period should take into account whether the procurement is of standard, readily available goods or goods which are likely to be manufactured to order.

d) Where appropriate, different delivery periods should be given for different items or the total requirement should be split into several batches, with phased deliveries.

e) The delivery period should take into account whether the goods are likely to be available in Somali or require importing. Where the goods are likely to be sourced internationally, the location of the goods and likely transport times should be considered.

f) When the description of requirements is included in a bidding document, the Procurement Unit should check that the delivery period specified takes into account the Incoterm specified for delivery. It must be remembered that under the Incoterms CIF, CIP, FOB, FCA or EXW, the delivery of goods takes place when they are delivered to the carrier and not when delivered to the final destination. Under Incoterms, a realistic time should be allowed for delivery considering the mode of transport.

6.8.8 Approvals Required

No specific approval of the description of requirements is required at this stage. However, the final description of requirements included in the bidding document will be reviewed by the PC.

6.8.9 Documents / Records Required:

A copy of the description of requirements must be attached to the requisition form, which should be kept on the procurement file. The end user should also retain a copy of the requisition and description of requirements for their own reference.

6.9 Preparation of description of requirements for works

6.9.1 The procedure for preparing a description of requirements for the procurement of works, including any incidental goods or services required are provided in this sub-section. The procedure is based on works which are fully designed by the procuring entity, prior to inviting tenders/bidders, where the supplier will be responsible for construction only. Alternative specialist advice should be sought for the preparation of a description of requirements for design and build or turnkey contracts.

6.9.2 Where possible, the description of requirements should be fully prepared at the stage of raising the requisition. However, it is often only possible to prepare an outline description of requirements at this stage, in which case the description must be finalized during the drafting of the bidding document.

6.9.3 The purpose of preparing work description

The description of requirements is a key document, which is used throughout the Procurement process. It is used to:

a) inform the Procurement Unit and PC what the end user needs to purchase, providing the basis for the procurement planning and budgeting;

b) inform bidders of the procuring entity’s requirements through inclusion in the
bidding document;
c) provide the technical standard and, for some requirements the estimated quantities, against which tenders are evaluated;
d) form part of the contract, defining the works to be performed and the technical standard against which the works can be inspected prior to acceptance; and
e) Provide, for some types of contracts, the rates and estimated quantities against which actual work is measured for payment purposes.

6.9.4 The description of requirements for works must be prepared by an engineer with appropriate technical qualifications and experience. Where the end user department does not have an appropriate member of staff, external technical advice should be sought. The end-user should consult the Procurement Unit, if necessary, on any procurement rules which apply to the description of requirements.

6.9.5 Steps by steps preparation of descriptions of works

a) The preparation of the description of requirements will normally start with a general, summary description of the requirement e.g. construction of classrooms or repair of airport road. This will normally be developed into a design brief for the engineer.

b) Prepare the drawings and specifications for the works – see guidance notes 1 and 2 below for further details.

c) Prepare a bill of quantities or activity schedule as required – see guidance notes 3 and 4 below for further details.

d) Prepare the required completion schedule – see guidance note 5 below for further details.

e) Prepare an overall scope of works, which will form the first part of the description of requirements – see guidance note 6 below for further details.

f) Send the description of requirements, along with the requisition, to the Procurement Unit.

6.9.6 Guidance Note 1– Drawings for Works

Technical drawings are required to define the works required by the procuring entity. The construction drawings, even if not fully developed, must show sufficient detail to enable bidders to understand the type and complexity of the work involved and to price their tenders. In addition to the construction drawings, a simplified map showing the location of the Site in relation to the local geography, including major roads, ports, airports and railroads, is helpful.

When preparing the bidding document, it is normal practice to insert a list of drawings, although the drawings themselves are often bound and issued in a separate volume, particularly where they are numerous or issued in large format, such as A1 or A2 paper.

6.9.7 Guidance Note 2– Specifications for Works

A set of precise and clear specifications is a prerequisite for bidders to respond realistically and competitively to the procuring entity’s requirements without qualifying or conditioning their
bids. Specifications must be drafted to permit the widest possible competition and, at the same time, present a clear statement of the required standards of workmanship, materials, and performance of the related goods and services to be procured. Only if this is done will the objectives of economy, efficiency, and fairness in procurement be realized, responsiveness of tenders be ensured, and the subsequent task of evaluation be facilitated. The specifications should require that all goods and materials to be incorporated in the Works be new, unused, of the most recent or current models, and incorporate all recent improvements in design and materials unless provided otherwise in the Contract.

Care must be taken in drafting specifications to ensure that they are not restrictive. In the specification of standards for goods, materials, and workmanship, recognized international standards should be used as much as possible. Where national, or other, standards are used, the specifications should state that goods, materials, and workmanship that meet other authoritative standards, and which ensure substantially equal or higher quality than the standards mentioned, will also be acceptable. Most specifications are normally written specially to suit the specific works in hand. There is no standard set of specifications for universal application in all sectors, although there are established principles and practices.

There are considerable advantages in standardizing General Specifications for repetitive Works in recognized public sectors, such as highways, ports, railways, urban housing, irrigation, and water supply, in the same region or where similar conditions prevail. The General Specifications should cover all classes of workmanship, materials, and equipment commonly involved in construction, although not necessarily to be used in a particular Works Contract. Deletions or addenda can then be used to adapt General Specifications to the particular Works.

6.9.8 Guidance Note 3 – Bill for Quantities

A bill of quantities should be prepared for inclusion in the bidding document, where the requirement is to be contracted as an admeasurement contract – for lump sum contracts, see guidance note 4 below. Bidders are then required to price the bill of quantities in their tenders and the priced bill of quantities becomes part of the contract. Payment is then made using the rates in the priced bill of quantities, but based on the quantity of work actually performed, which is measured on a regular basis.

Therefore, the objectives of the bill of quantities are:

a) To provide sufficient information on the quantities of Works to be performed to enable tenders to be prepared efficiently and accurately; and

b) To provide a priced bill of quantities for use in the periodic valuation of Works executed, once a Contract has been entered into.

In order to attain these objectives, Works should be itemized in the bill of quantities in sufficient detail to distinguish between the different classes of Works, or between Works of the same nature carried out in different locations or in other circumstances which may give rise to different considerations of cost. The layout and content of the bill of quantities should be as simple and brief as possible.

6.9.9 Guidance Note 4 – Activity Schedules

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An activity schedule should be prepared for inclusion in the bidding document, where the requirement is to be contracted as a lump sum contract – for admeasurement contracts, see guidance note 3 above. Bidders are required to tender a lump sum price, based on the activity schedule and the successful bidder’s tender price becomes the contract price. The actual work performed will not be re-measured for payment purposes, as under an admeasurement contract, so the breakdown of price on the activity schedule is only used for contract variations.

Therefore, the objective of the activity schedule is to provide a breakdown of the activities and their associated cost that form the Works to be paid on a lump sum basis. The breakdown is intended to be used:

   a) As the basis for certifying interim payment to the supplier; and
   b) To assist in valuing any ordered variations.

The works should be broken down by consideration of the nature of each activity and if applicable by the location. The procuring entity will have to determine the degree to which the Works need to be broken down by consideration of the complexity of the Works and the stated time for completion. Schedules can be provided for each different discrete element of the works. If the works require plant and equipment to be provided, separate schedules for the supply only of the plant and equipment may be provided. The activity schedule should be as simple and brief as possible.

6.9.10 Guidance Note 5 – Completion Schedules

The completion schedule should specify the completion period and site for each part of the works. In preparing the completion schedule, the following guidance should be taken into account:

   a) The completion periods should be realistic unrealistically short completion periods may result in restricted competition or may prompt complaints from prospective bidders.

   b) The completion periods are best expressed as a number of days, weeks or months from the date of contract award, as precise dates cannot be determined until the contract has been placed.

6.9.11 Guidance Note 6 – Scope of Works

The scope of works should provide:

   a) a description of the works;
   b) approximate quantities of major items;
   c) a background narrative to the work required, where appropriate; and
   d) The objectives of the works required, where appropriate.

The scope of works will normally form the first part of the description of requirements, but will need to be prepared last, once approximate quantities etc. are known. A description of approximately 1-2 pages is appropriate for most contracts.

6.9.12 Approval Required

No specific approval of the description of requirements is required at this stage. However, the final description of requirements included in the bidding or request for quotations document will
be reviewed by the PC.

6.9.13 Documents or records required

A copy of the description of requirements should be kept on file, along with the requisition form. The end user should also retain a copy of the requisition and description of requirements for their own reference.

6.10 Confirming the procurement method:

6.10.1 The procurement method to be adopted by a procuring entity will depend on the nature and size of procurement and the urgency with which the goods or services to be procured are required. The key to the selection of method is to understand what situations are suitable for each of them. Depending on the nature and size of the procurement and its elements, Procuring Entity may use any of the methods set out in this Manual to procure goods, works and services. The choice of procurement method should depend on:

a) The set threshold
b) The nature of the goods, works and non-consulting services to be procured;
c) The local availability and cost of goods and services;
(d) Critical dates for delivery

6.10.2 Goods, works and services shall use open competitive method of procurements (ICB & NCB) if the total contract value is within the set thresholds as per Schedule 2 of the PPCDB. Note the following threshold.

<table>
<thead>
<tr>
<th>Procurement Thresholds under NCB</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Goods</strong></td>
<td><strong>Works</strong></td>
</tr>
<tr>
<td>Used when the contract value is above US$2,000 &amp; below US$100,000.</td>
<td>used when the contract value is above US$10,000 &amp; below US$200,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Procurement Thresholds under ICB</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Goods</strong></td>
<td><strong>Works</strong></td>
</tr>
<tr>
<td>Estimated Contract values above US$100,000</td>
<td>Estimated Contract values above US$200,000</td>
</tr>
</tbody>
</table>

6.10.3 Step by step procedure to confirm what selection method to use.

a) Confirming the method of procurement of goods, services and works will be the fourth step in the procurement process.

b) The procurement unit to consolidate all the requisitions received from the user department and to prepare an annual procurement plan showing various contract packages and budget estimates. More on this chapter 5 – procurement plans

c) Depending on the budget estimates of each of the contract package, the procurement unit will confirm the most suitable procurement method to use to procure.

d) The procurement unit shall seek approval of the annual procurement plan from the PC.
The total procurement budget shall not exceed the budget set aside by the procurement entity and approved by the accounting officer.

e) Once the annual procurement plan is approved, the procurement unit shall proceed to the next step in the procurement process of preparing a bidding document, RFP, RFQ or prequalification document.

6.11 Preparation of the Bidding Document

6.11.1 Bidding documents are vital procurement documents and are required for Open & Restricted bidding and Two-Stage bidding procedure. Simplified bidding documents are used for Request for Quotations method.

6.11.2 Purpose of the Procedure:
The bidding document is critical to the success of the tendering or bidding process. It informs bidders of:

   a) the precise description of the goods, works or services required;
   b) the rules for the bidding process;
   c) the evaluation criteria and methodology which will be applied to select the successful bidder;
   d) any qualification criteria which will be applied; and
   e) the type and conditions of the proposed contract.

A well-prepared bidding document should result in a successful procurement process. Therefore this document must be approved by the head of the procurement unit, prior to its issue.

6.11.3 Staff Involved
The Procurement Unit is responsible for preparing the bidding documents or request for Proposals, in consultation with the end-user who raised the requisition. The Procurement Unit should seek advice from technical Specialist, where required.

6.11.4 Choice of the standard bidding document
The standard bidding documents for use in public procurement includes but is not limited to the following:

   a) Standard Bidding Document for the procurement of goods;
   b) Standard Bidding Document for the procurement of works;
   c) Standard Request for Proposals for consultancy

6.11.5 Content of the bidding document
The following are the essential contents of an SBD:

   a) Instructions - Given to procurement entity as a guide to prepare the bid document
   b) Invitation to Bid – Provided but not part of the final bidding document that is issued to the bidder

Section 1. - Instructions to Bidders
Section II - Bid Data Sheet
Section III - General Conditions of Contract
Section IV - Special Conditions of Contract
6.11.6 **Step by step preparation of a standard bidding document**

a) Select the appropriate standard bidding document for the requirement — this requires consideration of the type of contract to be used.

b) Consult with the end-user, and technical specialists if required, regarding finalization of the description of requirements for inclusion in the document include the final description of goods or works in Section V1 of the document.

c) Complete the Bid Data Sheet in Section II with details of the tendering process e.g. the tender closing date, the address for submission, the evaluation criteria to be applied, any qualification criteria to be applied etc. Note that the Bid Data Sheet modifies the Instructions to Bidders — the text of the Instructions to Bidders in **Section I must NOT** be modified.

d) Complete the Special Conditions of Contract in Section IV with the conditions which will apply to the contract e.g. payment terms, delivery/completion period, warranty, liquidated damages. Note that the Special Conditions of Contract modify the General Conditions of Contract in Section III — the text of the General Conditions of Contract must NOT be modified.

e) Some clauses of the contract form in section V111 should be left blank for inclusion in the bidding document, as these details can only be completed when the successful bidder has been decided.

f) Ensure that any related documents have been prepared e.g. the invitation to tender notice or shortlist

g) Submit the draft bidding document, and related documents, to the Procurement Committee for approval

6.11.7 **Approvals required**

Head of the procurement unit approval for the bidding documents must be obtained, prior to its issue or the publication of any invitation to bid notice.

6.11.8 **Documents or Records Required**

Bidding documents must be drafted using the appropriate standard bidding document of the F G S. A copy of the approved bidding document.

6.11.9 **Next Step**

After preparation of bidding document and its approval, proceed to Publishing an invitation to bid notice for Open bidding (where no pre-qualification has been conducted). For other alternative methods of procurement chapter 7, proceed to Issuing invitation documents for all other
6.12 Preparing an invitation to bid

6.12.1 Invitation to bid notice is a notice that is prepared by the procuring unit to invite potential bidders and suppliers to submit bids in response to the notice. When preparing an invitation to bid notice, the procuring unit should ensure that the following important information is clearly put in the notice to help the bidders to respond appropriately.

6.12.2 Content of Invitation to Bid Notice:

a) Scope of work and description (in brief)
b) Source of funds
c) Name and address of the PE
d) Experience and qualification requirements (Consultants)
e) Method of procurement (ICB, NCB etc.) (selection methods e.g. QCBS, LCC, QBS)
f) Applicability of any domestic preference (for ICB)
g) Where to inspect bidding documents;
h) Dates, place and manner of collecting bidding documents;
i) Amount of fees and method of payment (when bid is sold)
j) How to obtain further clarification (include name and designation of the officer, postal address, telephone number, fax number and e-mail address);
k) Bid security requirements;
l) Deadline and place of submission of bids.
m) Place, date and time of bid opening

6.12.3 Publish an Invitation to Bid Notice

The publication of an invitation to bid notice is required under the Open bidding method, where no pre-qualification has been conducted. An invitation to bid notice may also be published under the two – stage bidding procedures (refer chapter 7). The publication of notices may apply to goods, works, and non-consulting services.

6.12.4 Purpose of invitation to procedure:

Invitation notices are published in order to:

a) Attract the widest possible competition, which should assist the procuring entity in obtaining value for money or in preparing a strong shortlist of bidders.

b) Offer all potential bidders a fair opportunity to bid or pre-qualify for government funded contracts.

6.12.5 Staff Involved:

The Procurement Unit is responsible for organizing the publication of notices. Where publication is to include trade journals, the Procurement Unit should consult the end user, or other technical specialist, on the appropriate journals.
6.12.6 Step by step procedure:

a) Arrange for publication of the notice in the Gazette. The publication date in the Gazette will mark the starting date of the bidding period and will therefore be the date from which minimum bidding periods are calculated.

b) Arrange for publication of the notice in the local press. This must not occur before publication in the Gazette. In other words, the publication in both the gazette and the local press should be done simultaneously.

c) Also display the notice in a publicly accessible place in the procuring entity’s head office.

d) For international bidding, arrange publication in appropriate publications of wide international circulation, such as internationally recognized newspapers, specialized trade journals, the Development Gateway market (DG Market), United Nation Business Online etc.

e) Ensure that sufficient copies of the bidding or pre-qualification documents are available for distribution from the first publication date.

f) For ICB, bidders shall be allowed 45 days to prepare and submit their bids while for NCB, shall be allowed 30 days.

6.12.7 Approvals Required

No approvals are required for publication of the notice, once the draft notice has been approved by the Head of the PU.

6.12.8 Documents/Records Required:

A copy of the published notice must be kept on file. This does not need to be a reproduction from the Gazette or any other publication, as long as the file copy is the same as that published.

6.12.9 Next Step.

Proceed to bid administration

6.13 Bid Administration process

6.13.1 The bid administration process will involve four activities that are crucial in the management of the bidding process. These are:

A) Issuance of bid documents
B) Pre-bid Conferences / site visits if applicable
C) Bidder Clarifications, modifications and extensions
D) Receipt of bids
E) Opening of Bids

A) Issuance of bid documents

This section provides the procedure for the physical issue or sale of bidding documents to bidders and keeping records of the documents issued. This procedure applies equally to the issue of other invitation documents, such as pre-qualification, Request for Proposals and Request for
Quotations documents, documents for restricted bidding and two stage bidding. This procedure applies when procuring goods, works, non-consulting services and consultancy services.

**Purpose of the Procedure**

Bidding and other invitation documents must be issued or sold promptly, to provide bidders with sufficient time to prepare and submit their tenders/bids. Delays in issuing bidding documents may result in reduced competition, which itself may lead to the cancellation of a bidding process or higher prices for government.

Bidders must be issued with the same information, within the same period of time, to ensure that the procurement process is fair. It is essential that records are kept of the documents issued, in case of queries or complaints from bidders. Where a fee is charged for documents, it is essential that records are kept of payments received.

**Staff Involved**

i) The Procurement Unit is responsible for managing the issue of bidding documents. This function may be delegated to an accounts or administration department where appropriate or where this facilitates the collection of fees for the documents.

ii) Where an invitation to bid or pre-qualify notice is being published, bidders may request to preview the documents prior to purchase. Arrangements must be put in place to permit previews, at the address and time stated in the published notice. The procuring entity must ensure that sufficient copies of the bidding document will be available by the date of publication of the first notice.

iii) Where a fee is charged for the documents, arrangements must be put in place for receiving and confirming payments and issuing receipts. The precise arrangements will depend on the method of payment.

iv) Documents must be dispatched promptly to all bidders who respond to any notice and pay any required fee. Documents must be dispatched within five days of receipt of the request or payment of the fee, whichever is later. A record must be kept of the issue of documents.

**Approval Required** - No approvals are required.

**Documents Required:**

A record of the issue of bidding documents must be completed and kept on file. At a minimum, this record must include:

a. the name and address of each bidder, to whom the document was issued;

b. the date of receipt of the request for the documents, where applicable;

c. confirmation of the payment of any required fee;

d. the date of issue of the document;

e. the method of dispatch of the document;

f. The signature of the official responsible for the issue of the documents.
Next Step:

Proceed to managing a pre-bid conference and site visits, where conference or visit is required.

B) Pre-bid Conferences / site visits if applicable

Summary of the procedures

This subsection provides the procedure for managing pre-bid conferences, where the procuring entity briefs bidders on the procurement requirement and responds to questions from bidders, in order to assist them in preparing their bids. It also provides the procedure for site visits, where bidders are given the opportunity to view the site where goods are to be installed or works or services performed.

Application of the procedure

Pre-bid conferences and/or site visits may be conducted under Open & Restricted bidding, Two-Stage bidding and Request for Proposals. Conferences or site visits are not mandatory, but may be arranged where the procurement is highly technical, where a significant number of requests for clarification are likely to be received or where knowledge of the site is important to bid preparation. The need for pre-bid conferences or site visits must be considered at the procurement planning stage and appropriate provisions included in the bidding document.

Pre-bid conferences and site visits should not normally be required under the Request for Quotations method, as this method is only used for simple, low value procurement requirements. Pre-bid conferences and/or site visits may be required when procuring for goods, works, routine services or consultancy services.

Purpose of Pre- bid conferences / site visits

Pre-bid conferences and site visits are intended to provide a structured way of providing additional information for bidders, which cannot easily be included in a bidding document. A pre-bid conference or site visit can offer the following benefits:

a) the procuring entity is able to provide additional information to bidders, ensuring that all bidders receive the same information;

b) bidders are assisted in preparing tenders which should be based on more detailed and accurate information, responsive to the procuring entity’s needs and less likely to include reservations, conditions or caveats;

c) the procuring entity is able to get early warning of any unforeseen queries or problems, while there is still time to modify the bidding document if necessary;

d) the majority of likely requests for clarification can be addressed at the same time;

e) the possibility of contractual disputes, caused by a bidder’s misunderstanding of the procuring entity’s requirements, is reduced.
Staff Involved:

The Procurement Unit has the overall responsibility for managing pre-bid conferences and site visits. The end user, or other technical specialist, must be closely involved to provide responses on technical issues.

Step by step procedure for conducting pre – bid conferences / site visits

a) Consider the need for a pre-bid conference or site visit at the procurement planning stage and include details of the location, date and time in the bidding document and any invitation to tender notice. They should be held early during the bidding period, to allow bidders time to take the information into account in preparing their bids. Where both a pre-bid conference and a site visit are to be held, they should be arranged to coincide wherever possible, particularly where international bidders are likely.

b) Ensure that arrangements are made in advance, including booking a meeting room, ensuring that sufficient, appropriate staff are available, ensuring that access to the site is possible at the appointed time, making appropriate safety arrangements on site if required, preparing an agenda for the conference etc.

c) Brief all staff involved on the procedure for the pre-bid conference and/or site visit, including the responsibilities of each staff member and anticipated questions and answers.

d) The management of the pre-bid conference will be determined by the agenda prepared by the procuring entity. Typically, this might include opening and welcome by the procuring entity, a brief presentation by the procuring entity on the procurement requirement, questions by bidders and closing. Where requests for clarification have been received prior to the conference, these may be used to determine the agenda and prepare responses.

e) The management of any site visit will be determined by the nature and size of the site and the type of procurement envisaged. Bidders should be given a tour of as much of the site as possible and allowed to view any facilities which are being provided by the procuring entity.

f) Record full details of the pre-bid conference and/or site visit – see Documents/ Records Required section below.

g) Following completion of the pre-bid conference and/or site visit, issue a record of the meeting to all bidders who were issued with bidding documents, regardless of whether they attended the conference. The record issued must include all questions raised and the formal clarifications issued.

h) Where necessary, issue a formal modification of the bidding document and/or extension to the bidding deadline.

Approvals Required

No approvals are required, unless the pre-bid conference results in substantial
modifications to the bidding document.

**Documents Required:**

A record of the pre-bid conference and/or site visit must be completed, kept on the procurement file and distributed to all bidders who were issued with the bidding document. At a minimum, this record must include:

a) the date, time and location of the pre-bid conference and/or site visit;

b) a list of all persons who attended, including both procuring entity staff and bidders;

c) a list of all questions asked and the responses given;

d) any other information provided to bidders.

**Next Steps**

Proceed to handling bidder clarifications, modifications and extensions, if further clarifications or modifications need to be issued or an extension is required. Proceed to receiving bids, if no further clarifications, modifications or extensions are required after the pre – bid conference and site visit. **Bidder Clarifications, modifications and extensions**

**C) Bidder Clarifications, modifications and extensions**

**Summary of the Procedure**

This manual establishes the standard operating procedures for responding to bidder clarifications, issuing modifications to a bidding document and granting extensions of the bid deadline. Note below the definition of terms Clarifications, Modification and Extension.

a. Bidder clarifications are requests from bidders for clarification of a particular element of the bidding document, to which the procuring entity is required to issue a formal response to all bidders

b. Modifications are formal amendments to the bidding document, which the procuring entity may choose to make, either in response to a bidder clarification or on its own initiative

c. Extensions are formal extensions by the procuring entity of the deadline for submission of tenders, to give bidders more time in which to prepare their bids, normally in response to a bidder clarification or modification.

**Purpose of the procedure**

Ideally, bidder clarifications, modifications and extensions to the bid deadline should not be required. However, where they are required, it is important that clarifications,
modifications and extensions are issued promptly and in sufficient time before the bid closing date. It is also essential that the same information is issued to all bidders at the same time.

Mishandling of bidder clarifications, modifications and extensions may result in complaints from bidders, unnecessary delays to the bidding process or a reduced number of bids.

Staff Involved:
The Procurement Unit should manage requests for clarifications and the issue of any modifications to the bidding document or extensions to the bid deadline. The Procurement Unit should consult with the end user, or other technical specialist, where required on clarifications or modifications to be issued. Where any substantial change is made to the original, approved bidding document, the Procurement Unit must first consult the PC.

Step by step procedures

a) A clarification or modification can be issued, or an extension of the bidding deadline given, either in response to a request for clarification from a bidder or on the procuring entity’s own initiative. Where a request is received from a bidder, ensure that it is received before the latest date for clarifications stated in the bidding document. Where it is received later, send a reply stating that the request was received after the latest date for clarification requests and that therefore no response can be given.

b) Agree on the appropriate response to the request for clarification, or agree any modification that the procuring entity considers necessary. Consult with the end user, or technical specialist, where appropriate.

c) Consider whether the clarification or modification is likely to have a significant impact on the preparation of bid and therefore, whether an extension to the bidding deadline should be given.

d) Draft a formal clarification or modification. Where the clarification is in response to a request from a bidder, ensure that the response includes a description of the request, but without identifying the bidder who made the request. Ensure that any extension to the bidding deadline is clearly stated, giving the time and date of the new deadline. State also the revised time and date for any public tender opening.

e) If the clarification or modification involves a substantial change to the bidding document, obtain PC approval before issue.

f) Issue the same clarification, modification or extension to all bidders at the same time, keeping a record of its issue. Where a pre-bid conference is to be held, formal issue of the clarification, modification or extension may be delayed until after the pre-bid conference. However, the procuring entity must still prepare the clarification, modification or extension, as information will need to be provided at the pre-bid conference and a formal clarification, modification or extension must be issued after
the conference.
g) If any extension to the bidding deadline has been given, ensure that arrangements for the receipt of bids and any public bid opening are revised e.g. revise room bookings, advise relevant staff of the new time and date etc.

Approval Required

PC approval is required for any clarification or modification which involves a substantial change to the original bidding document.

Records Required:

A record must be kept on the procurement file of the issue of all clarifications, modifications or extensions to the bid deadline. At a minimum, this record must include:

a) A copy of the clarification, modification or extension letter sent;
b) An evidence of dispatch to all bidders e.g. fax confirmations, copies of letters posted etc.

Next Step: Proceed to receiving of bids

D) Receiving of bids / tenders

Summary of the Procedure

This manual provides a standard operating procedure for the receipt of bids, closing bidding at the time of the deadline and safe-keeping of bids until the time for bid opening.

Application of the Procedure

The formal receipt of bids applies to the Open & Restricted bidding, Two-Stage bidding and Request for Proposals methods. The procedure may also apply to the Request for Quotations method. The procedure applies to goods, works, non-consulting services and consultancy services.

Purpose of the Procedure

This procedure for the formal receipt of bids, closing of bidding and safe-keeping of bids is essential to the integrity of the bidding process for the following reasons:

a. it ensures that submitted tenders or bids are kept unopened until the time for the public tender opening, to promote fair competition;
b. it ensures that tendering is closed at the precise date and time of the deadline and that no late tenders are accepted;
c. it ensures that a record is kept of all tenders submitted on time, to help avoid the opening of any late tenders submitted at the opening.

Staff Involved:
The Procurement Unit will manage the receipt of bids or the tenders, the closing of
tendering and shall be responsible for the safe-keeping of bids / tenders until they are delivered to the BEC.

**Step by step procedures**

a) Make a locked tender box available during the bidding period, to allow bidders to deposit their tenders in the box see guidance note 1 next page for details of tender boxes. The tender box must be in a location which is accessible to the public during normal working hours. The tender box must be labeled with the procurement reference number, particularly where several tender boxes are in use at any one time, for tenders closing at different times.

b) Ensure that staffs are available during normal working hours to issue receipts for tenders / bids, prior to their placement in the tender box. Ensure that a standard format of receipt is available.

c) Ensure that arrangements are in place for the receipt of tenders, or other packages such as samples, which are too large to fit in the tender box. A record must be kept of all bidders, or other items, not placed in the tender box and these items must be kept securely and taken with the bidders to the location for bid opening at the appointed time.

d) Ensure that staff have been nominated to manage the bid closing and that they know the date and time of the closing. These staff must be at the location for bid receipt before the time of bid closing.

e) Seal the tender box at the precise date and time of the deadline for bidding.

f) Take the sealed tender box, along with any bids or other items which were too large for the tender box, to the location for the bid opening and deliver it into the custody of the Bid Opening Committee member responsible for the bid opening. The tender box must not be opened or left unsupervised between the bid closing and the bid opening.

**GuidanceNote 1–TenderBoxes**

The tender box must have three different locks and the three keys must be held by the PC Chairperson, the PC Secretary and another by the head of the procuring unit.

The tender box must have an opening which is sufficiently large to allow the deposit of most bids, but no so large that a person could reach inside the tender box and remove a bid.

**Approvals Required**

No approvals are required, although the member of the BOC responsible for the bid opening may wish to witness the closing of bidding at the time of the deadline.

**Documents / Records required**

A record must be kept on the procurement file of all bidders, or other items, which are received, but not placed in the tender box. Copies of all receipts issued to bidders
must also be kept on the procurement file.

At a minimum, receipts for bids submitted must include:

a. the name of the bidder;
b. the precise time and date of receipt of the tender;
c. the name and signature of the official receiving the bid and issuing the receipt; and
d. The number of envelopes/packages received.

Next Step:

Proceed to opening bids (one stage – single envelope) for Open bidding and restricted bidding.
E) Bid Opening procedures

Summary of Procedure:

Bids which have been received on time are opened publicly, in the presence of bidders, and summary details read out and recorded.

The procedure shall apply to

Open and restricted bidding methods of procurement. No public bidding opening is required for the Request for Quotations method. This procedure applies to goods, works and non – consulting services.

Purpose of Procedure:

The public bidding opening is an important step in the bidding process as:

a) opening bidding publicly helps to demonstrate that the tendering processes is transparent and increase bidders’ confidence in the public procurement process;

b) Reading out prices should avoid any disputes regarding price changes at a later date;

c) The formal procedure, which coincides with the tender closing, should prevent late tenders from being included in the evaluation.

Staff Involved:

The Head of the PU will nominate a BOC. Procurement Unit, or other staff, will be required to provide support to the committee at the opening.

Step – step bid opening procedures:

a) Prepare the room prior to the bid opening time. Staff must ensure that appropriate resources, both physical and human, are available to manage the bid opening efficiently

b) The person chairing the opening must ensure that all staff involved understands their respective roles in the procedure.

c) The chairperson should welcome bidders to the opening and request them all to sign the record of attendance. He/she should briefly explain the procedure which will be followed, which is normally opening of the tender box, opening of bids, reading out and recording of information by the BOC, opportunity for bidders to ask questions, closing of meeting and removal of bids for safe-keeping and evaluation.

d) The tender box should be opened and all bids removed and counted. Bids which were too large for the tender box and received separately must be accounted for, by checking against the record of bids received. Bids which were not in the tender box or included in the record of bids received must NOT be opened.

e) First, envelopes marked “Withdrawal” should be opened one at a time. These should be read out and the envelope containing the corresponding bid located and returned to the bidder unopened. The withdrawal must be noted on the record of the tender opening.
f) Next, envelopes marked “Modification” should be opened one at a time and the envelope containing the corresponding bid located and opened. Details of the modified bid should be read out and recorded, ensuring that the details relate to the modified, not the original, bid see guidance note 2 below for guidance on the details to be read out. Both the original bid and modification should be stamped on key pages and signed or initialed by the chairperson of the opening. For guidance on the key pages, see guidance note 3 below.

g) All other bids should be opened, one at a time, and the relevant details read out and recorded. Each bid should be stamped on key pages and signed or initialed by the chairperson of the opening. Each bid should also be marked with a number (1, 2, 3 etc.), corresponding to its number on the bid opening record. With the exception of late bids, the bid opening committee must not make any comments regarding the acceptance or rejection of any bid. Any missing or incorrect documents should be noted in the record of bid opening, but not commented on.

h) The chairperson should close the bid opening meeting, reminding bidders that they must not seek to influence the evaluation and that the successful bidder will be published in due course.

i) Copies of the bid opening record should be distributed to bidders. The original record should be added to the procurement file.

j) All bids should be immediately taken to a place of safe keeping, until the evaluation committee is ready to meet. Any bid securities must also be kept securely.

k) Where tender openings for more than one tendering process are conducted at the same time, they must be conducted consecutively, with one opening completed, recorded and tenders removed, before the next opening commences.

l) Guidance Note 1–Resources for Bid Opening:

Physical resources for an efficient bid opening include:

a. A room which is accessible to bidders, arranged so that bidders’ representatives are seated at a short distance from the table where the opening is to be conducted. It is important that bidders witness, rather than participate in, a bid opening procedure;

b. Office materials, such as scissors, marker pens, sell tape etc. for opening and marking of bids

c. copy of the bidding document, in case there is a need to refer to the bidding instructions or other details

d. Blank forms for recording tender details and sufficient pens

e. Blank attendance forms and pens, for all bidders and other attendees to sign their attendance.

f. Prompt access to photocopying facilities for distributing copies of the bid
opening record will also be required.
g. Sufficient staff should be on hand to ensure that the opening proceeds efficiently. Different staff should normally be responsible for the following tasks:
   o Chaining the opening procedure;
   o Opening the bids, numbering and passing the bids to the chairperson to read out;
   o Recording the details of the bid opening;
   o Ensuring the safe-keeping of opened bids;
   o Ensuring that bidders sign the attendance record.

Guidance Note 2–Information to be Read Out:

Information to be read out should be as stated in the bidding document. This includes the following:

a) Name of the bidder or consultant.
b) Country of the bidder or consultant.
c) Which lot(s) are offered?
d) Details of any modifications or withdrawals.
e) Total bid price (for goods and works only).
f) Discounts offered, if any.
g) If applicable the bid security
h) If two envelope system is used, the presence of a technical proposal and financial proposal in separate envelopes and in adequate copies as required by the tender documents. Those attending the opening should be encouraged to take their own notes of the tender opening proceedings using their own materials
i) Fulfillment of specific formal requirements as might have been prescribed in the bid documents (e.g. bid / tender validity periods).

No additional information concerning any tender should be read out, other than that required by the bidding document.

Guidance Note 3 – Key bid document pages

The key pages, which require to be initialed, should be determined by the chairperson of the bid opening. As guidance, they should include at least the following pages

a) the bid submission form;
b) Any pages with financial information, such as price schedules.

Initialing of standard literature and brochures is not normally required.

In determining the key pages, it should be remembered that stamping and signing of excessive numbers of pages can be time-consuming, especially where a large number of bids are received. Stamping and signing is only required on the original of the bid and not in the copies.

Approvals Required

No approvals are required for the public bid opening, as the procedure is managed by BOC appointed by the AO.
Documents / Records required
A record of the bid opening must be completed and kept on the procurement file. At a minimum, this record must include:

a. the names of all bidders whose tenders were opened;
b. the total prices of the tenders read out;
c. the presence or absence of a tender security if one was required and the form and amount of the security;
d. the number of copies of the tender received;
e. Any withdrawals or modifications.

Copies of the record must be distributed to bidders on request.

NextSteps:
Precede General evaluation procedures for goods, works and routine services


6.14.1 Summary of Procedure:
This subsection of the manual sets out general procedures for evaluating bids for goods, works and non-consultancy services. It must be read in conjunction with the relevant subsection for the particular evaluation methodology to be used, which will be either:

- Section 6.15: Evaluating bids for goods;
- Section 6.16: Evaluating bids for works; or
- Section 6.17: Evaluating bids for non-consulting services.

Evaluations will vary for goods, works and non – consulting services, but the evaluation Methodology will always consist of following stages:

a) Preliminary screening, to eliminate bids which do not comply with the basic requirements of the bidding document and bidders who do not meet mandatory qualification requirements;

b) A detailed evaluation, to determine whether bidders are substantially responsive to the technical and commercial requirements of the bidding document;

c) Financial evaluation to compare the costs of responsive tenders and determine which is the successful tender and should be recommended for award of contract.

d) Post-Qualification Examination to find whether the bidder is qualified to execute the contract.

A diagram summarizing this evaluation methodology is attached shown at the end of
this subsection.

6.14.2 **Purpose of the evaluation procedure**

The purpose of evaluation is to objectively assess and compare all bids received, using a pre-defined methodology and criteria, to determine which is the successful bidder, who should be awarded a contract. A well conducted evaluation should ensure that:

a) Competition is fair and that all bidders have an equal opportunity of winning government funded contracts;

b) The goods, works or services purchased under the contract are of appropriate quality; and

c) The procuring entity gets the best possible value for money.

6.14.3 **Staff Involved:**

The Procurement Unit has the overall responsibility for evaluations, but will obtain technical advice from the end user, or other technical specialists, as required. Where appropriate, the Procurement Unit will establish an evaluation team, with joint responsibility for conducting the entire evaluation.

6.14.4 **Step by Step for evaluation procedure**

a) Evaluation of bids for goods, works and non – consulting services shall be conducted by the BEC proposed by the PU to the AO. Upon the approval of BEC by the accounting officer they shall proceed to conduct the evaluation. **See Guidance Note 1 below**

b) Review and list the requirements, instructions and evaluation criteria specified in the bidding document and ensure that these are clearly understood. Seek clarification from the person responsible for writing the bidding document, where necessary. The evaluation must apply the criteria specified in the bidding document, and no new or varied criteria.

c) The head of the procurement unit shall provide secretariat to the BEC. Together with the BEC should meet to review the evaluation methodology and criteria specified in the bidding document and ensure that it is fully understood by all evaluators.

d) Conduct a preliminary screening – **see guidance note 2 below** for further details. Eliminate bids which do not pass the preliminary screening.

e) Conduct a detailed evaluation on the bids which passed the preliminary screening – **see guidance note 3 below** for further details. **See also guidance note 4 below** for assistance in determining responsiveness and identifying material and non-material deviations.

f) Correct tenders or seek clarification from bidders as required – **see guidance**
note 5 below on areas where clarifications are permitted and the procedure for clarification and correction of bids.

g) Conduct a financial evaluation on the bids which passed the detailed evaluation to determine the lowest priced bid—see guidance note 6 below for further details. See also guidance note 7 on the correction of arithmetic errors and guidance note 8 on the application of discounts.

h) Post-qualification on the successful bidder see section 6.18

i) Prepare an evaluation report for submission to the PC for approval

j) Request bidders to extend the validity of their bids at any point during this process if required—see guidance note 9 for details of the procedure.

6.14.5 GUIDANCE NOTE 1—SELECTING STAFF TO CONDUCT EVALUATIONS

The Procurement Unit has the overall responsibility for conducting evaluations and preparing evaluation reports, to be submitted to the PC for approval. However, evaluations will frequently require inputs from other staff, particularly those with technical knowledge of the goods, works or services being procured. The head of the Procurement Unit must select the most appropriate member or members of staff to conduct each evaluation. The appropriate number and type of staff will depend on the type, value and complexity of the procurement. For example:

a. An evaluation under the Request for Quotations method for routine stationery items could be conducted entirely by at least three members of the Procurement Unit;

b. An evaluation for a construction contract will require inputs from at least one civil works engineer;

Each evaluation should be allocated to a member of the Procurement Unit to manage. That member of staff will then be responsible for coordinating any inputs from other staff, ensuring that the evaluation is conducted on time and in accordance with all applicable rules and procedures and preparing an evaluation report.

Where an evaluation is particularly high value or complex, the entire evaluation should be allocated to an evaluation team, rather than an individual, to manage. In this case, the head of the Procurement Unit should nominate one member to chair the evaluation team.

In identifying staff to provide inputs to an evaluation or to be members of an evaluation team, the head of the Procurement Unit must consider the type of skills, knowledge or experience needed, which might include:

a) procurement and contracting skills;

b) technical knowledge

c) financial management skills
d) legal expertise

e) representation by the end user; and

f) A specialist who has knowledge or experience, such as promotion programs or preference schemes.

g) It is important that PC members are not involved in conducting evaluations, but only in approving completed evaluation reports. PC members must not be selected as evaluators as this would result in them reviewing and approving their own work.

6.16.6 GuidanceNote 2- Preliminary evaluation / Screen

The preliminary screening is conducted to determine whether bids comply with the basic instructions and requirements of the bidding document. It enables the evaluators to eliminate the weakest bids, without the time and effort spent in conducting a detailed evaluation. Where no pre-qualification has been conducted, the preliminary screening can also be used to assess whether bidders meet the mandatory qualification requirements.

The preliminary screening is conducted on a pass or fail basis, with bids that are not substantially compliant being rejected. The criteria to be used for the preliminary screening depend on the requirements and instructions of the bidding document, so the preliminary screening must always start with a review of the bidding document to list the requirements to be met. As guidance only, the preliminary screening might typically include checks of the following:

a. submission of a tender security, if one was required, in the correct form and amount and from an acceptable financial institution;

b. submission of an original and the correct number of copies of the tender;

c. submission of all forms and documents required, including, in particular the tender submission form and any required price schedules;

d. signature and authorization of the tender in accordance with the instructions in the bidding document, including any required power of attorney

e. Correct bid validity

f. the tender is for all items included in the bidding document, or in a particular lot, if so required by the bidding document;

g. submission of any additional documentation or samples required; and

h. Whether the bidder meets the mandatory qualification requirements.

6.14.7 GuidanceNote 3–Detailed Evaluation

The detailed evaluation must only be conducted on bids which passed the preliminary screening. The detailed evaluation is conducted to determine whether tenders are substantially responsive to the technical and commercial requirements of the bidding document. The technical evaluation is conducted on a pass or fail basis and only bids which are responsive, or substantially responsive, to the requirements of the
bidding document are included in the subsequent financial evaluation. Non responsive
bids are eliminated from the evaluation.

6.14.8 GuidanceNote 4– DeterminingResponsiveness

In evaluating bids, the evaluator(s) is required to decide whether a tender is “responsive”
(i.e. meets the procuring entity’s requirements) or “nonresponsive” (i.e. does not meet the
procuring entity’s requirements).

In practice, few bids are perfect and therefore the key test is whether a bid is
“substantially responsive”. A “substantially responsive” tender / bid is defined as a
tender which conforms to all the instructions, requirements, terms and conditions of
the bidding document without material deviation, reservation, or omission. In other
words, minor (or “non - material”) errors or problems can be accepted by the
evaluator(s) or corrected by the bidder, while tenders / bids with major (or “material”)
errors or problems must be rejected.

As a general rule, a material deviation, reservation, or omission is one that –

a) affects the scope, quality or performance of the goods, works or
   services in a substantial way; or

b) would limit the procuring entity’s rights or the bidder’s obligations
   under the contract in a substantial way; or

c) would unfairly affect the competitive position of other bidders if
   it were corrected.

Determining whether a deviation is material or non - material is a decision for the
evaluator(s). The decision must be based on the contents of the tender only.
Additional information or previous knowledge of a product or bidder must not be taken
into account.

What is a material or non - material deviation will vary between different tendering
procedures, depending on the particular requirements of each. However, decisions on what
constitute material and non - material deviations must be applied consistently to all
tenders which are part of the same evaluation process.

In deciding whether deviations are material or non - material, the evaluator(s) should
consider the impact on key factors, such as cost, risk, time and quality of the procurement.
As guidance only, material deviations, reservations or omissions are likely to include:

a) unacceptable schedules for delivery or completion;

b) unacceptable technical details, such as design, materials, workmanship,
   specifications, standards or methodologies; and

c) Unacceptable counter-proposals on key contract terms and conditions, such as payment
terms, price adjustment, liquidated damages, sub-contracting or warranty.

As guidance only, non - material deviations, reservations or omissions are likely to
Include:
  a) Minor differences in delivery or completion schedules, where time is not critical;
  b) the omission of minor items;
  c) arithmetic errors
  d) Alternative technical details, such as design, materials, workmanship, specifications, standards or methodologies, which are substantially responsive and acceptable to the procuring entity; and
  e) Minor amendments to contract terms and conditions, which are acceptable to the procuring entity.

Where a tender is determined to be substantially responsive, the evaluator(s) may waive, clarify or correct the non-conformity, error or omission in the tender – see guidance note 5 below for further details.

6.14.9 Guidance Note 5 – Bid Clarifications from Bidders and Corrections

Where information contained in a bid is unclear, the evaluator(s) may seek clarification of the information from the bidder. Clarifications cannot be used to amend the price of the bid (with the exception of the correction of arithmetic errors), to correct material deviations or to make other significant changes to any aspect of the tender.

Requests for clarification must be addressed to the bidder in writing and must state that a written response is required by a specified date. The request must also state that failure by the bidder to respond to the request may result in the rejection of his bid.

Where a tender includes non-material deviations, errors or omissions, the evaluator(s) may choose to accept or to correct them. In order to make the evaluation fair to all bidders, the non-conformity should be quantified and expressed in monetary terms, wherever possible. This amount should then be added to the bid price, for purposes of the financial evaluation only, to reflect the price or cost of the missing or non-conforming item.

For example, where a bidder for goods does not include the price of a spare part or consumable item, the price of the missing item should be added to the bid price, using the highest price for the same item from the other bidders.

As a further example, where a bidder includes a slightly later delivery date than required by the bidding document and this delay is acceptable to the procuring entity, the late delivery could be quantified and expressed in monetary terms, using the monetary penalties for liquidated damages contained in the draft contract.


The financial evaluation must only be conducted on bids which were determined to be substantially responsive during the detailed evaluation.

The financial evaluation is conducted to determine the evaluated price of bids, rank the bids according to their evaluated price and identify the lowest priced bidder. This will be the successful tender / bidder, which should be recommended for award of contract.

Unless otherwise required by the instructions in the bidding document, the procedure for
determining the evaluated price of each tender is as follows:

a) determine the total bid price, including or excluding particular costs, as indicated in the bidding document e.g. the bidding document may give particular instructions on the inclusion of all taxes and duties in the tender price or the exclusion of provisional sums and contingencies, but the inclusion of competitively priced day works, in bids for works;

b) Correct any arithmetic errors – see guidance note 7 below;

c) Apply any non-conditional discounts offered by bidders – see guidance note 8 below;

d) Convert all bids to a single evaluation currency for purposes of comparison, using the currency and the date and source of the exchange rate specified in the bidding document;

e) Make adjustments for any non-material nonconformities, errors or omissions

f) Apply any margin of price preference; and

g) Determine the total evaluated price of each tender.

Where the evaluation is for a procurement requirement consisting of more than one lot and bidders are permitted to offer discounts which are conditional on the award of contracts for more than one lot, these must be taken into account in a further financial evaluation at this stage – see guidance note 8 below.

6.14 11 Guidance Note 7—Arithmetic Errors

In conducting a financial evaluation, arithmetic errors may be corrected by the evaluator(s). The procedure for correcting arithmetic errors is normally stated in bidding documents and the procedure stated must be used. This is normally the procedure stated below.

Where no specific procedure is stated in the bidding document, the following procedure should be applied:

a) If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the evaluator(s) there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected.

b) If there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and

c) If there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to the notes above.

Bidders should be notified in writing of any arithmetic corrections made and requested
to agree to the corrections in writing.

6.14.12 Guidance Note 8 – Discounts

Bidders are permitted to offer discounts to their tender prices, provided that any discounts are included in their tender. Discounts or any other change in price is not permitted after the tender closing date. Non-conditional discounts should be taken into account in the evaluated price of the tenders.

Prompt payment discounts, which are conditional on prompt payment by the procuring entity, must not be taken into account in the financial evaluation, but should be included as a contract term, if the bid is accepted.

If so stated in the bidding document, bidders may be permitted to offer conditional (or cross) discounts i.e. discounts which are conditional on the simultaneous award of contracts for more than one lot. Conditional discounts should be excluded from the main financial evaluation.

Following completion of the financial evaluation and determination of the successful bidders(s), a further financial comparison should be conducted to take any conditional discounts into account. This comparison must identify the best overall value for money for the procuring entity i.e. the combination of contract awards which offers the lowest total price.


The tender / bid validity period requested in the bidding document should normally be sufficient to enable the procuring entity to undertake the evaluation, obtain PC approval and place a contract. Therefore, extensions to the validity of tenders should not normally be required.

Where an extension to the validity of bids is required, all bidders should be requested, in writing, to extend the validity of their tenders for an additional specified period of time. This request should be issued a reasonable period before the expiry of the validity of tenders, to give sufficient time for responses to be received.

Bidders must not be permitted to change the price, or any other details, of their tender, when extending the validity.

Where a tender / bid security is required, bidders extending the validity of their tenders must also extend the validity of their tender / bid securities by the same period of time. Any bidder is free to refuse to extend the validity of his tender, without forfeiting any tender / bid security submitted.

6.14.14 Post-Qualification Examination: (Refer section 6.18)

6.14.15 Preparation of evaluation report by BEC

Upon completion of preliminary examination, technical and financial evaluations of bids, and post-qualification examination of the bidder BEC shall prepare bid evaluation report with a recommendation to award contract to the lowest evaluated bid. An evaluation report shall
contain the following and shall be duly signed by all the members of bid evaluation committee.

1) A summary of all the tenders / bids received and opened
2) The results of the preliminary evaluation as per section 6.14.6 of this manual
3) The results of the technical evaluation
4) Reasons why any bids were rejected
5) Details of any minor deviations accepted under section 6.14.8 of this manual and the way in which such deviations were taken into account in the evaluation and comparison of the bids
6) The evaluated price of each bid, showing any discounts, corrections, modification or adjustments to the tender / bid price and any conversion to a common currency
7) The ranking of the tenders / bidders each according to its total evaluated price
8) The results of post-qualification conducted
9) A recommendation to award the contract to the Lowest Evaluated Bid (LEB)
10) Such other recommendation as may be considered appropriate by BEC.

The evaluation report must contain clear recommendations to the PC on:

a) the successful bid and the price of the proposed contract; and
b) Whether any negotiations should be held with the successful bidder.
c) The evaluation report must be signed by all the staff involved in the evaluation.

The evaluation report prepared shall be considered by the Procurement Committee, prior to awarding the contract or taking any other action in relation to the procurement as may be necessary.

If after completing the bid evaluation, BEC finds there is only one compliant (substantially responsive) tender remaining and the price is within the official estimate and/or comparable with the prevailing market price, then the bid may be submitted to the PC with a recommendation for award of contract.

If after completing the evaluation, it is found that the lowest evaluated bid is significantly higher than the prevailing market price levels, then BEC may recommend to the PC either to reduce the scope of the requirements or to reject all tenders in accordance with the set provision in the bid document (Reserves the right to Reject of all tenders, proposals and quotations). If the decision is to reject all the tenders procurement unit shall proceed with re-bidding using revised bidding documents, if necessary, and/or with wide advertisement.

6.14.16 Approval required for the evaluation report

PC approval is required for the completed evaluation report. No communications accepting or rejecting any bid, or indicating which is the successful bidder must be sent to any bidder before this approval is obtained.

6.14.17 Records Required:

The approved evaluation report, and all supporting documents used in conducting the evaluation, must be kept on the procurement file.
Minutes of evaluation meetings and copies of all correspondence with bidders, such as letters relating to clarifications, the correction of arithmetic errors or extensions of the tender validity, must also be kept on the procurement file.

6.14.18 Next Step

After the successful conclusion of evaluation process proceeds to:

a) Issue a notice/letter of acceptance to the successful bidder.

6.14.19 Summary of evaluation process is shown in figure 1 in the next page
**Evaluation Procedure for Goods, Works and Non-Consultancy Services**

1. **Bid / Tender Opening**
   - Tender Opening: evaluation includes tenders listed in the tender opening record, as received on time, opened and read out. Late tenders not included.

2. **Preliminary Screening**
   - **Non Responsive** → Reject
   - **Responsive**
     - **Clarify (in writing)**
     - **Detailed Evaluation**
       - **Not Clear**
         - **Substantially Responsive**
           - **Confirm Corrections (in writing)**
             - **Arithmetic Errors**
               - Lowest Price
                 - Others
                   - **Financial Evaluation**
                     - **Financial Evaluation to:**
                       - correct arithmetic errors.
                       - quantify non-material deviations and cost implications.
                       - convert to a common currency (using exchange rate stated in bidding document).
                       - compare total costs.
                       - rank prices with lowest price as No 1.

3. **Post Qualification Examination and Recommendation for Contract award**
   - Qualified bidder recommended
   - Recommendation submitted to PC for approval
6.15 Evaluation procedure for Goods

6.15.1 Summary of Procedure:

This section of the manual provides the standard operating procedure for the evaluation of bids for the supply of goods. It must be read in conjunction with section 6.14 on general evaluation procedures for Goods, Works and non – consulting Services.

The evaluation methodology for goods consists of three stages:

a. A preliminary screening, to eliminate bids which do not comply with the basic requirements of the bidding document and bidders who do not meet mandatory qualification requirements;

b. A detailed evaluation, to determine whether bids are substantially responsive to the technical specification and commercial requirements stated in the bidding document and to eliminate tenders which are not responsive;

c. A financial evaluation to compare the costs of responsive bids and determine which is the lowest priced bid.

The successful bid will be the lowest priced tender, which is substantially responsive to requirements of the bidding document.

6.15.2 The procedures apply to:

Open and Restricted bidding method. The general principles of evaluation shall also apply to evaluations under the Two-Stage bidding method this section applies to evaluations for goods only. The evaluation of bids for works and non – consulting services are covered by section 6.15 and 6.16 respectively. Evaluations for consultancy services under the Request for Proposals method are covered under chapter 8.

6.15.3 Purpose of the Procedure

The purpose of the evaluation methodology for goods is to determine the lowest priced bid, which is responsive to the requirements of the bidding document. This ensures that the procuring entity only purchases goods which meet its specification, but does not pay any more than necessary for those goods.

6.15.4 Staff Involved

The Procurement Unit has the overall responsibility for evaluations for goods, but will obtain technical advice from the end user, or other technical specialists as required when determining the responsiveness of bidders to the technical specification in the bidding document. Procurement Unit will propose members of the evaluation committee to the accounting officer for approval. Once the committee is approved, it shall commence the evaluation of bids.
6.15.5 Step by step procedures for goods evaluation

   a) The head of the Procurement Unit should identify appropriate member(s) of staff to
   manage the evaluation

   b) Review and list the requirements, instructions, specifications and evaluation criteria
   specified in the bidding document and ensure that these are clearly understood. Seek
   clarification from the person responsible for writing the bidding document or
   preparing the specification where necessary.

   c) The member of the Procurement Unit responsible for managing the evaluation
   should meet with any selected evaluator(s) to review the evaluation methodology
   and the specifications and criteria included in the bidding document and ensure
   that these are fully understood by all evaluators see guidance 6.14.14

   d) Conduct a preliminary screening to eliminate bids which are not substantially
   responsive.

   e) Conduct a detailed evaluation to determine whether tenders are substantially
   responsive to the minimum specification and the commercial requirements included in
   the bidding document – see guidance notes 1 and 2 below for further detail. See
   section See section 9 of this manual for guidance on determining responsiveness,
   seeking clarifications and correcting minor deviations, errors and omissions. Eliminate
   tenders which are not substantially responsive.

   f) Start the financial evaluation by determining the evaluated price of each tender / bid
   - see section 6.14 for further details.

   g) Rank the bids according to their evaluated price. Identify the lowest priced bid,
   which will be the successful bidder.

   h) Conduct a post-qualification on the successful bidder – see
   Section 6.18 for guidance.

   i) Prepare an evaluation report for submission to the PC for approval – see section
   6.14.4 for details of the content of the report.

6.15.6 GuidanceNote 1–DetailedTechnicalEvaluation

   The technical evaluation for goods is conducted by comparison with the specification in
   the bidding document. This specification provides a minimum standard, which tenders
   must reach. Tenders that do not reach this standard are non-responsive. Tenders which
   equal or exceed the standard are responsive. The evaluation is conducted on a pass or
   fail basis, so no extra credit or benefit is given to tenders which exceed the standard,
   except where this is provided for by non-price criteria – see guidance note 3 below.
   Substantially responsive tenders may be considered to have passed the technical
   evaluation.
For example, if the specification in the bidding document for a photocopier specified a copy speed of 25 pages per minute:

a) A bid or a tender offering a copy speed of 15 pages per minute would be non-responsive;
b) A bid offering a copy speed of 24 pages per minute may be substantially responsive, if the evaluator(s) so decide;
c) A bid offering a copy speed of 25 pages per minute would be responsive;
d) A bid offering a copy speed of 33 pages per minute would be responsive, but would receive no additional preference in the evaluation compared to the bid offering 25 pages per minute.

In conducting the technical evaluation, all aspects of the technical specification must be considered and technical advice sought where required. In particular, technical advice and advice from the end user on the precise purpose and use of the goods will be required in determining whether deviations from the specification are material or non-material. For example:

a) Failure to offer the specified engine size would almost certainly be a material deviation in an evaluation for a vehicle;
b) Failure to offer the specified color of vehicle may be a non-material deviation if the vehicle is for general use, but may be a material deviation if the vehicle is for police or military use and requires a particular color or markings for identification or camouflage purposes.

6.15.7 GuidanceNote 2–DetailedCommercialEvaluation

The commercial evaluation is conducted by assessing whether the bid conforms, or substantially conforms, to all the terms, conditions and requirements of the bidding document. The criteria will therefore depend on the bidding document, but might include:

a) Acceptance of key contract conditions, such as payment, warranty and liquidated damages;
b) Delivery schedule for goods within the time period specified;
c) Completion schedule for incidental services within the time period specified, where installation and commissioning or user training is required;
d) Availability of spare parts and consumable items;
e) Service arrangements, such as a requirement for a local agent.

As with the technical evaluation, the commercial financial standard must be set by the terms and conditions of the bidding document and tenders should be evaluated as responsive or non-responsive against this standard. No extra benefit should be given to tenders which exceed the standard required, except where this is done through the application of non-price criteria – see guidance note 3 below.

6.15.8 Post-Qualification Examination: (Refer Section 6.18)
6.15.9 Approval Required

PC approval is required for the completed evaluation report. No communications accepting or rejecting any tender, or indicating which the successful tender is, must be sent to any bidder before this approval is obtained.

6.15.10 Documents or records required

The approved evaluation report, and all supporting documents used in conducting the evaluation, must be kept on the procurement file.

6.15.11 The Next steps

Issue a notice/letter of acceptance.

6.16 Evaluation procedures for works

6.16.1 Summary of procedure

This section of the manual provides the standard operating procedure for the evaluation of bids for the supply of Works. It must be read in conjunction with section 6.14 on general evaluation procedures for Goods, Works and Routine Services.

The evaluation methodology for works consists of three stages:

a. A preliminary screening, to eliminate bids which do not comply with the basic requirements of the bidding document and bidders who do not meet mandatory qualification requirements;

b. A detailed evaluation, to determine whether bids are substantially responsive to the technical specification and commercial requirements stated in the bidding document and to eliminate tenders which are not responsive;

c. A financial evaluation to compare the costs of responsive tenders and determine which is the lowest priced bid.

The successful bid will be the lowest priced tender, which is substantially responsive to requirements of the bidding document.

6.16.2 The procedures apply to:

Open and restricted bidding methods. The general principles of evaluation shall also apply to evaluations under the Two-Stage bidding procedures. This section applies to evaluations for works only. The evaluation of bids for goods and non-consulting services are covered by section 6.15 and 6.16 respectively. Evaluations for consultancy services under the Request for Proposals method are covered under chapter 7.

6.16.3 Purpose of the Procedure

The purpose of the evaluation methodology for works is to determine the lowest priced tender, which is responsive to the requirements of the bidding document. This ensures that the procuring entity only purchases works which meet its specification, but does not
pay any more than necessary for those goods.

6.16.4 Staff Involved

The Procurement Unit has the overall responsibility for evaluations for works, but will obtain technical advice from the end user, or other technical specialists as required when determining the responsiveness of bidders to the technical specification in the bidding document. Procurement Unit will propose members of the evaluation committee to the accounting officer for approval. Once the committee is approved, it shall commence the evaluation of bids.

6.16.5 Step by step evaluation procedure for works

a) The head of the Procurement Unit shall identify appropriate member(s) of staff to manage the evaluation to be approved by the accounting officer.

b) Review and list the requirements, instructions, description of works and evaluation criteria specified in the bidding document and ensure that these are clearly understood. Seek clarification from the person responsible for writing the bidding document or preparing the description of works where necessary.

c) The member of the Procurement Unit responsible for managing the evaluation should meet with any selected evaluator(s) to review the evaluation methodology and the description of works and criteria included in the bidding document and ensure that these are fully understood by all evaluators.

d) Conduct a preliminary screening to eliminate bids which do not meet the basic requirement of the bidding document.

e) Conduct a detailed evaluation to determine whether tenders are substantially responsive to the commercial and technical requirements included in the bidding document – see guidance note 1 below for further detail. See section 6.14.6, 6.14.8 and 6.13 C) for guidance on determining responsiveness, seeking clarifications and correcting minor deviations, errors and omissions. Eliminate bids which are not substantially responsive.

f) Start the financial evaluation by determining the evaluated price of each tender - see guidance note 2 below on the application of non-price criteria for works.

g) Rank the tenders according to their evaluated price. Identify the lowest priced bid, which will be the successful bidder?

h) Check that the prices of the lowest evaluated bidder are not seriously unbalanced or front loaded and request further price analysis if required.

i) Conduct a post-qualification on the successful bidder – see Section 6.18 for guidance.
j) Prepare an evaluation report for submission to the PC for approval

6.16.6 Guidance Note 1—Detailed Commercial and Technical Evaluation

The detailed evaluation is conducted by assessing whether the bid conforms, or substantially conforms, to all the terms, conditions and requirements of the bidding document. The criteria will therefore depend on the bidding document, but might include:

a) Acceptance of key contract conditions, such as payment, price adjustment, warranty, insurance, liquidated damages, dispute resolution, liability and performance security, or inclusion of only minor deviations which are acceptable to the procuring entity and can be quantified in the evaluation.

b) Completion schedule for the works within the time period specified and/or meeting key milestones of the construction program.

c) Equipment, material, workmanship and design of the standards or codes specified in the bidding document or equivalent;

d) Use of construction methods specified in the bidding document or acceptable alternatives.

e) Tender based on the design specified in the bidding document or an acceptable alternative design, where alternatives are permitted by the bidding document;

f) Compliance with applicable regulations, such as those concerning labor;

g) Sub-contracting within the amounts and in the manner permitted by the bidding document and sub-contractors meeting requirements specified in the bidding document.

The standard for responsiveness must be set by the terms, conditions and requirements of the bidding document and bids should be evaluated as responsive or non-responsive against the standard bid document. Bids which are substantially responsive may be accepted, although the minor deviations, errors or omissions should be quantified and taken into account in the financial evaluation. No extra benefit should be given to bids which exceed the standard required.

The detailed evaluation of bids for works will require technical input from staff qualified in the relevant field and staff representing the end user.

6.16.7 Post Qualification Examination: (Refer Sec 6.18)

6.16.8 Approval Required

PC approval is required for the completed evaluation report. No communications accepting or rejecting any tender / bid, or indicating which the successful bid is, must be sent to any bidder before this approval is obtained.
6.16.9 Documents or records required

The approved evaluation report, and all supporting documents used in conducting the evaluation, must be kept on the procurement file.

6.16.10 The Next steps

Issue a notice/letter of acceptance.

6.17 Evaluating bids for non-consulting Services

6.17.1 Summary of procedure

This section of the manual provides the standard operating procedure for the evaluation of bids for the provision of routine services. It must be read in conjunction with section 6.14 on General evaluation Procedures for Goods, Works and non-consulting Services. Summary of procedure

The evaluation methodology for works consists of three stages:

a. A preliminary screening, to eliminate bids which do not comply with the basic requirements of the bidding document and bidders who do not meet mandatory qualification requirements;

b. A detailed evaluation, to determine whether bids are substantially responsive to the technical specification and commercial requirements stated in the bidding document and to eliminate tenders which are not responsive;

c. A financial evaluation to compare the costs of responsive tenders and determine which is the lowest priced bid.

The successful bid will be the lowest priced tender, which is substantially responsive to requirements of the bidding document.

6.17.2 The procedures apply to:

This section applies to evaluations for non-consulting services only. The evaluation of bids for goods and works are covered by section 6.15 and 6.16 respectively. Evaluations for consultancy services under the Request for Proposals method are covered under chapter 8.

6.17.3 Purpose of the Procedure

The purpose of the evaluation methodology for non-consulting services is to determine the lowest priced bid or the proposal, which is responsive to the requirements of the bidding document or the TOR. This ensures that the procuring entity only purchases works which meet its specification, but does not pay any more than necessary for those goods.

6.17.4 Staff Involved

The Procurement Unit has the overall responsibility for evaluations for non-consulting services, but will obtain technical advice from the end user, or other technical specialists as required when determining the responsiveness of bidders to the technical
specification in the bidding document. Procurement Unit will propose members of the evaluation committee to the accounting officer for approval. Once the committee is approved, it shall commence the evaluation of bids.

6.17.5 Step-by-Step procedures for evaluating non – consulting services

a) The head of the Procurement Unit should identify appropriate member(s) of staff to manage the evaluation

b) Review and list the requirements, instructions, terms of reference and evaluation criteria specified in the bidding document / TOR and ensure that these are clearly understood. Seek clarification from the person responsible for writing the bidding document or preparing the terms of reference where necessary.

c) The member of the Procurement Unit responsible for managing the evaluation should meet with any selected evaluator(s) to review the evaluation methodology and the terms of reference and criteria included in the bidding document and ensure that these are fully understood by all evaluators.

d) Conduct a preliminary screening to eliminate bids or proposals which are not substantially responsive.

e) Conduct a detailed evaluation to determine whether bids are substantially responsive to the commercial and technical requirements included in the bidding document – see guidance note 1 below for further detail. Section 6 for guidance on determining responsiveness, seeking clarifications and correcting minor deviations, errors and omissions. Eliminate bids / proposals which are not substantially responsive.

f) Start the financial evaluation by determining the evaluated price of each bid

g) Rank the proposals or the bids according to their evaluated price. Identify the lowest priced bid or proposal, which will be the successful bidder.

h) Where required, conduct a post-qualification on the successful bidder

i) Prepare an evaluation report for submission to the PC for approval

6.17.6 Note 1 – Detailed Commercial and Technical Evaluation

The detailed evaluation is conducted by assessing whether the bid conforms, or substantially conforms, to all the terms, conditions and requirements of the bidding document and responds adequately to the terms of reference. The criteria will therefore depend on the bidding document, but might include:

a) Acceptance of key contract conditions, such as payment, insurance, dispute resolution and liability or inclusion of only minor deviations which are acceptable to the procuring entity and can be quantified in the evaluation.
b) Suitability of the bidder’s key staff taking into account their qualifications and experience.

c) Equipment, material and workmanship of the standards specified in the bidding document or equivalent

d) Acceptable methodology for performance of the services;

e) Compliance with applicable regulations, such as those concerning labor

f) Sub-contracting within the amounts and in the manner permitted by the bidding document and sub-contractors meeting requirements specified in the bidding document.

The standard for responsiveness must be set by the terms, conditions, requirements and terms of reference in the bidding document and bids should be evaluated as responsive or non-responsive against the standard bidding document. Bids which are substantially responsive may be accepted, although the minor deviations, errors or omissions should be quantified and taken into account in the financial evaluation. No extra benefit should be given to bids which exceed the standard required, except where this is done through the application of non-price criteria.

The detailed evaluation of bids for non-consultancy services will often require input from technical staff and/or staff representing the end user.

6.17.7 Post-Qualification Examination: (Refer Sec 6.18)

6.17.8 Approval Required

PC approval is required for the completed evaluation report. No communications accepting or rejecting any bid, or indicating which is the successful bidder, must be sent to any bidder before this approval is obtained.

6.17.9 Documents or records required

The approved evaluation report, and all supporting documents used in conducting the evaluation, must be kept on the procurement file.

6.17.10 Next step

Proceed to a notice of acceptance under the open bidding methods or to prepare and issue purchase order under the Request for Quotations method or conduct a post qualification procedure.

6.18 Conducting a Post – Qualification Procedure

6.18.1 Summary of the procedure:

This section of the manual explains the procedure for conducting a post-qualification on the successful bidder, to establish whether the bidder is qualified to perform the proposed contract satisfactorily. It also provides procedures for verifying pre-qualification information, following the evaluation process. This section should be read in conjunction with chapter 7 of this manual.
6.18.2 Post qualification procedures apply to:

Post-qualification may apply under the Open and Restricted bidding methods. A decision on whether pre- or post-qualification is required should be taken at the procurement planning stage.

6.18.3 Purpose of Procedure:

Post-qualification is conducted to check whether a successful bidder has the resources, experience and qualifications required to satisfactorily perform a contract. As post-qualification is conducted before a contract is awarded, and the contract denied if the bidder is not qualified, it should reduce the likelihood of defaults or poor performance under a contract.

6.18.4 Staff Involved:

BEC does the post evaluation examination as part of evaluation process.

6.18.5 Step by step procedures for post qualification

a) Identify the successful bidder through the evaluation process.
b) Review the bidding document for details of the post-qualification criteria set and the evidence of post-qualification requested from bidders.
c) Examine the evidence submitted by the successful bidder and assess whether it meets the criteria. Seek clarifications or updated information from the bidder if required.
d) Where the successful bidder is qualified, include this information in the evaluation report and proceed to submit the completed report, with the recommendation for award of contract, to the PC for approval.
e) Where the successful bidder is not qualified, conduct a post-qualification check on the bidder with the next lowest evaluated price and repeat this process as required until a qualified bidder is identified. Include the results of all post-qualification checks in the evaluation report, which should be submitted to the PC for approval, with reasons why any bidder was determined not to be qualified and a clear recommendation for contract award. Bidders must not be rejected prior to obtaining PC approval of the post-qualification results.

6.18.6 Step by step instructions for verification of pre-qualification information:

a) Identify the successful bidder through the evaluation process.
b) Review the pre-qualification document for details of the post-qualification criteria set and the bidding document for updated information requested from bidders.
c) Examine the updated information submitted by the successful bidder and assess whether it still meets the original pre-qualification criteria. Seek clarifications or further updates from the bidder as required.
d) Where the successful bidder is still qualified, include this confirmation in the evaluation report and proceed to submit the completed report, with the recommendation for award of contract, to the PC for approval.
e) Where the successful bidder is no longer qualified, verify the pre-qualification
information of the bidder with the next lowest evaluated price and repeat this process as required until a qualified bidder is identified. Include the results of all checks on pre-qualified bidders in the evaluation report, which should be submitted to the PC for approval, with reasons why any bidder was determined to be no longer qualified and a clear recommendation for contract award. Bidders must not be rejected prior to obtaining PC approval of the post-qualification results.

6.18.7 Approval required

PC approval for the results of the post-qualification will be required. This should be obtained by inclusion of the post-qualification results in the evaluation report.

6.18.8 Documents / records required

A record of the post-qualification must be completed and kept on the procurement file. A summary of the post-qualification results must be included in the evaluation report.

6.19 Prohibition of conducting contract negotiations for supply of good, works and non-consultancy services. Summary of Procedure

6.19.1 Summary of Procedure:

In line with the provision of Article 80 of the PPCDB, except for the exception as given below, no negotiations shall take place between the Procuring Entity and a supplier, contractor or non-consultancy service provider with respect to a bid submitted by them. If the lowest evaluated responsive bid exceeds the budget for the contract by a substantial margin, the Procuring Entity shall investigate the causes for the excessive cost and may:

a. Consider requesting new bids on basis of revised bidding documents; or

b. Subject to approval by the Procurement Committee negotiate a contract with the lowest evaluated bidder to try to obtain a satisfactory contract through a reduction in the scope of contract, which can be reflected in a reduction of the contract price.

This section of the manual provides guidance when negotiations are permitted, what areas may be subject to negotiations and the procedure for holding negotiations with a bidder.

6.19.2 The procedures apply to:

Procurement of goods, works and non-consultancy services

6.19.3 Purpose of Procedure

The purpose is to negotiate with the lowest evaluated bidder to try to obtain a satisfactory contract through a reduction in the scope of contract, which can be reflected in a reduction of the contract price.

6.19.4 Staff involved

The Procurement Unit has the overall responsibility for negotiations, but will require technical input from the end user, or other technical specialists. The Procurement Unit will normally make use of staff who were involved in the evaluation, as they will be familiar
with the bidding document and the successful tender. Negotiations will always be conducted by a minimum of three staff, selected by the head of the Procurement Unit and approved by the accounting officer.

6.19.5 Step-by-Step procedures

a) The evaluators should make recommendations in the evaluation report, as to whether negotiations are required and the issues to be negotiated. The recommendation to negotiate must be approved by the PC before any preparations are made.

b) The head of the Procurement Unit should identify appropriate member(s) of staff to manage the negotiations and have The list approved by the AO – see guidance Note 1 below.

c) Invite the successful bidder for negotiations, proposing the time, date and location for negotiations. The invitation letter may state that the bidder’s tender has been evaluated as the successful tender, but it is important that no contractual commitment is made to the bidder i.e. the letter must not make any reference to the tender being accepted or a contract being awarded.

d) The negotiators should begin by reviewing the bidding document, the tender from the successful bidder and the evaluation report.

e) Identify areas where negotiations are required – see guidance note 2 below for areas which negotiations are permitted to cover. For each area, identify the objectives which the procuring entity wishes to achieve. Where possible, quantify these objectives and set maximum and minimum negotiating parameters.

f) Hold the negotiations with the successful bidder. It is important that the negotiators do not commit the procuring entity to any arrangements or agreements during the negotiations.

g) Prepare a record of the negotiations and make recommendations on how to proceed – see guidance note 3 below for assistance on likely recommendations.

h) Seek PC approval for the recommendations and proceed as appropriate. Where the recommendation is for further negotiations with the successful bidder or negotiations with the next bidder, repeat this process from step 3 onwards.

6.19.6 Guidance Note 1–selecting staff to conduct negotiations:

The accounting officer shall constitute a committee to conduct negotiations proposed by the PU. In identifying staff to be involved with negotiations, the head of the Procurement entity must consider the type of skills, knowledge or experience needed. It is important that PC members are not involved in conducting negotiations, but only in approving the results and recommendations, so that they do not end up reviewing and approving their own work.

6.19.7 Guidance Note 2- areas which may be negotiated:

The area of negotiation would mainly be the scope of contract with a view to obtain a reduced total contract price.
6.19.8 Guidance Note 3 – Recommendations following Negotiations

Following negotiations, the recommendations made to the PC may include:

a) proceed with contract award to the successful bidder, incorporating the revisions agreed during negotiations;

b) Terminate the negotiations, where they have failed to result in an acceptable contract, and go for fresh bidding;

c) cancel the procurement proceedings, where it is believed that the original bidding document was flawed, the need has changed or the budget is insufficient for the requirement.

6.19.9 Approval Required

The results of any negotiations, and the resulting recommendations, must be approved by the PC before any contract award or other commitment is made to any bidder.

6.19.10 Records required

A record of any negotiations must be completed and kept on the procurement file. At a Minimum, this record must include:

a. the name of the bidder with whom negotiations were held and the names of the bidder’s representatives;

b. the names of all staff involved in the negotiations;

c. the time, date and location of the negotiations;

d. the areas subject to negotiation and the main points or requests made on each side;

e. the final agreement reached on each area of negotiation;

f. Any points where agreement was not reached or further discussion is required.

The record of the negotiations must be signed by all staff involved in the negotiations.

Any other correspondence or information relating to the negotiations must also be kept on the procurement file, including letters inviting the bidder to negotiate and the procuring entity’s preparation of its negotiating position.

6.19.11 Next Step

Proceed to issue a notice of acceptance to the winning bidder
6.20 Cancellation of procurement proceedings

6.20.1 Summary of Procedure:
This section of the manual provides a standard operating procedure for cancellation of procurement proceedings at any point prior to award of contract.

6.20.2 The procedure Apply to
All methods of procurement for goods, works, non-consulting services.

6.20.3 The purpose of the procedure
The cancellation of procurement proceedings should be avoided, wherever possible, as it means a waste of time and resources for both the procuring entity and the bidders. However, where it is in the public interest to do so, procurement proceedings may be cancelled at any stage prior to the award of a contract. This manual establishes a procedure to ensure that any unavoidable cancellations are handled properly and in a manner which is fair to all bidders.

6.20.4 Staff Involved:
The cancellation of procurement proceedings will be conducted by the Procurement Unit, although the need to cancel may be identified by other staff.

6.20.5 Step by Step procedures
a) Identify the need to cancel procurement proceedings – see guidance note 1 for grounds which may justify a cancellation. Discuss and agree the need with all relevant parties, including the Procurement Unit, the end user and any staff providing financial information.

b) Where no invitation document or notice has been issued, ensure that all relevant staff are notified. No further action is required.

c) Where an invitation document or notice has been issued, seek PC approval to cancel. Approval must be obtained as promptly as possible, so that bidders do not waste or spend further time or resources in the preparation of bids or in maintaining bid securities. The request for PC approval to cancel must state in full the reasons for cancellation.

d) Prepare a notice cancelling the procurement proceedings, which must be identical for all bidders or potential bidders. This notice should normally state the grounds for cancellation, to avoid enquiries from numerous bidders. However, the notice does not have to justify the grounds for cancellation.

e) Where the cancellation is prior to the bidding deadline, send the notice to all bidders who have been issued with the bidding document. Check the tender box and any other records of receipt and return unopened all bids which have already been received.

f) Where the cancellation is after the bidding deadline, send the notice to all bidders who submitted bids. Promptly return any unopened bids (including separately sealed
financial proposals in the case of the Request for Proposals method) and any bid securities.

### 6.20.6 Guidance Note 1—Grounds for Cancellation

The cancellation of procurement proceedings should be avoided wherever possible, but is permitted where it is in the public interest. Where cancellation is required, it should be done as early in the procurement process as possible. In particular, the procuring entity should seek to avoid cancelling procurement proceedings where tenders have already been opened.

The grounds for cancelling procurement proceedings must be approved by the PC, but as guidance can include:

- a) there is no longer any need for the procurement in question;
- b) the technical, contractual or other details have changed to such an extent that it is more appropriate to issue a new tender, than to modify the existing bidding document;
- c) the procurement requirement can be met by a substantially less expensive article;
- d) there is evidence of collusion among bidders;
- e) adequate funding is no longer available for the requirement;
- f) There is a lack of responsive tenders.

### 6.20.7 Approval Required

PC approval is required prior to cancellation of the procurement proceedings, unless the cancellation is before the issue of any invitation document or notice.

### 6.20.8 Documents / Records Required:

A record of the cancellation notice sent to all bidders, along with PC approval of the cancellation, must be kept on the procurement file. The procurement file must also contain information on the decision to cancel the procurement proceedings, including the grounds for cancellation.

### 6.20.9 Next Step

No further action is required following cancellation. Any new procurement proceedings, in place of the cancelled procurement should start from the appropriate point of the procurement process e.g. requisition stage. If the description of / or budget for the requirement have changed substantially, then there will be a need to revise the bidding document.

### 6.21 Issuance a Notice of Acceptance

#### 6.21.1 Summary of Procedure

This section of the manual sets out the procedure for issuing a notice of acceptance to form a contract by accepting the bid or proposal of the successful bidder. It is of great importance that this procedure is handled properly, as the notice of acceptance is
normally a contractually binding notice, which results in the entry into force of a contract.

It is important to note that this manual provides the most commonly used procedure for sending notices of acceptance. If the bidding document states an alternative procedure for the notice or an alternative means of entry into force of the procurement contract, the terms of the bidding document will prevail over this manual.

6.21.2 This Procedure apply to

Unless the bidding document states otherwise, a notice of acceptance is normally used under the Open & Restricted bidding, Two-Stage bidding. A notice of acceptance may also be used under the Single Source Procurement method. Under the Request for Quotations method, acceptance of a quotation is normally through issue of a purchase order. The procedure applies to goods, works, non- consultancy services and consultancy services.

6.21.3 The purpose of the Procedure

Sending a notice of acceptance to the successful bidder provides a rapid means of forming a contract rather than waiting while the complete contract document is prepared. This offers a number of potential benefits:

a. the contract comes into force on an earlier date, meaning that delivery or mobilization periods start sooner and overall contract completion should be achieved sooner;

b. where the validity of a bid is due to expire shortly, it can be accepted quickly, before there is a need to request an extension to the validity, with the risk that the bidder is not prepared to extend the validity.

6.21.4 Staff involved

Notices of acceptance will be sent by the Procurement Unit, once all required approvals have been obtained.

6.21.5 Step by step procedures

a) ensure that PC approval of the decision to award the contract has been received in writing.

b) Obtain any other necessary approvals, including financial approval for commitment of the required funds from the Accounting officer

c) Ensure that the successful bidder’s tender is still valid and that any modifications to the tender have been confirmed in writing by the bidder.

d) Prepare the notice of acceptance – refer to Documents/Records Required below for guidance on the content. Ensure that the notice is signed by the authorized signatory of the procuring entity.

e) Dispatch the notice to the successful bidder, keeping evidence of dispatch, such as proof of posting, fax confirmation slip etc. The contract has now entered into force.
(unless otherwise stated in the bidding document, the tender is no longer valid or the notice of acceptance contains any provisions which are contrary to the tender i.e. a counter-offer). This bidder has to confirm the receipt of the letter of acceptance by writing.

f) Ensure that confirmation of receipt of the notice of acceptance is received from the bidder.

g) Where the value of the contract exceeds the levels set in Section 7.5 (6) of the manual, simultaneously notice shall be given to the other bidders, specifying the name and address of the proposed successful bidder and the price of the contract. The contract shall not be signed until at least 14 calendar days have elapsed, following the giving of that notice to allow any aggrieved bidder to file a complaint or appeal.

6.21.6 Approval Required

PC approval of the contract award decision is required prior to the issue of any notice of acceptance. The necessary funds must also be committed prior to issue of the notice of acceptance.

6.21.7 Documents or records required

A copy of the notice of acceptance, along with PC approval of the notice, must be kept on the procurement file. Evidence of dispatch of the notice must also be kept on the procurement file. This is of critical importance as the contract enters into force when the notice is dispatched.

At a minimum, the notice of acceptance must include:

a. the name and address of the procuring entity, which is party to the contract;

b. the name and address of the supplier / contractor

c. the date of the notice;

d. the reference number of the procurement transaction;

e. a brief description of the goods, works or services procured;

f. the date and any reference number of the bidder’s tender;

g. reference to any clarifications or other correspondence which modifies the bidder’s tender;

h. the currency and amount of the contract award;

i. a statement of any items which are specifically excluded from the contract award e.g. certain lots included in the tender or any change in quantities;

j. a statement that the supplier / bidder should begin performance of the contract;

k. a statement that a full contract is being prepared and will be sent to the
supplier for signature in due course;

l. a request that the supplier confirms receipt of the notice of acceptance and
confirms that he is proceeding with contract performance;

m. instructions on any immediate actions required from the supplier e.g. provision of
a performance security

n. The signature of the authorized signatory of the procuring entity.

6.21.8 Next Step
Proceed to preparing and issuing a contract document

6.22 Preparing and Issuing a Contract Document

6.22.1 Summary of Procedure

This section of the manual provides guidance on the preparation of contract documents,
obtaining approval and issuing the contract documents.

This section is based on a procedure where a notice of acceptance has already been
sent to form the contract. Where no notice of acceptance has been sent, staff should note
that parts of section 6.20 relating to approvals and contract formation will apply.

6.22.2 The procedure apply to

This procedure applies to the Open & Restricted bidding methods and Request for
Proposals methods. It may also apply to the Single Source Procurement method,
where a contract document, rather than a purchase order, is issued. This section
applies to goods, works, non-consulting and consultancy services.

6.22.3 Purpose of Procedure:

The contract document confirms in writing the contract which has been agreed and
formed between the procuring entity and the supplier. It defines the goods, works or
services to be provided, the price to be paid for the goods, works or services and
establishes the rights and obligations of each party. The contract is the governing
document for administration of the contract.

6.22.4 Staff Involved:

The Procurement Unit is responsible for the preparation of contract documents,
obtaining all necessary approvals, getting the approved contract document signed and
issuing the document.

6.22.5 Step by step procedures:

a) Collect copies of all documents which will form part of the contract document
   See guidance note 1 for a list of documents to include.
b) Assemble the complete contract document, by including all necessary documents in the correct order. Ensure that the contract does not include any terms or conditions which vary from the successful bidder’s tender, which was accepted by the notice of acceptance.

c) Obtain PC approval for the document.

d) Make the required number of copies of the approved contract and bind or secure the pages in such a way that pages cannot be replaced or lost. The number of copies required must be at least two – one for the supplier and one for the procuring entity.

e) The authorized signatory for the procuring entity should sign all copies of the contract. Usually the head of the procuring entity sign the final contract.

f) Send all copies of the contract to the supplier, with a covering letter instructing the supplier to counter-sign all copies, retain one for his records and return all other signed copies to the procuring entity.

6.22.6 GuidanceNote 1–ContentsofContractDocument

The contents of the contract document will depend on the model contract included in the bidding document. The contents of a contract and the order of precedence are normally listed in the contract form or special conditions of contract. As guidance only, contract documents normally consist of the following:

   a. the contract form or agreement;
   b. the contract award notice;
   c. the supplier’s tender and any modifications to that tender;
   d. the special conditions of contract;
   e. the general conditions of contract;
   f. The description of the goods, works or services, comprising specifications, terms of reference, drawings, bill of quantities, activity schedule and/or any other similar document.

6.22.7 ApprovalsRequired:

PC and the head of the procuring entity make approval of the final contract. The financial commitment should have been made prior to issue of the notice of acceptance.
6.22.8 Performance Security

In accordance with the relevant provision in the bidding document the PE shall require the successful supplier / contractor to submit a Performance Security within the prescribed time period of receipt of the notification of award or letter of acceptance.

The Performance Security shall be valid until the successful completion of the assignment / works under the contract. It shall serve as a guarantee that the supplier or contractor will perform his contractual obligations under the contract and also it is intended to protect the PE against default on the part of the supplier or contractor. The Performance Security shall be denominated in the currency of the bid.

6.22.9 Failure of the bidders to sign the contract or provide a performance security

Failure of the successful bidder to return the signed contract or provide a performance security when one is required constitutes sufficient grounds for the annulment of the award and forfeiture of the bid security. In which event the PC may, after review of the evaluation report recommend award of the contract to the next lowest evaluated and qualified bidder if the price is reasonable or if not could propose for re – bidding.

6.22.10 Documents/RecordsRequired:

A copy of the approved contract document sent to the supplier, along with PC approval of the document must be kept on the procurement file. The original signed contract document returned by the supplier must be kept in a secure location, with a copy kept on the procurement file for reference.

6.22.11 Next Step

Proceed to Publishing a contract award notice and debriefing unsuccessful bidders.

6.23 Publishing a Contract Award Notice and Debriefing Unsuccessful Bidders

6.23.1 Summary of the procedure

This section of the manual sets out the procedure for publishing the contract, following the entry into force of the contract with the successful bidder. It also provides guidance on debriefing unsuccessful bidders, where a request is received after signing of the contract.

6.23.2 The procedure apply to

To all competitive methods of procurement i.e. open & restricted bidding and Request for Proposals. It applies to Procurement of goods, works, non – consulting and consultancy services where the estimated budget falls within the prescribed thresholds.

6.23.3 Purpose of the procedure

The publication of contract award information for higher value contracts increases the transparency of public procurement.
6.23.4 Staff Involved
The Procurement Unit is responsible for notifying and debriefing unsuccessful bidders and publishing any required contract award notices.

6.23.5 Step by step procedures
a) Ensure that the contract has entered into force with the successful bidder and that any required performance security has been received.

b) Where the contract value exceeds Thresholds set in Sec. 7.5 prepare a notice of contract award for publication. This notice must include the date and any reference number of the original invitation notice published in the Gazette, a brief description of the subject of the procurement, the name and address of the successful bidder and the contract price.

c) Arrange for publication of the notice in the Gazette, website, and procurement bulletin within 14 days of the contract award.

d) Where a request for a debrief is received from an unsuccessful bidder, prepare and send a debrief letter, within three (3) days of receipt of the request – see guidance note 1 below for the details to be included.

6.23.6 GuidanceNote 1–Contentsof DebriefLetters
Debrief letters should contain sufficient detail to provide the unsuccessful bidder with an explanation of why he did not win a contract, without providing excessive details or taking too much time to prepare. Debrief letters must be prepared individually for each unsuccessful bidder asking for debrief, as they should not disclose information on other tenders.

Debrief letter should state which stage of the evaluation the bid was rejected at i.e. preliminary screening, detailed evaluation or financial evaluation and provide necessary details.

6.23.7 Approvals Required
No approvals are required for this procedure, as the contract award itself will already have been approved by the PC. However, the debrief letter is prepared by the PU and approved by the Head of the PE.

6.23.8 Documents / Records Required:
Copies of the notification letters and any debriefing letters sent to unsuccessful suppliers or consultants must be kept on the procurement file. A copy of any published contract award notice must also be kept on the procurement file.

6.23.9 Next Step
Proceed to section 6.24 on administering / managing a contract.
6.24. **Contract Administration / Management**

6.24.1 **Summary of the procedure**

This section provides a general procedure for administering contracts, following the issue of a contract document or a purchase order.

Contract administration or management connotes the same thing. The procedures are largely determined by the terms and conditions of each individual contract and the description of requirements for the goods, works or services. Therefore, this section of the manual provides general rules and principles only and staff must be guided by the contents of each contract. Guidance notes are included on the particular requirements of administering goods, works and services contracts.

6.24.2 **The procedures apply to**

To all method of procurement of goods, works, and non – consulting and consulting services.

6.24.3 **Summary of the procedure**

Effective contract management or administration is critical to successful contract implementation and meeting the objectives of the procurement requirement. Contract administration procedures are designed to ensure that:

a. the supplier performs the contract in accordance with the terms and conditions specified in the contract;

b. the procuring entity fulfills its obligations and duties under the contract; and

c. swift remedial or preventative action is taken when problems arise or are foreseen.

6.24.4 **Staff Involved**

The Procurement Unit, the user department and the appointed contract management team will have the overall responsibility for contract administration, but will draw on other resources, such as technical expertise, payment services, legal services and supply management systems as required from other departments. Where such other services and systems are used, the end user or the contract management team will remain responsible for monitoring their performance and ensuring that their activities, in relation to the contract, are completed on time and in accordance with procurement rules. Day-to-day contract administration / management will often be assigned to an end user or technical expert.

6.24.5 **Step by step procedure**

The head of the Procurement Entity should select the most appropriate person or team to administer the contract – see guidance note 1 for further details.

a) Ensure that a signed copy of the contract or confirmation of the purchase
order is received from the supplier.

b) Ensure that any required performance security or advance payment security is received from the supplier.

c) Ensure that the procuring entity meets any immediate obligations, such as payment of an advance payment, opening of a letter of credit or assistance with obtaining visas for the supplier’s foreign staff.

d) Prepare a contract implementation plan, showing key milestones, such as dates for mobilization, deliveries or completion of certain deliverables or sections of work, and the procuring entity’s obligations, such as providing access to a works site, payment or approval of reports.

e) Monitor the performance of both parties against the contract implementation plan. Take action as required to address any problems or delays, whether actual or anticipated. See guidance notes 2, 3 and 4 for details of the normal contract administration responsibilities for goods, works and services respectively.

f) Ensure that all deliveries, targets or deliverables are completed by the supplier.

g) Check all payment documentation and authorize payments, using the procuring entity’s normal accounting and disbursement systems.

h) Where contract amendments are required at any stage, see section 6.24 for further details.

6.24.6 Guidance Note 1– Selecting a contract administrator

The head of the Procurement Entity should select the most appropriate person or persons to administer each contract, taking into account the skills or experience required, the time required for contract administration and any requirements to work closely with the end user. Where a contract is particularly large or complex, a contract administration team may be formed.

The contract management team will retain overall responsibility for contract administration, from day-to-day. However, Procurement Unit will normally retain control of contract amendments, payments and dispute resolution, but may allocate day-to-day liaison with a team of consultants or supervision of a construction contract to the end user.

In selecting the person responsible for day-to-day contract administration, the head of the Procurement entity should consider the following guidance:

a) where supervision needs to be conducted by a person with appropriate technical skills, such as for construction contracts or the installation of complex plant and machinery, contract administration is best allocated to the end user or an external consultant.
b) where contract administration is likely to be time-consuming or require skills not available within the procuring entity, an external contract administrator should be appointed, such as a project manager for a major construction contract;

c) where goods are to be received and issued by stores, contract administration is best allocated to the stores staff;

d) where goods are to be delivered directly to the end user, contract administration is best allocated to either the end user or procurement staff, although there may still be a need for the goods to be included in the procuring entity’s records of assets;

e) where a consultant is required to work with the end user in conducting a study, providing advice or building capacity, contract administration is best allocated to the end user and particular counterpart staff may need to be designated to work with the consultant.

f) where services are provided in support of the general management or administration of the procuring entity, contract administration is best allocated to the member of staff responsible for that function, such as a Transport Officer for a vehicle repair contract or the Finance and Administration Department for cleaning or security services.

Issues relating to contractual disputes or a supplier’s failure to perform and any requirement for amendment of the contract must be referred to the Procurement Unit.

Contract administrators must make use of the procuring entity’s existing systems for making payments or seeking legal advice.

6.24.7 GuidanceNote 2–ContractAdministrationfor Goods

Contracts administration for goods focuses on ensuring that goods are delivered on time, that the goods are acceptable to the procuring entity, in terms of quantity, quality and supporting documentation, and that the procuring entity meets its obligations to pay for the goods delivered.

For goods contracts, the contract administrator is typically responsible for:

a. ensuring that the actual dates when deliveries are due are agreed with the supplier, based on the date of contract effectiveness;

b. expediting during the delivery period, to ensure that manufacturing, freight-forwarding and deliveries are proceeding on schedule;

c. witnessing tests or approving samples, where required;
d. arranging collection, freight-forwarding, customs clearance or delivery, where the procuring entity is responsible for any of these tasks;

e. arranging for receipt and inspection of the goods;

f. checking all documentation relating to the goods, such as delivery notes, and ensure that documentation is correct before signing;

g. recording any missing, damaged or incorrect items and initiating claims against insurance policies or the supplier

h. reporting any contractual problems or requests for contract amendments to the Procurement Unit

i) checking invoices and supporting documentation for payment are correct and arranging payment;

j) managing any securities, such as performance or payment securities, by ensuring that they are kept securely, ensuring that extensions to their validity are obtained in good time, when required, reducing their value, when required and releasing them promptly, when all obligations have been fulfilled;

k) ensuring all documentation and information relating to warranties and warranty claims are in good order;

l) ensuring that assets are registered and labeled, where required; and

m) Ensuring all user guides, manuals, licenses etc. are kept with the goods or in an appropriate place.

Goods should be recorded in the procuring entity’s asset records and issued to the end user in accordance with applicable stores and supply management procedures.

6.24.8 Guidance Note 3--Contract Administration for Works

Contracts administration for works is often complex and time-consuming, as it involves supervision of the progress of the works, ordering variations where unforeseen conditions are encountered and measuring the work completed for payment purposes. For major contracts, the procuring entity will normally use a full-time supervising engineer or project manager, who will exercise control and supervision of the contact on behalf of the procuring entity. Where a project manager is used, the procuring entity must:

a) ensure that the role of the project manager is clearly defined, in particular his powers to issue contract variations, which result in changes to the overall cost, completion date, quality and design of the works and to settle disputes

b) establish arrangements for keeping the procuring entity informed of
contract progress, variations issued and any disputes; and

c) Designate a contract administrator within the procuring entity, who will be the contact point for the project manager.

This contract administrator is typically responsible for:

a) ensuring that the actual mobilization and completion dates are agreed with the supplier, based on the date of contract effectiveness

b) monitoring the overall progress of the works and the performance of the project manager

referring any requests for contract variations, which are outside the authority of the project manager, to the PC, or other designated authority, for approval

c) reporting any contractual problems or requests for contract amendments to the head of the procuring entity

d) checking invoices and supporting documentation for payment are correct and arranging payment

e) managing any securities, such as performance or payment securities, by ensuring that they are kept securely, ensuring that extensions to their validity are obtained in good time, when required, reducing their value, when required and releasing them promptly, when all obligations have been fulfilled;

f) ensuring all final acceptance and hand-over arrangements are completed and documented satisfactorily; and

g) Ensuring all final drawings, manuals etc. are received and kept in an appropriate place.

6.24.9 Guidance Note 4—Contract Administration for Services

Contracts administration for services focuses on ensuring that services are delivered on time and to an acceptable quality. This can be difficult, as the quality of services, particularly consultancy services, can be subjective and difficult to measure. A good working relationship with the service provider and ongoing monitoring of services is therefore important, to ensure successful contract performance.

The procuring entity must also ensure that it meets its obligations, particularly where the performance of consultancy services is dependent on certain inputs or information from the procuring entity or where staff must be made available to benefit from capacity building initiatives.

For services contracts, the contract administrator is typically responsible for:
a) ensuring that the actual dates for mobilization, key milestones or deliverables and completion are agreed with the consultant, based on the date of contract effectiveness

b) Monitoring contract performance to ensure that levels of service are maintained and that deliverables are submitted or completed on time.

c) Ensuring that all required reports are submitted on time

d) Ensuring that, where required, the procuring entity provides written comments or approvals to deliverables or reports in a timely manner;

e) Ensuring that any resources, assistance or counterpart staff to be provided by the procuring entity are made available at the appropriate time

f) Checking invoices and supporting documentation for payment are correct and arranging payment

g) Managing any securities, such as performance or payment securities, by ensuring that they are kept securely, ensuring that extensions to their validity are obtained in good time, when required, reducing their value, when required and releasing them promptly, when all obligations have been fulfilled.

h) Notifying the service provider in writing of any failings in performance or failure to meet targets; and

i) Ensuring all reports or deliverables are kept in an appropriate place and circulated or implemented as required.

6.24.10 Approvals Required

PC approval is required for any contract amendments – see section 6.24 for further guidance. Payments must be approved in accordance with the procuring entity’s normal finance and accounting procedures. No other approvals are required for contract administration.

6.24.11 Documents / Records Required

All correspondence and documentation relating to contract administration must be kept on the procurement file. In particular, records are required of:

a. all invoices and other payment documents;

b. all documentation relating to contract performance, such as delivery notes, progress reports and other deliverables;

c. all contract variations;

d. all contract amendments;
e. all documents relating to claims under the contract, including warranty claims;
f. all documents relating to contract disputes and dispute resolution.

6.24.12 Next Step
Precede amending a contract where any amendment is required see section 6.24

6.25 Contract Amendment

6.25.1 Summary of the Procedure
This section of the manual provides the standard operating procedure for amending a contract, when required, during the period of performance of the contract.

6.25.2 The Procedure apply to
This procedure applies to all methods of procurement i.e. goods, works, non – consultancy and consultancy services.

6.25.3 The purpose of the procedure
Ideally, a contract which has been placed should not need any amendment, but sometimes it is necessary to make changes to the terms and conditions of a contract or the description of requirements. Contract amendments provide a formal, legal way of amending a contract and of ensuring that both parties have agreed to the changes.

6.25.4 Staff Involved
The Procurement Unit is responsible for preparing all contract amendments and obtaining PC approval or head of the procuring entity approval when required though the request for the amendment would normally come from the contract administrator, who may be outside of the Procurement Unit.

6.25.5 Step by step procedure
a) Identify the need for a contract amendment – this will normally be done by the contract administrator. A contract amendment is required where the procuring entity wants to change any terms or conditions of the contract e.g. the delivery or completion period, the technical description of the goods, works or services, the quantity of an item purchased, the price etc.

b) Provide full details on the amendment required to the Procurement Unit.

c) The Procurement Unit will discuss the amendment with the supplier, if required.

d) Prepare the contract amendment – see guidance note 1 below for the details to include.

e) Obtain PC approval.

f) Obtain any other necessary approvals, including financial approval for commitment of any additional funds.
g) Make the required number of copies of the approved contract amendment. The number of copies required must be at least two – one for the supplier and one for the procuring entity.

h) The Head of the procuring entity should sign all copies of the contract amendment.

i) Send all copies of the contract amendment to the supplier, with a covering letter instructing the supplier to counter-sign all copies, retain one for his records and return all other signed copies to the procuring entity.

6.25.6 GuidanceNote 1– Contents of contract Amendment

The contents of a contract amendment will be determined by the reason for the amendment and the term or condition which is being amended. However, all contract amendments must include the following details:

a) the reference number and date of the contract which is being amended and a brief description of the subject of the contract

b) The number of the contract amendment i.e. “Contract Amendment No 1, 2, 3 etc.”

c) The date of the contract amendment

d) A clear statement of the part of the contract which is being amended, including relevant clause or annex numbers

e) A clear statement of how the contract is amended e.g. “the completion period is hereby extended by one week, to give a revised completion period of thirteen weeks” or “the quantity for item 3 is hereby increased by two (2) to give a revised quantity of five (5)”

f) Where the contract price is being amended, a clear statement of the amount by which the contract is increased or decreased and the revised total contract price i.e. “the contract price is hereby increased by a sum of $5,000, giving a revised total contract price of $35,000”;

g) A statement that all other terms and conditions of the contract remain unchanged.

6.25.7 Approvals required

PC approval is required for all contract amendments.

6.25.8 Document / RecordsRequired:

A copy of all contract amendments, signed by both the supplier or the consultant and the head of the entity along with PC approval for each amendment, must be kept on the procurement file.
6.25.9 Next step
Return to section 6.24: Administering / managing a contract and / or proceed to completing the contract – see section 6.26 below

6.26 Completing a Contract

6.26.1 Summary of the Procedure
This section of the manual provides the standard operating procedure for completing a contract and closing the procurement file, once all contractual obligations of both parties have been fulfilled.

6.26.2 The Procedure apply to
Applies to all methods of procurement of goods, works, non – consultancy and consultancy services

6.26.3 The purpose of the Procedure
It is important that contracts are formally reviewed and the procurement file closed, once all contract activities and obligations have been completed. This procedure should ensure that the contract has in fact been completed and that no outstanding items, claims or payments are overlooked. It also ensures that files are archived for the appropriate period of time and available for audit purposes.

6.26.4 Staff Involved
The Procurement Unit is responsible for completing contracts and closing the file, in conjunction with the designated contract administrator.

6.26.5 Step by step procedure
   a) The Procurement Unit or contract administrator will identify that all contractual obligations and warranty periods have been completed.
   b) The Procurement Unit should review the contract and the procurement file to check that the contract is in fact completed – see guidance note 1 below for a checklist.
   c) Close the file and archive it, if required.
   d) Ensure that the closed file is listed in the Procurement Unit’s records and is marked with the date which it must be retained until.

6.26.6 GuidanceNote 1–ContractCompletion Checklist
Before closing a procurement file, the Procurement Unit should check that:
   a) all goods have been delivered, works completed and handed-over, services performed and contract deliverables received;
b) there are no outstanding claims for missing or damaged items against either the supplier or an insurance company

c) all necessary payments have been made;

d) the total payment total is correct, taking into account any contract amendments, variations, price variations and the amortization of any advance payment;

e) all guarantees and securities have been returned;

f) all necessary documentation is in place and correct; and

g) The overall performance of the supplier has been reviewed and recorded for future reference.

6.26.7 Approval Required

No approvals are required for contract completion and closure of the procurement file.

6.26.8 Documents / Records Required: Approval Required

All records relating to the review of the contract must be kept on the procurement file. The Procurement Unit must maintain a register of:

a. All procurement files closed;

b. The date of closure of each file; and

c. The date until which the file must be maintained, which is five years from the date of cancellation of the procurement or completion or termination of the contract, as appropriate.

6.26.9 Next Step

This Desk Instruction provides the final step in the procurement process. Terminating a procurement contract. See section 6.27.

6.27 Terminating a Procurement Contract

6.27.1 Purpose of the Procedure

This section of the manual provides the procedure for terminating a contract, after it has been awarded. Where procurement proceedings need to be cancelled prior to contract award, refer to section 9.20 on cancelling procurement proceedings.

6.27.2 The Procedure apply to

To all methods of procurement of goods, works, non-consulting services and consultancy services under open and restricted bidding, two-Stage bidding, Request for Proposals, and Request for Quotations and Single Source Procurement.
6.27.3 The Purpose of the procedure

Contracts should not be terminated, where termination can be avoided. However, sometimes it is necessary to terminate a contract:

a. To avoid or minimize further loss to the procuring entity or poor performance by the supplier;
b. Where contract performance has become impossible; or
c. Where a supplier is no longer qualified or has engaged in corrupt practices.

6.27.4 Staff Involved

The Procurement Unit is responsible for terminating contracts, subject to head of the procuring entity and PC approval to terminate.

6.27.5 Step by step procedures

a) Identify the need to terminate the contract
b) Check the contract or purchase order document, to confirm the conditions of contract relating to termination - see guidance note 1 below for details. Identify which of the grounds for termination will be used and ensure that the procuring entity has sufficient justification for using the selected grounds. Seek legal advice prior to proceeding.
c) Estimate the amount of money, if any, which will be due to the supplier following termination.
d) Prepare a formal notice, terminating the contract and stating the grounds for termination.
e) Obtain PC approval of the notice and the justification for terminating. Ensure that the PC is informed of the costs of terminating the contract.
f) Issue the termination notice and ensure that it is received by the supplier or the consultant
g) Take any follow-up action required, including making any payments due to the supplier under the contract and referring any default or corrupt practices by the supplier to PPA.
h) Refer to section 9.25 completing a contract, for guidance on archiving the procurement file.

6.27.6 GuidanceNote 1–TypicalGroundsforTermination

The grounds for termination of a contract will depend on the terms and conditions of the individual contract concerned. The following notes provide guidance on typical grounds for termination of a contract, but it is essential that the procuring entity is guided by the contract document itself

1) Termination for convenience: most contracts include a condition which
enables the procuring entity to terminate the contract for its own convenience, without having been any default by the supplier. Where the procuring entity terminates for its own convenience, it must make payment for all goods, works or services satisfactorily completed prior to termination and any other expenses incurred by the supplier.

2) **Termination for default:** most contracts include a condition which enables the procuring entity to terminate the contract, where the supplier has failed to perform its obligations under the contract or to comply with an agreement reached through arbitration or other dispute resolution mechanism. The contract will often specify a procedure by which the procuring entity must formally notify the supplier of the default and give them time to correct the default, before actually terminating the contract. Where the procuring entity terminates because of the supplier defaulting, it is normally permitted to procure the goods, works or services from another source and charge the original supplier for any additional costs incurred.

3) **Termination for corrupt practices:** most contracts include a condition which enables the procuring entity to terminate the contract, where the supplier has engaged in corrupt or fraudulent practices in competing for or implementing the contract. As with termination for default, the procuring entity is normally permitted to procure the goods, works or services from another source and charge the original supplier for any additional costs incurred.

4) **Termination for insolvency:** most contracts include a condition which enables the procuring entity to terminate the contract, where the supplier has become bankrupt or insolvent. In such cases, there is normally no compensation to the supplier.

5) **Termination for force majeure:** most contracts include a condition which enables the procuring entity to terminate the contract, where the supplier has been unable to perform the contract for a specified period of time due to an event of force majeure. In such cases, the procuring entity must normally make payment for all goods, works or services satisfactorily completed prior to termination and any other expenses incurred by the supplier.

The procuring entity should note that a contract will also give the supplier grounds for termination, which normally include failure by the procuring entity to make payments which are overdue by a specified period of time, force majeure or failure of the procuring entity to comply with an agreement reached through arbitration or other dispute resolution mechanism.
6.27.7 Approval Required

Approval is required from the PC and the head of the procuring entity prior to terminating a contract.

6.27.8 Document / Records Required:

A copy of the notice terminating the contract, and the PC’s approval to terminate, must be kept on the procurement file. Any other correspondence or documentation relating to the termination must also be kept in the procurement file.

6.27.9 Next Step

No further action is required following termination of a contract. Any new procurement proceedings, in place of the terminated contract, should be treated as a completely separate procurement process and start from the requisition stage. Consideration should be given to the reasons resulting to termination of the contract, to ensure that they are not repeated in any new another procurement process.
Chapter 7

7. Other Procurement Methods and procurement Thresholds

7.1 Request for Quotation (RFQ) Method

a) In this method the PU will solicit quotations from a minimum of three qualified bidders.

b) The method is applied for the procurement of low value goods, works and services readily available and standard off the shelve goods and related services. The method shall apply for the procurement of goods, works and non-consulting services provided the total estimated contract value does not exceed the prescribed threshold value as given in section 7.5 of this chapter.

Flow chart 3: Procurement Process, Tasks and Responsibility under RFQ method

<table>
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<td>Identification of needs</td>
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<tr>
<td>2. Prepare descriptions of requirements</td>
<td>Draw a list of goods, works and non-consultancy services required and finalize specifications e.g. TOR, BOQ, statement of works. Refer to chapter 6 section 6.7, 6.8 &amp; 6.9</td>
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<td>3. Develop a RFQ Document.</td>
<td>See guidance note 1 below – details of how to develop a RFQ</td>
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<tr>
<td></td>
<td>Approval of the document required</td>
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<tr>
<td>4. Issue the RFQ document</td>
<td>RFQ document shall be issued to a minimum of 3 qualified bidders.</td>
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<td>- Allow the supplier 7 to 14 days to prepare and submit their quotations</td>
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<td></td>
<td>- Handle any clarification from bidders</td>
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<tr>
<td></td>
<td>Procurement Unit</td>
<td></td>
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</tbody>
</table>
### 7.1.1 Guidance note 1: Drafting a Request for Quotation Document

#### 7.1.2 Summary of the Procedure

This section of the manual provides the standard operating procedure for drafting a request for quotations document, using one of the standard documents issued by the FGS. It also provides the procedure for obtaining approval for the completed document, prior to issue.

#### 7.1.3 The Procedure apply to procurement of goods, works and non-consulting services under the RFQ method

#### 7.1.4 The purpose of the procedure

The request for quotations document is critical to the success of the procurement
Process. It informs bidders of:
   a. the precise description of the goods, works or services required;
   b. the rules for the procurement process;
   c. the evaluation criteria and methodology which will be applied;
   d. any qualification criteria which will be applied; and
   e. The type and conditions of the proposed contract (purchase order).
A well drafted RFQ document should result in a successful procurement process. Therefore this document must be approved by the head of the procurement unit prior to its issue.

7.1.5 Staff Involved
The Procurement Unit is responsible for drafting the request for quotations document, in consultation with the end-user who raised the requisition. The Procurement Unit should seek advice from technical specialists, where required.

7.1.6 Step by step procedures
   a) Select the appropriate standard document for the requirement, which will be the RFQ document for goods, works or non-consulting services.
   b) Consult with the end-user, and technical specialists if required, regarding finalization of the description for inclusion in the document.
   c) Complete details of the procurement process e.g. the bid closing date, the address for submission, the evaluation criteria to be applied, any qualification criteria to be applied etc.
   d) Complete the selection on the Conditions of Contract with the conditions which will apply to the contract (purchase order) e.g. payment terms, delivery/completion period, warranty, liquidated damages.
   e) Prepare a list of potential qualified bidders.
   f) Submit the draft RFQ document, and shortlist to the head of PU for approval.

7.1.7 ApprovalsRequired:
Head of the procurement unit approval for the RFQ document must be obtained, prior to its issue.

7.1.8 Documents / RecordsRequired:
RFQ documents must be drafted using the appropriate standard document as provided by the FGS. A copy of the approved RFQ document, along with the Head of PU’s approval, must be retained on the procurement file.
7.1.9 Guidance Note 2: Preparing and issuing a Local Purchase Order (LPO)

7.1.10 Summary of the Procedure
This section of the manual provides guidance on the preparation and issue of Purchase orders.

7.1.11 The Procedure apply to
The Request for Quotations method. It may also apply to the Single Source Procurement method where a purchase order is issued.

7.1.12 Purpose of the Procedure
The purchase order is a simple form of contract between the procuring entity and the supplier. It is used to form a contract by accepting the successful bidder’s quotation, where no contract award notice or detailed contract document is required. The purchase order defines the goods, works or services to be provided, the price to be paid for the goods, works or services and the delivery period required.

7.1.13 Staff Involved
The Procurement Unit is responsible for the preparation of purchase orders, obtaining all necessary approvals and issuing them to suppliers.

7.1.14 Step by step procedures

a) Complete a blank purchase order document, using the information in the successful bidder’s quotation and any corrections made during the evaluation – see guidance note 1 below for details of the information to be included.
b) Obtain PC approval
c) The head of the procuring entity must sign the purchase order.
d) Issue a copy of the purchase order to the supplier, with an instruction for them to confirm receipt of the purchase order in writing.
e) Distribute other copies as required.

Guidance Note 1–Information to be included in the Local Purchase Orders

a) the name of the supplier;
b) the date of issue of the LPO;
c) the delivery address;
d) the name of the procuring entity purchasing the items;
e) the quantity of each item required;
f) any part or pattern number for each item;
g) a brief description of each item;
h) the unit cost or rate for each item;
i) The delivery period required.
7.1.15 Approvals Required
Head of PU’s approval of the purchase order is required before issue. The necessary funds must also be committed prior to issue of the purchase order.

7.1.16 Documents / Records Required:
A copy of the purchase order along with Head of PU approval must be kept on the procurement file.

7.1.17 Next Step
Proceed to procedures on Publishing a contract award notice and debriefing unsuccessful bidders.

7.2 Two-Stage Bidding Process
7.2.1 Summary of the Procedure
This section of the manual provides guidance on the procedures for conducting a two-stage tendering for goods, works or non-consulting services. Procedures for Open Competitive Bidding described in section 6 apply to Two-Stage Tendering except to the extent they are modified by this section. Thus, this section should be read in conjunction with other relevant procedures. This section states the instructions which should be referred to and highlights only the modifications which are required for Two-Stage bidding procedures.

7.2.2 This Procedure Apply to
The procurement of goods, works and non-Consulting services under two – stage bidding only

7.2.3 The Purpose of the Procedure
Two-Stage bidding is used for goods, works or services which are difficult to define fully at the start of the procurement process, where it would be beneficial to the procuring entity to consider the various solutions available, before refining its requirements.

7.2.4 Staff Involved
Responsibilities for conducting each step in the Two-Stage bidding process are the same as for open or restricted bidding and are stated clearly in chapter 6. The Procurement Unit has the overall responsibility for conducting the procurement process, subject to PC approval at specified points in the process. Two-Stage bidding will require a greater input from the end user, or other technical specialist, than many other methods due to the need to consider complex technical solutions and refine specifications.

7.2.5 Step by step procedures
In these step-by-step instructions, references are made to other part of section or chapter 6 which apply. Where procedures should be applied with modifications, it is referred to for “general guidance” and the appropriate modifications are outlined below.

a) Raise a requisition – see section 6.7 for guidance
b) Prepare an initial description of the goods, works or services – see section 6.8, 6.9 and 6.10 for general guidance. The description should emphasize the objectives of the procurement and the performance required from the goods, works or services, to enable bidders to provide alternative solutions which meet the objectives and performance required.

c) Select the procurement method, considering whether the two-stage tendering should be open or restricted to a specified shortlist, and plan the procurement. See section 6.11. Seek approval from PC for use of two-stage bidding.

d) Conduct a pre-qualification if required as detailed in section 4.3

e) Prepare a bidding document – see section 6.11 for general guidance.

f) The bidding document should be based on the appropriate standard bidding document, but modified to suit the requirements of two-stage bidding. The bidding document must clearly explain the bidding procedure which will be followed, contain an outline description of requirements and contract and state how bids will be evaluated during the first stage of bidding. The bidding document should not request any financial information at this stage. Obtain the head of procurement unit approval for the bidding document.

g) Publish invitation to bid notice – see section 6.12 for guidance. Issue the bidding documents – see section 6.13 A) for guidance.

h) Hold a pre-bid conference and site visit if required – see section 6.13 B) for guidance. Respond to any requests for clarification, issue modifications to the bidding document or extend the bidding deadline if necessary – see section 6.13 C) for guidance.

i) Receive bids as per section 6.13 D)

j) Open the bids no financial information will be included in the bids at this stage, so there will be no requirement to read out prices.

k) Conduct an evaluation of the bids – see section 6.14. For general guidance the evaluation must be conducted using the criteria and methodology stated in the bidding document. The procuring entity should consider the relative advantages and disadvantages of the alternative solutions
submitted. Prepare a first stage evaluation report, which should include a recommendation to reject any bid which do not meet the procuring entity’s requirements.

l) Hold discussions with any bidders, where further information is required on the solutions included in any bids

m) Finalize the description of requirements – see section 6.8 for general guidance. Where the description of requirements has changed substantially and different bidders may be able to respond to the requirement, consider cancelling the procurement and commencing a new procurement process.

n) Prepare a revised bidding document – see section 6.11 for general guidance. The bidding document should be based on the original bidding document, but include the finalized description of requirements and contract and clear evaluation criteria. Obtain PC approval for the first stage evaluation and the revised bidding document.

o) Issue the bidding documents to all bidders who submitted bids during the first stage, unless their bids were rejected during the first stage evaluation

p) Hold a pre-bid conference and site visit if required. Respond to any requests for clarification, issue modifications to the bidding document or extend the bidding deadline if necessary – see section 6.13 C) for guidance.

q) Receive bids or the tenders

r) Open bids and read out prices – see section 6.13 E). for more guidance

s) Conduct an evaluation of the bids – see section 6.14 for guidance. Prepare an evaluation report and obtain PC approval.

t) Conduct a post-qualification if required – see section 6.18 for guidance.

u) Hold negotiations if required and obtain PC approval for the contract award recommendation – see section 6.19 for guidance.

v) Send a notice of acceptance, ensuring that all necessary approvals are obtained first – see section 6.21 for guidance.

w) Prepare a contract document, obtain PC approval and issue the contract – see section
6.22 for guidance.

x) Notify unsuccessful bidders, publish a contract award notice and debrief unsuccessful bidders – see section 6.23 for guidance.

y) Administer and complete the contract – see section 6.24 and section 6.26 for guidance.

7.2.6. **ApprovalsRequired:**

Approval is required from PC to use the two-stage bidding procedure. Approvals are required from the PC at various stages, as specified in the applicable section detailed above.

7.2.7. **Documents / RecordsRequired:**

Records of all stages of the procurement process must be kept on the procurement file, as detailed in the applicable sections detailed above.

7.2.8. **Next step**

This section summarizes the complete process for Two-Stage bidding process from beginning to end. Therefore, no other steps apply.

7.3 **Direct Contracting or Single Source Procurement Method**

7.3.1 **Summary of the Procedure**

This section of the manual provides guidance on the procedures for conducting single source procurement where a bidder is directly identified to provide good, works or non-consulting services.

7.3.2 **Staff Involved**

Responsibilities for conducting each step in the single source procurement process are the same as for competitive methods of procurement and are stated on chapter or section 9 of this manual. The Procurement Unit has the overall responsibility for conducting the procurement process, subject to PC approval at specified points in the process. Technical inputs will be required from the end user at various stages, particularly in determining whether there are functionally equivalent goods, works or services which would meet the procuring entity’s needs, as part of the justification for using single source procurement.

7.3.3 **Step by Step Procedures**

In these step-by-step procedures references are made to other section of the procurement process which applies. Where any procedure should be applied with modifications, it is referred to for “general guidance” and the appropriate modifications are outlined below.

a) Raise a requisition – see section 6.7.1 for guidance.
b) Prepare a description of the goods, works or services – see section 6.15, 6.16 and 6.17 for general guidance. The description must state the purpose of the goods, works or services, to enable a judgment to be made on whether there are functionally equivalent goods, works or service which would also meet the need.

c) Select the procurement method and plan the procurement – see section 6.10 for guidance. Identify the single supplier, who is able to fulfill the requirement and prepare a detailed justification for use of single source procurement – see guidance note 1 for the details to include. Seek approval from PC for use of single source procurement.

d) Where the estimated value exceeds threshold prescribed in section 7.5 publish a notice in the Gazette and websites stating that single source procurement is being conducted and giving a brief description of the subject of the procurement.

e) Prepare a written description of the procuring entity’s needs, including the technical description of requirements and the terms and conditions of the proposed contract. Parts of the standard bidding documents may be used as the basis for preparation of this written description. Obtain PC approval for the description document.

f) Send the written description to the sole supplier, requesting a written offer. No public receipt or opening of the bid is required.

g) Evaluate the bid to determine whether it meets the procuring entity’s requirements - see section 6.14 for general guidance. The detailed evaluation should focus on whether the bid meets the procuring entity’s technical requirements and whether the proposed terms and conditions of contract are acceptable to the procuring entity. The financial evaluation should consider, as far as is possible, whether the bid offers value for money, taking into account a breakdown of the costs involved, correction of errors, the size of the proposed contract, the terms and conditions of the proposed contract and any other relevant details or circumstances. The evaluation must also assess whether the supplier is qualified.

h) Prepare an evaluation report, recommending whether the bid should be considered for contract award, whether negotiations are required or whether the procurement requirement should be cancelled or redefined. Obtain PC approval for the recommendations.

i) Hold negotiations if required and obtain PC approval for the negotiation results – see section 6.19 for guidance.

j) Send a notice of acceptance, if required, ensuring that all necessary
approvals are obtained first – see section 6.21 for guidance.

k) Prepare a contract or purchase order document - see section 6.22 for guidance. The type of document used will depend on the value of the contract and the terms and conditions which will apply. Obtain PC approval, and any other required approvals, and issue the document.

l) Administer and complete the contract – see section 6.23 and 6.25 for guidance.

7.3.4 Justification for the use of Single Source Procurement Method. With the prior approval of the PC, a PE may apply this method under the following circumstances:

a) The procurement is for the extension of an existing contract of similar nature for goods, works, or technical services, awarded in accordance with procedures set forth in the Bill. The Procuring Committee shall be satisfied in such cases that no advantage could be obtained by further competition and that the prices on the extended contract are reasonable.

b) Additional purchases from the original supplier may be justified for reasons of standardization of equipment or spare parts so as to be compatible with existing equipment. The Procurement Committee shall be satisfied in such cases that no advantage could be obtained by further competition and that the prices on the contract are reasonable.

c) The required equipment is proprietary and obtainable only from one source.

d) The Contractor responsible for a process design requires the purchase of critical items from a particular supplier as a condition of a performance guarantee.

e) In exceptional cases of extreme urgency due to an emergency, provided the circumstances which gave rise to the urgency were neither foreseeable by the Procuring Entity nor the result of dilatory conduct on its part.

7.3.5 Approval Required
Approval is required from PC to conduct single source procurement. Approvals are Required from the PC at various stages as specified in the applicable process detailed above.

7.3.6 Documents / RecordsRequired:
Records of all stages of the procurement process must be kept on the procurement file, as detailed in the applicable process detailed above.

7.4 Restricted Competitive Bidding Method

7.4.1 Summary of the Procedure
This section of the manual provides guidance on the procedures for Conducting
Restricted bidding procurement method when the invitation to bid is directly addressed to a pre-selected list of all suppliers or contractors. Bids should be solicited from a list of potential suppliers broad enough to ensure competitive prices, including all known suppliers if their number is small.

Restricted bidding procedures is similar in all aspects with the open bidding method procedures discussed in chapter 6 of this manual except that in Restricted bidding procedure, there is no need of publishing of an invitation for bids. Hence this section should be read in conjunction with other relevant procedures as discussed in chapter 6 to help in conducting a restricted procurement procedure.

7.4.2 Purpose of procedures

Restricted bidding method provides a procedure for concluding a contract, where the goods, works or services are only available from a few suppliers / contractors and consultant and therefore no need to conduct competitive procurement proceedings.

7.4.3 Staff Involved

Responsibilities for conducting each step in Restricted procurement process are the same as for competitive methods of procurement and are stated chapter 6 of this manual.

The Procurement Unit has the overall responsibility for conducting the procurement process subject to PC approval at specified points in the process. Technical inputs will be required from the end user at various stages, particularly in determining whether the goods, works or services required is only available from a limited number of known suppliers and therefore justifying the use of this method.

7.4.4 Justification for using restricted procurement method.

   a) Only a limited number of known bidders are available
   b) There are exceptional reasons such as emergency actions related to a major natural disaster, which may justify the waiving of advertising for competitive bids

7.4.5 ApprovalsRequired:

Approval is required from PC to conduct restricted procurement. Approvals are required from PC at various stages as specified in chapter 9

7.4.6 Documents / RecordsRequired:

Record of all stages of the procurement process under restricted bidding method must be kept on the procurement file,

7.4.7 Next Step

This section summarizes the complete process for restricted Procurement and therefore, no other steps will be required.
7.5 Procurement Thresholds

The procurement methods will be determined by the thresholds as set out in schedule 2 of the PPCDB.

1. **Contract awards shall be published when the estimated value of the contract is above:**
   
   a. In the case of contracts for the procurement of goods, US$25,000  
   b. In the case of contracts for the procurement of services, US$10,000  
   c. In the case of contracts for the procurement of works, US$50,000

2. **Shopping Procedures shall be used when the estimated value of the procurement is below:**
   
   a. In the case of contracts for the procurement of goods, US$2,000  
   b. In the case of contracts for the procurement of services, US$2,000  
   c. In the case of contracts for the procurement of works, US$10,000

3. **National Competitive Bidding shall be used when the estimated value of the procurement is below the following:**
   
   a. In the case of contracts for the procurement of goods, US$100,000  
   b. In the case of contracts for the procurement of services, US$40,000  
   c. In the case of contracts for the procurement of works, US$200,000

4. **International Competitive Bidding shall be held when the estimated value of the procurement exceeds:**
   
   a) In the case of contracts for the procurement of goods, US$100,000  
   b) In the case of contracts for the procurement of services, US$40,000  
   c) In the case of contracts for the procurement of works, US$200,000

5. **Approval of Contract Awards (values in US$)**

The solicitation of Expressions of Interest is required when the estimated value of the consultants’ services is US$100,000.
## Approval of Contract Awards and Thresholds

<table>
<thead>
<tr>
<th>Type of Contact</th>
<th>Contract Value (Threshold)</th>
<th>Authority Approving Proposed Contract Award</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goods / Non-Consultancy services</td>
<td>Less than US$10,000</td>
<td>Head of Procuring Entity</td>
</tr>
<tr>
<td></td>
<td>Over US$10,000</td>
<td>Procurement Committee</td>
</tr>
<tr>
<td>Works</td>
<td>Less than US$40,000</td>
<td>Head of Procuring Entity</td>
</tr>
<tr>
<td></td>
<td>Over US$40,000</td>
<td>Procurement Committee</td>
</tr>
<tr>
<td>Consulting Services</td>
<td>Less than $10,000</td>
<td>Head of Procuring Entity</td>
</tr>
<tr>
<td></td>
<td>Over $10,000</td>
<td>Procurement Committee</td>
</tr>
</tbody>
</table>

6. **Contracts over $150,000**

   The Procurement Authority shall be notified by the PE of proposed contract awards over $150,000 and the contract shall not be signed until at least fourteen (14) days after the date of the notice.

7. **Contracts over US$ 250,000**

   The Ministry of Finance shall take part in negotiations of contracts over US$ 250,000 for information purposes only.
Chapter 8

8. Procurement of Consulting Services

8.1 Scope of consulting services

8.1.1 Consulting services shall apply to services of an intellectual and advisory nature, and shall not include other types of services in which the physical aspects of the activity predominate and lead to a measurable physical output.

8.1.2 In reference to clause 8.1.1 above, PE may contract with firms of consultants or individual consultants for the purposes of the provision of expert advice or assistance in institutional matters and specialized services in connection with the implementation of projects and detailed engineering and design.

8.1.3 Consulting firms will be preferred where the work involves the application of multi-disciplinary expertise and requires the support of an organization with competent personnel while Individual Consultants (IC) will be used where a particular assignment can be best carried out by an individual expert with the requisite qualifications and experience.

8.1.4 Negotiations are a key feature of the procurement of consulting services. The procedures and guidelines for conducting such negotiations are described in this procurement manual

8.2 Consultants’ Conflict of Interest

8.2.1 Consultants are required to provide professional, objective, and impartial advice and at all times and to hold the client’s interests paramount, without any consideration for future work, and that in providing advice they avoid conflicts with other assignments and their own corporate interests.

8.2.2 Consultants shall not be hired for any assignment that would be in conflict with their prior or current obligations to other clients, or that may place them in a position of being unable to carry out the assignment in the of PE. Without limitation on the generality of the foregoing, consultants shall not be hired under the circumstances set forth below:

a) A firm or individual and each of its affiliates that have been engaged by the Procuring Entity to provide consulting services shall not be hired to provide goods, works, or services related to such consulting services.

b) Consultants and any of their affiliates shall not be hired for any assignment that may be in conflict with another assignment of the consultants.

c) Consultants (including their personnel and sub-consultants) that have a business or family relationship with a staff member of the Procuring Entity who is directly or indirectly involved in the preparation of the Terms of Reference of the contract, or the selection process for or supervision of such contract, shall not be hired for such a contract.

8.3 Associations between Consultants

8.3.1 Consultants may associate with each other in the form of a joint venture or of a sub-consultancy agreement to complement their respective areas of expertise, strengthen the
technical responsiveness of their proposals and make available bigger pools of experts, provide better approaches and methodologies, and, in some cases, to offer lower prices. Such an association may be for the long term (independent of any particular assignment) or for a specific assignment.

8.3.2 Associations of consultants in the form of Joint Ventures (JV) must appoint one of the firms to represent the association; all members of the joint venture shall sign the contract and shall be jointly and severally liable for the entire assignment.

8.3.3 A Procuring Entity shall not require consultants to form associations with any specific firm or group of firms, but may encourage association with qualified national firms.

8.3.4 Association between short-listed firms is permitted only with the prior written approval of the procuring entity.

8.4 Training or Transfer of Knowledge

8.4.1 Where a consultant’s assignment includes a component for training or transfer of knowledge to the staff of the Procuring Entity or other consultants, the terms of reference shall indicate the objectives, nature, scope, and goals and outputs of the training program, including details on trainers and trainees, skills to be transferred, timeframe, and monitoring and evaluation arrangements. The cost for the training program shall be included in the consultant’s contract and in the budget for the assignment.

8.5 Methods of Selection of Consultants’ services – QCBS Method (Default method)

8.5.1 Default Method of consultancy selection process shall be quality and cost-based selection (QCBS) method that uses a competitive process among short-listed firms and takes into account the quality of a technical proposal and cost of the services in the selection of the successful firm. Other selection methods shall be used in appropriate cases.

8.5.2 Under QCBS method cost as a factor of selection shall be used judiciously. The relative weight to be given to the quality and cost shall be determined for each case depending on the nature of the assignment. (QCBS) is the standard form of procurement of services and should be employed for all service procurement over the threshold stated in chapter 10 of this procurement manual.

8.5.3 Quality and Cost Based Selection Method (QCBS) shall be used where;

   a) The Terms of Reference (TOR) are well-defined and Quality is of prime consideration, while cost is a secondary consideration;

   b) The firm which attains the highest combined weighted technical and financial score according to the criteria mentioned in the Request For Proposal (RFP) documents shall be selected
### 8.6 Flow Chart 4: Procurement of Consultancy Services QCBS

<table>
<thead>
<tr>
<th>#</th>
<th>Steps in a Procurement Process</th>
<th>Tasks performed</th>
<th>Responsibility</th>
</tr>
</thead>
</table>
| 1 | Raise a Requisition           | a) Identification of services required  
                             b) List the services required in the requisition form | User Departments |
| 2 | Prepare a description of service  | a) Prepare the TOR for the service required  
                             b) Prepare the cost estimates  
                             c) Approval of the TOR | a) User department  
                             b) Procurement Unit  
                             c) PC |
| 3 | Select procurement method and plan  | a) Select what method of procurement to use  
                             b) Plan the procurement (see chapter 7)  
                             c) Seek Approval of the procurement method | a) User Department  
                             b) Procurement Unit  
                             c) PC |
| 4 | Prepare & publish an Invitation of Interest (EOI) | a) Prepare to invite for the expression of interest  
                             b) Publish the EOI | a) Procurement Unit |
| 5 | Receive and open the EOI | a) Evaluate the EOI  
                             b) Prepare a short list of consultant (between 3 to 6) | a) Procurement Unit  
                             b) EOI Evaluation Committee |
<p>| 6 | Prepare &amp; issue RFP document | a) Issue the RFP to the short listed consultants | Procurement Unit |</p>
<table>
<thead>
<tr>
<th>#</th>
<th>Steps in a Procurement Process</th>
<th>Tasks performed</th>
<th>Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td>Clarifications &amp; Modifications of RFP</td>
<td>a) Provide clarifications to the consultants when required</td>
<td>Procurement Unit</td>
</tr>
<tr>
<td>8</td>
<td>Submission &amp; opening of proposals</td>
<td>a) Open Technical Proposals (TP) b) Financial proposals to be opened after the conclusion of TP evaluation (FP to be safely kept unopened)</td>
<td>a) Evaluation / proposal opening Committee b) Procurement Unit</td>
</tr>
<tr>
<td>9</td>
<td>TP evaluation</td>
<td>a) Evaluate the TP as per the Criteria set in the RFP document b) Develop an evaluation report for the TP c) Seek approval of the TP report</td>
<td>a) Evaluation committee b) Procurement Committee</td>
</tr>
<tr>
<td>10</td>
<td>Opening of FP and evaluation of cost</td>
<td>a) Open FP b) Evaluate FP</td>
<td>Evaluation committee</td>
</tr>
<tr>
<td>11</td>
<td>Combined quality &amp; cost evaluation</td>
<td>a) Combine the evaluation results of both TP and FP b) use the formula specified in the RFP</td>
<td>Evaluation Committee</td>
</tr>
<tr>
<td>12</td>
<td>Contact Negotiations</td>
<td>a) Negotiation with winning consultant b) Approval of negotiation minutes</td>
<td>a) Negotiation Team b) Procurement Committee</td>
</tr>
<tr>
<td>13</td>
<td>Contract Award</td>
<td>a) Acceptance Notices b) Contract Award Notices d) Debriefing Unsuccessful consultants</td>
<td>a) Procurement Committee b) Procurement Unit</td>
</tr>
</tbody>
</table>
8.6.1 Procurement processes of consultancy services shall follow the steps outlined in Table 8.6. Each of the steps is discussed in the following subsection.

8.7 Raising a requisition for the procurement of consultancy services – Step 1.

This section of the manual provides the procedure for a requisition for the procurement of consultancy services and obtaining approval to proceed with the procurement. A requisition must be raised to start any procurement process.

The end user is responsible for raising a requisition and obtaining all necessary approvals. **Step by step procedures for raising a requisition are discussed in 8.7.1**

8.7.1 Step by step procedures for raising a requisition

a) The procurement process will start with the identification of a need for services.

b) List the services required on a requisition form.

c) Prepare an initial description of service

d) Estimate the value of the services. The estimate may be based on recent, similar contracts, market research or an estimate by a technical specialist.
Seek assistance from the Procurement Unit, where required.

e) Obtain confirmation of the availability of funding for the requirement from the head of the procuring entity. Obtain approval to proceed with the procurement, through the signature of the head of the procuring entity on the requisition form.

f) Finalize the description of requirements, as far as possible and attach it to the requisition form.

g) Pass the requisition to the Procurement Unit.

h) The Procurement Unit will check the requisition and description of requirements and discuss any clarifications or changes required with the end user.

8.7.2 Approval Required

The requisition form must be signed by the head of the procuring entity to approve of the availability of the funds required to procure the service and also to confirm the need for the service required.

8.7.3 Document / Records required

A requisition form must be completed and passed to the Procurement Unit, who will open a procurement file for the requirement. The end user should also keep a copy of the requisition for his own records. The requisition form must include:

a. the name of the end user department raising the requisition and the contact name for queries;

b. a list of services required and the budget estimates

c. the estimated unit and total value for each item;

d. the location for delivery of the services;

e. the date or dates for delivery and completion services;

f. confirmation of availability of funding;

g. Approval to proceed with the procurement.

h. A detailed description of requirements should be attached to the requisition form.

8.7.4 The Procurement Unit will allocate a procurement reference number to each procurement requirement.

8.7.5 Next Step

Prepare a description of requirements – Terms of Reference (TOR) to accompany the Requisition – see 8.8 in the next page.
8.8 Preparation of descriptions of requirement of consultancy services – Step 2

This subsection of the manual provides the procedure for preparing a description of requirements for the procurement of consultancy services. Where possible, the description of requirements should be fully prepared at the stage of raising the requisition. However, it is often only possible to prepare an outline description of requirements at this stage, in which case the description must be finalized during the drafting of the RFP document.

The description of requirements for services should be prepared by the end user, who should obtain additional technical advice if required. The end-user should consult the Procurement Unit, if necessary, on the procurement rules which apply to the description of requirements. It is important that the recipient or manager of the services is involved in drafting or checking the description of requirements, as it must reflect the requirements of the intended contract.

8.8.1 Step by step procedures

a) The preparation of the description of requirements will normally start with a general, summary description of the requirement e.g. cleaning services for the Ministry headquarters or training in new finance rules.

b) Prepare detailed terms of reference for the services – see guidance notes 1 preparation of TOR

c) Send the description of requirements (TOR) along with the requisition, to the Procurement Unit.

8.8.2 Guidance Note 1- TOR for consultancy services

The terms of reference should provide sufficient information to enable consultants to understand the services required by the procuring entity. TOR should be complete, precise and clear, but should not be over-prescriptive where the success of an assignment is largely dependent on the skills and experience of the consultants. A well-prepared term of reference will facilitate the preparation of proposals by consultants and the evaluation of proposals by the procuring entity.

The precise contents of the terms of reference will be determined by the individual Assignment but should include the following details, where applicable:

a. the background to the assignment, including details of any larger project which the assignment will be part of;

b. the objectives of the assignment and what it is expected to achieve;

c. a description of the scope of the services required;

d. the specific deliverables required, such as study reports and recommendations,
software, databases, bidding documents, drawings, specifications, maps, software, training materials etc. and the dates by when they are required;

e. requirements for the transfer of knowledge or training programs
f. the qualifications and experience of the key staff required
g. the period of the assignment and expected completion dates;
h. any facilities, services or resources to be provided by the procuring entity, including any counterpart staff
i. arrangements for reporting to the procuring entity, including lines of communication and the contact point for management and administration of the assignment;
j. a schedule of any reports required, including inception, progress and final reports;
k. Any other details or requirements relevant to the assignment.

8.8.3 Approvals Required

No specific approval of the description of requirements is required at this stage. However, the final description of requirements included in the RFP document will be reviewed by the PC, when approving the invitation document.

8.8.4 Documents / Records Required:

A copy of the description of requirements must be attached to the requisition form, which should be kept on the procurement file. The end user should also retain a copy of the requisition and description of requirements for their own reference.

8.8.5 Next step

Proceed to prepare and publish a Request for Expression of Interest (REOI) – see Step 4

8.9 Prepare and publish an invitation of Request Expression of Interest (REOI) – Step 4

The expression of interest procedure obtains and assesses information on the qualifications and experience of potential consultants’ in order to restrict actual solicitation of proposals to a list of qualified consultants. This is achieved through the publication of a notice calling for the expressions of interest, then receipt and assessment of expressions of interest and the development of a limited shortlist.

The EOI procedure is a form of pre-qualification procedure for consultancy services. It is used to identify consultants who have adequate capabilities, personnel and experience to perform a consultancy assignment in order to establish a limited shortlist and invite detailed proposals from three to six qualified bidders.

8.9.1 Staff Involved

The Procurement Unit manages the EOI procedure consulting with the end-user or other technical specialist
8.9.2 Step by step procedures

a) Draft a notice calling for expressions of interest – see guidance note 1 below for details of the content.
b) Submit the EOI notice to the PC for approval, prior to publication.
c) Publish the notice – see guidance note 2 below for details.

8.9.3 GuidanceNote 1 – Request for the Expression of Interest Notice (REOI)

A notice calling for EOI’s should normally include the following information:

a. the name and address of the procuring entity;
b. a brief description of the project, if any, of which the assignment forms a part;
c. a brief description of the assignment;
d. Statement of the information required from potential consultants, such as descriptions of similar work performed, the technical and managerial organization of the firm (only the structure of the organization, general qualifications and number of key staff and their specific qualifications related to the assignment (not the CV of staff).)
e. Instructions on the location and time for submission of EOI’s

8.9.4 GuidanceNote 2 – REOI Publications

a) When the estimated value of the procurement exceeds the threshold prescribed in section 7.5 of US$ 100,000
b) REOI should be published in at least one widely circulated newspaper such as national gazette/ designated procurement websites, trade publication and professional journals

c) The procuring entity shall allow 14 days from the date of posting the publication to the date when the EOI will be submitted.

8.9.5 Approvals Required

The Head of procurement unit must approve the notice calling for REOI before publication.

8.9.6 Document / Records Required

A copy of the published EOI notice, and the PC’s written approval, must be retained on the procurement file.

The procurement file must also contain records of:

a) the potential consultants submitting EOI’s;
b) the evaluation of the EOI’s;
c) the shortlist of consultants
d) The EOI notice and approvals

8.9.7 Next Step
Proceed to receiving and opening the EOI – see Step 5

8.10 Receipt and opening of the EOI’s and developing a short list – step 5

8.10.1 Step by step procedure

a) Head of the procuring entity to appoint the EOI opening and evaluation committee
b) The committee shall select a short-list comprised of applicants considered to be best suited to undertake the assignment.
c) The assessment of an applicant’s suitability shall be based on the qualification criteria requested in the EOI. Selection will be based on the information submitted by the applicant that may include the following
   - Brochures submitted by the Applicants summarizing their facilities and areas of expertise
   - Descriptions of similar assignments
   - Experience in similar operating conditions
   - Availability of appropriate experience and professional qualifications among applicant’s staff and resources to carry out the assignment

d) Following the assessment, a short list should be prepared composed of six firms who possess the relevant qualification to undertake the assignment. In cases where it is not possible to prepare a shortlist of six firms, clear justification should be recorded to prepare shortlist of less than six firms.
e) Following the conclusion of the evaluation of EOI and subsequent approval by PC, all the firms considered as qualified shall be notified as well as those firms that did not qualify
f) The qualified firms shall be issued with the RFP.
g) The short list should preferably comprise consultants of the same category with similar capacity, experience, eligible and business objectives.
h) The short list of firms shall not include Individual Consultants.

8.10.2 Approval Required
Obtain PC approval for the shortlist

8.10.3 Documents / records required
The report of EOI receipt and evaluation report of the EOI that contain the shortlisted firms and the subsequent PC letter approving the report.

8.10.4 Next Step
Proceed to prepare and issue the RFP to the shortlisted firms – see step 6

8.11 Preparation and Issuance of RFP to the Shortlisted Firms – Step 6
This subsection of the manual provides the standard operating procedure for drafting a Request for Proposal (RFP) document. It also provides the procedure for obtaining
approval for the completed document prior to issue. The RFP document is critical to the success of the bidding process as of:

a. The precise description of services required;
b. The rules for the bidding process;
c. The evaluation criteria and methodology which will be applied;
d. Any qualification criteria which will be applied; and
e. The type and conditions of the proposed contract.

A well drafted RFP document should result in a successful procurement process. Therefore this document must be approved by the PC prior to its issue.

8.11.1 Staff Involved in the preparation of RFP

The Procurement Unit is responsible for drafting the RFP document in consultation with the end-user who raised the requisition. The Procurement Unit should seek advice from technical specialist where required. The Procurement Unit is responsible for obtaining approval from the Procurement Committee, prior to issue of the document.

8.11.2 Developing a RFP document

a) Developing a RFP by the PU in consultation with the user of the service required should focus on its project needs and the requirements.
b) Develop a RFP that clearly states the outcome and the expectation of the consultants
c) Outline on the RFP what the PE can contribute in terms of time, facilities, data and other pertinent information that can help the consultant gear their proposals to best suit the PE needs.

8.11.3 Content of RFP document

The Request for Proposals will be in the standard format issued by the Authority and will include in particular the following

a) Name and address of the Procuring Entity;
b) Nature, timeframe, and location of the services to be provided, terms of reference, required tasks, and outputs;
c) The criteria to be used in evaluating and comparing proposals, and their relative weight as compared to price;
d) The contractual terms of the procurement, and the manner of entry into force of the contract;
e) Instructions for preparation and submission of proposals, and the place and deadline for submission of proposals;

f) Final selection procedures to be applied;

g) Notice of conflict-of-interest restrictions and anti-fraud and corruption rules, including the grounds for potential debarment from future participation in procurement of goods, services, or works that may result from the assignment under consideration

8.11.4 Approval Required: Head of the procurement unit will approve the RFP documents. However; the evaluation report that contains shortlisted firms shall be approved by the PC before the issuance of RFP to the shortlisted firms.

8.11.5 Issuance of the RFP to the shortlisted firms

a) Upon the approval of both the consultant’s shortlist and the RFP document as per 8.11.4 above, the PU shall proceed to issue the RFP to the shortlisted firms.

b) PU shall give all the consultant adequate time of 45 days to both prepare and submit the RFP at the time and place indicated in the RFP document.

8.11.6 Document or records required

A copy of the approved RFP document along with the PC’s approval must be retained on the procurement file.

8.11.7 Next Step

Proceed to handling consultants’ clarifications sought by consultants – see step 7 below

8.12 Clarifications and modification of requests for proposals. – step 7

A consultant may request clarification of the request for proposals from the procuring entity and where such a request is made, the procuring entity shall undertake the following:

a) Ensure that all the clarifications made must be in writing and well documented

b) Clarification should be made at least 14 days before the deadline for RFP submission.

c) PU will respond to the clarification sought to whom the RFP is issued as early as possible detailing the content of the clarification requested and not the source of clarification.

d) The response to the clarification must be in writing and transmitted simultaneously by the fastest available means (facsimile) or email and confirmation of receipt demanded.

e) Procuring entity may, whether on its initiative or as a result of a request for clarification by a consultant, modify the request for proposals by issuing an addendum at any time prior to the deadline for submission of proposals.
f) The addendum shall be communicated promptly before the deadline for the submission of proposals to the shortlisted consultants to whom the procuring entity has provided the request for proposals and shall be binding on those consultants.

g) If the procuring entity convenes a meeting of consultants, it shall prepare minutes of the meeting containing the issues submitted at the meeting for clarification of the request for proposal and its responses to those issues, without identifying the sources of the requests for clarifications.

h) The minutes shall be provided promptly before the deadlines for the submission of proposals to the consultants participating in the selection proceedings to enable them take the minutes into account in preparing their proposals.
8.12.1 Staff Involved

The Procurement Unit should manage requests for clarifications and the issue of any modifications to the RFP document or extensions to the Proposal deadline. The Procurement Unit should consult with the end user, or other technical specialist, where required on clarifications or modifications to be issued. Where any substantial change is made to the original approved RFP document, the Procurement Unit must first consult the PC.

8.12.2 Approvals Required

Head of the procuring unit approval is required for any clarification or modification which involves a substantial change to the original RFP document.

8.12.3 Documents or records required

A record must be kept on the procurement file of the issue of all clarifications, modifications or extensions to the bid deadline. At a minimum, this record must include:

a. a copy of the clarification, modification or extension letter sent;

b. evidence of dispatch to all bidders e.g. fax confirmations, copies of letters posted etc.

8.12.4 Next step

Proceed to Receiving RFP and Opening of proposals. See step 8 below.

8.13 Submission and Receipt of Proposals– Step 8

8.13.1 Summary of proposal submission and opening procedures

a) The procuring entity shall allow sufficient time for the preparation and submission of the requested proposals of at least 30 days between the issue of the RFP and the deadline for submission.

b) The technical and financial proposals shall be submitted simultaneously but in separate envelopes. Any proposal received after the deadline for submission of proposals shall be returned to the sender unopened.

c) Immediately after the deadline for submission of proposals, public opening of the technical proposals shall be conducted whilst the financial proposals shall remain sealed and kept in a secure place until they are opened publicly after the conclusion and approval of the TP report. Only the financial proposals of shortlisted consultants who have satisfied the technical requirements shall be opened. Consultants who are not successful at the technical evaluation stage shall have their financial proposals returned to them unopened.

d) Under no circumstances should the technical evaluation committee have access to or insights to the financial proposals until the TP evaluation is successfully concluded and approved.
8.13.2 Staff involved

The opening of RFP documents shall be conducted by a committee of not less than 3 staff appointed by the head of the procuring entity. The proposal opening committee shall reject any proposal received after the submission deadline.

8.13.3 Step by step procedure.

a) The person chairing the opening must ensure that all staff involved understands their respective roles in the procedure.

b) The chairperson should welcome bidders to the technical opening and request them all to sign the record of attendance. He/she should briefly explain the procedure which will be followed, which is normally opening of the tender box, opening of outer envelopes, opening of technical proposals, reading out and recording of information by the procuring entity, opportunity for bidders to ask questions, closing of meeting and removal of proposals for safe-keeping and evaluation.

c) The tender box should be opened and all proposals removed and counted. Any proposals which were too large for the tender box and received separately must be accounted for by checking against the record of proposals received. Any proposals which were not in the tender box or included in the record of tenders received must NOT be opened. Any missing proposals must be accounted for before the opening commences.

d) First, envelopes marked “Withdrawal” should be opened one at a time. These should be read out and the envelope containing the corresponding proposal located and returned to the bidder unopened. The withdrawal must be noted on the record of the proposal opening.

e) Next, envelopes marked “Modification” should be opened one at a time and the envelope containing the corresponding proposal located and the outer envelope opened. The envelopes marked “technical proposal” should be opened and details of the modified proposal should be read out and recorded ensuring that the details relate to the modified not the original proposal. See guidance note 1 below for guidance on the details to be read out. Both the original technical proposal and modification should be stamped on key pages and signed or initialed by the chairperson of the opening. For guidance on the key pages, see guidance note 2 below.

f) The outer envelopes of all other proposals should be opened, one at a time the technical proposals within them opened and relevant details read out and recorded. Each technical proposal should be stamped on key pages and signed or initialed by the all members of the opening committee. Each
proposal should also be marked with a number (1, 2, 3 etc.), corresponding to its number on the tender opening record. With the exception of late proposals, the proposal opening committee must not make any comments regarding the acceptance or rejection of any proposal. Any missing or incorrect documents should be noted in the record of proposal opening, but not commented on.

g) When all proposals received on time, opened, read out and recorded, the chairperson should allow interested consultants to ask questions. For guidance on answering such questions see guidance note 3 below.

h) The chairperson should close the proposal opening meeting, reminding bidders that they must not seek to influence the evaluation and that bidders whose proposals are proceeding to the financial evaluation will be notified of the arrangements for the financial opening in due course.

i) Copies of the proposal opening record / minutes should be distributed to all the firms which submitted the proposal. The original record should be kept in the procurement file.

j) All technical proposals should be immediately taken to a place of safe keeping, until the evaluation committee is ready to meet. All financial proposals must also be kept securely.

k) Where proposal openings for more than one procurement process are conducted at the same time, they must be conducted consecutively, with one opening completed, recorded and proposals removed, before the next opening commences.

8.13.4 Guidance note 1: Information to read out at TP opening

Information to be read out should be as stated in the Request for Proposals document. This must include at least the name and address of each bidder, including the names of all parties to a joint venture, consortium or association. It may include

a) The presence or absence of a proposal security, and the form and amount of the tender security, where one was requested in the Request for Proposals document.

b) Any other details stated in the Request for Proposals document.

c) No additional information concerning any proposal should be read out, other than that required by the Request for Proposals document.

d) No financial information will be read out, as financial proposals will remain sealed at this stage.
8.13.5 Guidance note 2: Key pages of the TP

The key pages, which requires stamping, and signing or initialization should be determined by the committee at the proposal opening. As guidance, they should include at least the technical proposal submission form, covering letter, each page of the work plan and the first page of each CV submitted. The sealed envelope containing the financial proposal should also be stamped and signed. Stamping and signing of standard literature and brochures is not normally required.

In determining the key pages, it should be remembered that stamping and signing of excessive numbers of pages can be time-consuming. Stamping and signing is only required on the original of the technical proposal and not any copies.

8.13.6 Guidance note 3: answering questions from bidders / consultants present

Information given should normally be restricted to that which is included in the Request for Proposals document and, in the case of a financial opening, the technical scores which have been read out. Staff should seek to refer bidders back to the Request for Proposals document, rather than risk giving contradictory responses.

Staff managing a public tender opening must take care not to answer questions regarding the acceptance or rejection of proposals, or to discuss the specific details of any proposal, score or price. A standard response of “that will be decided by the evaluation committee” may be given to such questions.

The names of staff who will be evaluating the proposals must not be revealed under any circumstances, even if the information is requested by bidders / consultants. This confidentiality regarding the names of evaluators should reduce opportunities for bidders to seek to influence the evaluation.

8.13.7 Approval Required

No approvals are required for the public openings of RFP documents as the procedure is approved by the head of the procuring entity through the appointment of the opening committee.

8.13.8 Document / records required

Records of both the technical and financial proposal opening must be completed and kept on the procurement file. At a minimum, the record of the technical opening must include:

a. The names and addresses of all bidders whose proposals were opened;

b. The presence or absence of a bid security if one was required and the form and amount of the security;

c. The number of copies of the technical proposal received;

d. Any withdrawals or modifications.
8.13.9 Next step

Proceed to the evaluation procedures for consultancy services. See step 9 below.

8.14 Evaluation of Technical proposals under QCBS - Step 9

Evaluation of TP procedures varies between the different methodologies, but all consist of three stages:

a) A preliminary screening, to eliminate proposals which do not comply with the basic requirements of the request for proposals document and consultants who do not meet mandatory qualification requirements.

b) A detailed evaluation, to determine whether proposals are responsive to the terms of reference in the request for proposals document, to assess the relative quality of the proposals, using a merit point scoring system and to determine which proposals should proceed to the financial opening and evaluation;

8.14.1 Purpose of TP evaluations

The purpose of evaluations for consultancy services is to assess and compare all proposals received, in as objective a manner as possible, using a pre-defined methodology and criteria, in order to determine who should be awarded a contract. A well conducted evaluation for consultancy services should ensure that:

a) Competition is fair and that all bidders have an equal opportunity of winning government funded contracts;

b) The consultant has selected appropriate staff and experience to successfully perform the services; and

c) The consultancy services procured under the contract offer the procuring entity an appropriate balance of quality and cost depending on the objectives and circumstances of the procurement requirement.

Under the QCBS method, the purpose of selection methodology is to determine the proposal which offers the best overall value to the procuring entity, taking into account both the quality and the price of proposals. The successful proposal will be the proposal with the highest total score.

8.14.2 Staff involved

The Proposal evaluation committee has the responsibility for evaluations and will be appointed by the head of the procuring entity in consultations with PU. In identifying staff to provide inputs to an evaluation or to be members of an evaluation team, the head of the Procuring entity must consider the type of skills, knowledge or experience needed, which might include:

a) Procurement and contracting skills
b) Technical knowledge 
c) Financial management skills 
d) Legal expertise 
e) Representation by the end user; and 

It is important that PC members are not involved in conducting evaluations, but only in 
approving completed evaluation reports. PC members must not be selected as evaluators, as 
this would result in them reviewing and approving their own work.

8.14.3 Guidance note 1: Preliminary evaluation of the TP.

The preliminary screening is conducted to determine whether proposals comply with the 
basic instructions and requirements of the request for proposals document. It enables the 
evaluators to eliminate the weakest proposals, without the time and effort spent in 
conducting a detailed merit point evaluation. The preliminary screening can also be used to 
assess whether bidders or the consultants meet the mandatory qualification requirements.

The preliminary screening is conducted on a pass or fail basis, with proposals that are not 
substantially compliant being rejected. The criteria to be used for the preliminary screening 
depend on the requirements and instructions of the request for proposals document, so the 
preliminary screening must always start with a review of the request for proposals document 
to list the requirements to be met. As guidance only, the preliminary screening might 
typically include checks of the following:

a. submission of an original and the correct number of copies of the proposal;
b. submission of all forms and documents required, including, in particular the 
proposal submission form;
c. Signature and authorization of the proposal in accordance with the instructions in 
the request for proposals document, including any required power of attorney;
d. signature of curriculum vitae by proposed consultants, if required;
e. submission of a separately sealed financial proposal;
f. correct proposal 
validity;
g. submission of any additional documentation required; and 
h. Whether the bidder meets the mandatory qualification requirements.

8.14.4 Guidance note 2: Detailed evaluation of TP under QCBS

The detailed evaluation must only be conducted on proposals which were 
determined to be substantially responsive during the preliminary screening.

The merit point scoring system is used to assess the relative quality of proposals. A variable 
number of points are awarded to each proposal for pre-determined criteria out of a 
maximum number of points stated in the request for proposals document. This gives a 
score indicating the relative quality of each proposal. Usually, the proposed weights for
scoring the proposals are given in the RFP document. The indicative / suggestive scores range could be as follows but all should total to a 100 points:

a) Consultant’s specific experience: 0 to 10 points
b). Methodology: 20 to 50 points
c) Key personnel: 30 to 60 points
d). Transfer of knowledge: 0 to 10 points
e). Participation by nationals: 0 to 10 points

**Total: 100 points**

### 8.14.5 The procedure for evaluation of TP

a) All evaluators should jointly discuss the criteria and any sub-criteria, to ensure that all evaluators have a common understanding of the criteria and their relative importance.

b) Each evaluator should conduct an evaluation of each proposal, independently from all other evaluators. Consider each proposal and award scores out of the maximum number of points against each criterion. Record all scores and sign the score sheet.

c) The secretary of the evaluation committee (usually a procurement officer) will collect scores, compile them on a single score sheet and calculate average scores for each proposal. To calculate the average, add the scores of all evaluators together and divide by the number of evaluators.

d) The evaluation committee will compare the scores of each evaluator for each proposal, in order to check that there has been a consistency of approach and a common understanding of the criteria and each proposal. Any significant deviations from the average score or inconsistencies in scoring should be identified and evaluators may be called upon to explain their scores, at a meeting of all evaluators.

e) In exceptional cases, where the evaluators agree that there has not been a consistency of approach or where discussions reveal a misunderstanding of a criterion, the scoring method or a proposal, one or more evaluator may be permitted to adjust his individual scores. No evaluator shall be obliged to make adjustments to his scores. The original **score sheets** must be retained and revised scores recorded on a new score sheet. Where any scores are revised, the Procurement Unit will collect and compile scores again and recalculate the average score for each proposal.

f) A proposal shall be considered unsuitable and shall be rejected at this stage if it does not respond to important aspects of the terms of reference or it fails to achieve a minimum technical score specified in the Request for Proposals.
g) At the end of the process, the evaluation committee shall prepare a technical evaluation report of the “quality” of the proposals. The report shall substantiate the results of the evaluation and describe the relative strengths and weaknesses of each of the proposal. All records relating to the evaluation, such as individual mark sheets, shall be retained until completion of the project and its audit.

8.14.6 Approvals Required
PC approval is required for the completed technical evaluation report, prior to proceeding with the financial proposal opening and evaluation. No communication on accepting any proposal or indicating which the successful proposal is must be sent to any bidder before this approval is obtained.

8.14.7 Documents or records required
The approved technical reports, and all supporting documents used in conducting the evaluation, such as signed individual score sheets, must be kept on the procurement file.

8.14.8 Next Step
Proceed to opening and evaluation of Financial Proposal – see step 10

8.15 Opening of Financial Proposals and evaluation of Cost – Step 10

8.15.1 Summary of the procedure
After the evaluation of quality is completed, the Procuring Entity through the PU shall inform the consultants, who have submitted proposals, of the technical points assigned to each consultant; and shall notify those consultants whose proposals did not meet the minimum qualifying mark or were considered non-responsive to the Request for Proposals and terms of reference that their financial proposals will be returned unopened after the contract is signed.

The Procuring Entity shall simultaneously notify the consultants that have secured the minimum qualifying mark of the date, time, and place set for opening the financial proposals. The opening date shall allow adequate time for consultants to attend the opening of the financial proposals.

8.15.2 Summary of the procedure
a) Ensure that all bidders or the consultants whose proposals are proceeding to the financial opening have been notified of the time, date and location for the opening, at least two weeks (14 days) prior to the opening.

b) Prepare the room prior to the FP opening time. Staff must ensure that appropriate resources, both physical and human, are available to manage the proposal opening efficiently.

c) The person chairing the opening must ensure that all staff involved understands their respective roles in the procedure.
d) The chairperson should welcome bidders to the financial opening and request them all to sign the record of attendance. He/she should briefly explain the procedure which will be followed, which is normally reading out technical scores, opening of financial proposals, reading out and recording of financial information by the procuring entity, opportunity for bidders to ask questions, closing of meeting and removal of financial proposals for safe-keeping and evaluation.

e) The financial proposals shall be opened publicly in the presence of representatives of the consultants who choose to attend. The name of the consultant, the technical points, and the proposed prices shall be read aloud and recorded. The FP opening committee shall also prepare the minutes of the public opening and a copy of this record shall be posted in procurement files and may on request be available to consultants who submitted proposals. The FP opening committee must not discuss these scores or the results of the technical evaluation in any way.

f) When all relevant financial proposals have been opened, read out and recorded, the chairperson should allow bidders to ask questions.

g) The chairperson should close the FP opening meeting, reminding bidders that they must not seek to influence the financial evaluation and that the successful proposal will be published in due course.

h) Copies of the FP opening record should be distributed to bidders / consultants the original record should be added to the procurement file.

8.15.3 Conducting Financial Evaluation (cost evaluation)

8.15.4 Summary of the procedure

The proposal or proposals proceeding to the financial evaluation will be determined by the relevant methodology for the technical evaluation. The financial evaluation is conducted to determine the evaluated price of proposals, compare the proposals and determine the successful proposal i.e. the proposal which should be recommended for award of contract. The financial evaluation and the determination of the successful proposal differ between different evaluation methodologies. Unless otherwise required by the evaluation methodology or the instructions in the request for proposals document, the procedure for determining the evaluated price of each proposal is as follows:

a) Determine the total proposal price, including or excluding particular costs, as indicated in the request for proposals document e.g. the request for proposals document may state that all taxes and duties are to be included in the evaluation

b) Correct any arithmetic errors — see guidance note 1 below;

c) assess whether all items are included in the proposal price and add the cost of any missing items
d) Convert all proposals to a single evaluation currency for purposes of comparison, using the currency and the date and source of the exchange rate specified in the request for proposals document.

e) Apply any margin of price preference is stated in the RFP.

f) Determine the total evaluated price of each proposal.

8.15.5 **Guidance Note 1: Arithmetic errors corrections**

In conducting a financial evaluation, arithmetic errors may be corrected by the evaluator(s). The procedure for correcting arithmetic errors is normally stated in RFP documents and the procedure stated must be used. Where no specific procedure is stated in the request for proposals document, the following procedure should be applied:

a) If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the evaluator(s), there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected.

b) If there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and

c) If there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to the notes above.

d) Consultants / bidders should be notified in writing of any arithmetic corrections made and requested to agree the corrections in writing.

8.15.6 **Awarding Financial Scores on FP**

Financial scores must be awarded using the method specified in the RFP document. This is normally as follows:

a) The lowest priced proposal is given a financial score of 100

b) All other proposals are given a financial score proportionate to this, using the formula $S_f = 100 \times \frac{F_m}{F}$, in which

- $S_f$ denotes the financial score of the proposal under consideration
- $F_m$ is the price of the lowest price proposal
- $F$ denotes the price of the proposal under consideration. For example, if prices were as follows:
Proposal B has the lowest price and would be awarded 100 points.

a) The formula would be applied to Proposal A as follows: 100 \times 450,000 / 500,000 = 90 points.

b) The formula would be applied to Proposal C as follows: 100 \times 450,000 / 600,000 = 75 points.

Alternatively, a directly proportional or other methodology may be used in allocating financial scores, providing it has been fully described in the RFP document.

8.15.7 Next step
After the calculation of the financial score and the technical scores under QCBS, the next step will be to calculate combined quality and cost scores to determine the winning proposal – see step 11 below.

8.16 Combined Quality and Cost evaluation (weighting of scores) - step 11
The technical and financial scores must be weighted using the weights stated in the RFP document. This is normally in the range of 70-90% for the technical score and in the range of 10-30% for the financial score. The combined weights must always total to a 100%.

8.16.1 Procedure to determine the total scores
a. To determine the weighted scores, multiply the actual technical and financial scores by the percentage weights stated in the RFP document.

b. To determine the total score, simply add the weighted technical and financial scores together.

The example in the table below shows the technical and financial scores received by a proposal, the weights stated in the RFP document, the calculation required, the weighted scores and the total score:

<table>
<thead>
<tr>
<th></th>
<th>Original Scores</th>
<th>Weight in RFP document</th>
<th>Calculation</th>
<th>Weighted Scores</th>
</tr>
</thead>
<tbody>
<tr>
<td>Technical</td>
<td>75</td>
<td>80%</td>
<td>75 \times 80/100</td>
<td>60</td>
</tr>
<tr>
<td>Financial</td>
<td>85</td>
<td>20%</td>
<td>85 \times 20/100</td>
<td>17</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>100%</td>
<td></td>
<td>77</td>
</tr>
</tbody>
</table>
8.16.2 Approvals Required

- PC approval is required for the technical evaluation report prior to the opening of financial proposals.

- PC approval is then required for the combined evaluation report of both the technical proposal and the financial evaluation report following completion of the evaluation.

8.16.3 Documents / records required

The approved technical and financial evaluation reports, and all supporting documents used in conducting the evaluation, such as signed individual score sheets and minutes of meetings of the evaluators, must be kept on the procurement file. Evaluation reports must be signed by all staff who have been involved in the evaluation. The

1. Technical evaluation report should include the following information:

   a. the results of the preliminary screening;

   b. the technical scores of each evaluator for each proposal;

   c. a summary of the relative strengths and weaknesses of each proposal;

   d. any proposals which were rejected for being non responsive to important aspects of the terms of reference and the reasons.

   e. an analysis of any discrepancies in scores between evaluators and a summary of any discussions held and adjustments made;

   f. which proposals reached the minimum technical threshold and a recommendation to open the FP of the consultants

   g. A recommendation to reject all other proposals.

2. The financial evaluation report should include the following information:

   a. the total proposal prices and technical scores read out at the financial proposal opening;

   b. the evaluated price of each proposal, following any corrections or adjustments to the price and the conversion to a single currency;

   c. the financial scores of each proposal and the methodology for allocating financial scores;

   d. the weighting of technical and financial scores;

   e. the total score for each proposal; and
f. A statement of which proposal had the highest total score and is therefore the successful proposal for invitation to negotiate the contract.

8.16.4 Requesting Extensions to Proposal Validity

The proposal validity period requested in the request for proposals document should normally be sufficient to enable the procuring entity to undertake both the technical and financial evaluations, to obtain PC approval and also to place a contract. Therefore, extensions to the validity of proposals should not normally be required.

Where an extension to the validity of proposals is required, all consultants/bidders should be requested in writing to extend the validity of their proposals for an additional specified period of time. This request should be issued of a reasonable period before the expiry of the validity of proposals to give sufficient time for responses to be received.

Consultants must not be permitted to change their financial proposal, or any details of their proposal when extending the validity.

8.16.5 Next Step

Proceed to conducting negotiations—see step 12 below.

8.16.6 Evaluation summary of consultancy services under QCBS is shown in figure 2 in the next page
Figure 2: Summary of evaluation process for consultancy services under QCBS

Evaluation Procedure for Quality and Cost Based Selection

Technical Proposal Opened

Technical Opening: Evaluation includes proposals received on time, opened and read out. Late proposals not included. Financial proposals remain sealed.

Preliminary Screening

- Responsive
- Non Responsive

Responsive

- Preliminary Screening to eliminate non-responsive proposals. Criteria typically include:
  - Inclusion of all required documents
  - Correct authorization of proposal
  - Signature of CV’s
  - Sufficient proposal validity

Reject

Non Responsive

Detailed Technical Evaluation using merit point system to:
- Award points against criteria in the request for proposals document; and
- Compare scores to the minimum technical threshold in the request for proposals document.

Reject

Not Clear

Over Threshold

Under Threshold

Recommend for Financial Opening

Financial Proposals Opened

Financial Evaluation

- Correct arithmetic errors
- Convert to a common currency (using exchange rate stated in RFP doc)
- Award financial scores
- Weight technical and financial scores to give the total score of each proposal.

Highest Total Score

- Sufficient Signature Agreement
- Recommend for Contract Negotiation and award

No Action

Recommendation: proposals which reach the minimum technical threshold recommended to proceed to financial opening and evaluation. Recommendation submitted to PC for approval in technical evaluation report.

Recommendation: proposal with highest total score recommended for contract negotiations. Recommendation submitted to PC for approval in financial evaluation report.

Arithmetic Errors

Confirm Corrections (in writing)

Not Clear

Financial Opening: financial proposals opened. Technical scores and prices read out.

Financial Evaluation to:
8.17 Conducting Negotiations - step 12

8.17.1 Summary of the Procedure

This subsection of the manual provides guidance on what areas may be subject to negotiations and the procedure for holding negotiations with a consultant.

The purpose of negotiations is to discuss and finalize certain details of a contract with the successful consultant or the bidder, prior to contract placement. Negotiations should lead to a contract which is acceptable to both parties and therefore reduce the likelihood of disputes or the need for contract amendments. However, negotiations are not held with the intention of making substantial changes to a contract.

8.17.2 Staff Involved

The accounting officer of the entity will appoint a negotiation committee. He / she will set the committee with technical inputs from procurement unit and other technical specialists. It is important to include in the negotiation team some of the staff that were involved in the evaluation as they will be familiar with the RFP requirements including the TOR. A minimum of three staff to five is ideal to conduct successful negotiations.

8.17.3 Step by step procedures of conducting negotiation

a) The evaluators should make recommendations in the evaluation report on the issues to be negotiated. The recommendation to negotiate must be approved by the PC before any preparations are made.

b) The head of the Procuring entity to identify appropriate member(s) of staff to manage the negotiations – see guidance note 1 below for assistance in selecting staff.

c) Invite the successful the consultant for negotiations, proposing the time, date and location for negotiations. The invitation letter may state that the consultant’s proposal has been evaluated as the most successful but also important that no contractual commitment is made to the consultant i.e. the letter must not make any reference to the proposal being accepted or a contract being awarded.

d) The negotiators should begin by reviewing the RFP document, the TP and FP from the successful consultant and the evaluation report.

e) Identify areas where negotiations are required – see guidance note 2 below for areas which negotiations are permitted and identify the objectives which the procuring entity intends to achieve. Where possible, quantify these objectives and set maximum and minimum negotiating parameters.

f) Hold the negotiations with the successful consultant. It is important that the negotiators do not commit the procuring entity to any arrangements or agreements during the negotiations.

g) Prepare a record of the negotiations and make recommendations on how to proceed
h) Seek PC approval for the recommendations and proceed as appropriate. Where the recommendation is for further negotiations with the successful consultant or negotiations with the next ranked consultant, repeat this process from step 3 onwards.

8.17.4 **Guidance Note 1 – Selecting staff to conduct negotiations**

The negotiation team has the overall responsibility for conducting negotiations and making recommendations on the results to the PC. However, negotiations will always be conducted by a minimum of three people, who will include staff with technical knowledge of the services being procured and who understand the objective of the assignment. Composition of the negotiation team will depend on the type of skills, expertise, knowledge and experience required form the consultant. For instance, negotiation team may be comprised of staff with the following skills.

- a) procurement and contracting skills, including experience in contract negotiations
- b) Technical knowledge
- c) Legal expertise
- d) Representation by the end user.

It is important that PC members are not involved in conducting negotiations, but only in approving the results and recommendations, so that they do not end up reviewing and approving their own work.

8.17.5 **Guidance Note 2 – Areas which may be subject to negotiations**

Negotiations should not change substance of the proposals but only necessary technical, contractual or logistical details. As guidance only, negotiations may normally relate to the following areas:

- a) minor alterations to technical details, such as the terms of reference
- b) minor amendments to the Special Conditions of Contract
- c) finalizing the payment arrangements
- d) mobilization arrangements
- e) agreeing final delivery or completion schedules to accommodate any changes required by the procuring entity
- f) the proposed methodology or staffing
- g) inputs required from the procuring entity
- h) clarifying details that were not apparent or could not be finalized at the time of bidding

The bidder’s tax liability in Somali if any. Negotiations must not be used to:

- i) Substantially change the technical quality or details of the requirement, including the tasks or responsibilities of the consultant or
- ii) Substantially alter the terms and conditions of contract stated in the RFP document.
- iii) Reduce unit rates or reimbursable costs;
- iv) Reduce work inputs solely to meet the budget; or
v) Substantially alter anything which formed a crucial or deciding factor in the evaluation of the proposals.

vi) The consultant should not be allowed to substitute key staff unless the procuring entity and the consultant agree that delays in the procurement process, changes in the terms of reference or other unavoidable circumstances make it necessary.

8.17.6 Guidance Note 3 - Recommendations following Negotiations

Following negotiations, the recommendations made to the PC may include:

a) proceed with contract award to the successful consultant, incorporating the revisions agreed during negotiations;

b) revise the objectives of the negotiations and negotiate further on specified areas

c) terminate the negotiations, where they have failed to result in an acceptable contract, reject the consultant and award the contract or hold negotiations with the next best ranked consultant

d) Cancel the procurement proceedings, where it is believed that the original RFP document was flawed, the need has changed or the budget is insufficient for the requirement.

8.17.7 Approvals Required

The results of any negotiations and the resulting recommendations must be approved by the PC before any contract award or other commitment is made to any consultant.

8.17.8 Documents / records required

A record of any negotiations must be completed and kept on the procurement file. At a minimum, this record must contain the minutes of negotiations that includes:

a) the name of the consultant with whom negotiations were held and the names of the consultant’s representatives

b) the names of all staff involved in the negotiations

c) the time, date and location of the negotiations

d) the areas subject to negotiation and the main points or requests made on each side

e) the final agreement reached on each area of negotiation

f) Any points where agreement was not reached or further discussion is required.

g) The record of the negotiations must be signed by all staff of the procuring entity involved in the negotiations.

h) Any other correspondence or information relating to the negotiations must also be kept on the procurement file, including letters inviting the consultant to negotiate and the procuring entity’s preparation of its negotiating position.

8.17.9 Next Step

Proceed to Contract Award – see step 13 below
8.18 Contract Award – Step 13

8.18.1 Preparing and issuing the contract document

This subsection provides guidance on the preparation of contract documents, obtaining approval and issuing the contract documents. The purpose of contract documents confirms in writing the contract which has been negotiated and agreed and formed between the procuring entity and the consultant. It defines services to be provided, the price to be paid for the services and establishes the rights and obligations of each party. The contract is the governing document for administration of the contract.

8.18.1.1 Staff Involved

The Procurement Unit is responsible for the preparation of contract documents, obtaining all necessary approvals, getting the approved contract document signed and issuing the document.

8.18.1.2 Step by step procedures

a) Collect copies of all documents which will form part of the contract document see guidance note 1 below for a list of documents to include.

b) Assemble the complete contract document, by including all necessary documents in the correct order. Ensure that the contract does not include any terms or conditions which vary from the successful consultant’s proposal which was accepted by the notice of acceptance.

c) Obtain IPC approval for the document.

d) Make the required number of copies of the approved contract and bind or secure the pages in such a way that pages cannot be replaced or lost. The number of copies required must be at least two – one for the consultant and one for the procuring entity.

e) The head of the procuring entity should sign all copies of the contract.

f) Send all copies of the contract to the consultant, with a covering letter instructing the consultant to counter-sign all copies, retain one for his records and return all other signed copies to the procuring entity.

8.18.1.3 GuidanceNote 1–ContentsofContractDocument

The contents of the contract document will depend on the model contract included in the RFP document. The contents of a contract and the order of precedence are normally listed in the contract form or special conditions of contract. As guidance only, contract documents normally consist of the following:

a) the contract form or agreement
b) the special conditions of contract
c) the general conditions of contract
d) The description of services, comprising terms of reference and/or any other relevant document.

8.18.1.4 Approvals Required:

PC approval of the final contract document is required before issue. The financial commitment should have been made prior to issue of the Contract.

8.18.2 C) Publishing a Contract and Debriefing the unsuccessful consultants

8.18.2.1 Summary of Procedures

This section sets out the procedure for notifying unsuccessful consultants that they have not won the contract following the entry into force of the contract with the successful consultant and for publishing contract award notices where they are required. It also provides guidance on debriefing unsuccessful bidders, where a request is received.

The contract award notices should not be confused with the notice of acceptance – see section 8.18.2

8.18.2.2 Purpose of the Procedure:

It is important that unsuccessful consultants are notified that they have not won contract, as soon as possible after the entry into force of the contract, and that they are provided with information on why they failed to win, if they requested it. This practice of notifying and debriefing unsuccessful consultants has a number of benefits:

a) It should encourage unsuccessful consultants to submit proposals again for future opportunities and assist them in submitting more responsive or competitive proposals. This contributes to greater competition, which should result in increased value for money for the procuring entity.

b) It provides unsuccessful consultants with a fair opportunity to appeal, under the administrative review procedures, if they feel that the procurement has not been properly conducted. As applications for administrative review have to be submitted within a specified time, the official notification provides a definite start point for the time period reducing the likelihood of applications being made long after the decision that is being appealed.

c) The publication of contract award information for higher value contracts increases the transparency of public procurement.

8.18.2.3 Staff Involved

The Procurement Unit is responsible for notifying and debriefing unsuccessful bidders and publishing any required contract award notices.

8.18.2.4 Step by step procedures

a) Ensure that the contract has entered into force with the successful consultant
b) Where the contract exceeds US$ 10,000, prepare a notice of contract award for publication. This notice must include the date and any reference number of the original invitation notice published in the Gazette, a brief description of the subject of the procurement, the name and address of the successful consultant and the contract price.

c) Arrange for publication of the notice in the Gazette within 14 days of the contract award.

d) Where a request for a debrief is received from an unsuccessful bidder, prepare and send a debrief letter, within three days of receipt of the request – see guidance note 1 below for the details to be included.

8.18.2.5 Guidance

Guidance Note 1–Contents of debrief letters

Debrief letters should contain sufficient detail to provide the unsuccessful consultant with an explanation of why he did not win a contract, without providing excessive details or taking too much time to prepare.

Debrief letter should state which stage of the evaluation the proposal was rejected at i.e. preliminary screening, detailed evaluation or financial evaluation and provide necessary details. Only the proposal of the firm seeking debriefing should be discussed and not others.

8.18.2.6 Approvals Required

No approvals are required for this procedure, as the contract award itself will already have been approved by the PC.

8.18.2.7 Documents / Records Required:

a) A copy of the minutes of negotiation.

b) A copy of the approved contract document sent to the consultant along with PC approval of the document must be kept on the procurement file. The original signed contract document returned by the consultant must be kept in a secure location with a copy kept on the procurement file for reference.

c) Copies of any debriefing letters sent to unsuccessful consultant must be kept on the procurement file. A copy of any published contract award notice must also be kept on the procurement file.

8.18.2.8 Next Step

Proceed to Contract Administration or Management of consultancy services – see step 14 below.

8.19 Contract Administration for consultancy services – step 14

Contracts administration for services focuses on ensuring that services are delivered on time and to an acceptable quality. This can be difficult, as the quality of services, particularly consultancy services, can be subjective and difficult to measure. A good working relationship
with the service provider and ongoing monitoring of services is therefore important to ensure successful contract performance.

The procuring entity must also ensure that it meets its obligations, particularly where the performance of consultancy services is dependent on certain inputs or information from the procuring entity or where staff must be made available to benefit from capacity building initiatives.

For services contracts, the contract administrator is typically responsible for:

a) Ensuring that the actual dates for mobilization, key milestones or deliverables and completion are agreed with the supplier, based on the date of contract effectiveness

b) monitoring contract performance to ensure that levels of service are maintained and that deliverables are submitted or completed on time

c) ensuring that all required reports are submitted on time

d) ensuring that where required, the procuring entity provides written comments or approvals to deliverables or reports in a timely manner

e) ensuring that any resources assistance or counterpart staff to be provided by the procuring entity are made available at the appropriate time

f) checking invoices and supporting documentation for payment are correct and arranging payment

g) managing any securities such as performance or payment securities, by ensuring that they are kept securely, ensuring that extensions to their validity are obtained in good time, when required, reducing their value, when required and releasing them promptly, when all obligations have been fulfilled

h) notifying the consultant in writing of any failings in performance or failure to meet targets and

i) ensuring all reports or deliverables are kept in an appropriate place and circulated or implemented as required

8.19.1 Approvals required
In case any amendment is required to the contract PC approval is required.

8.19.2 Documents / records required
All correspondences and documentation relating to contract administration must be kept on the procurement file. In particular records are required of:

a) all invoices and other payment documents

b) all documentation relating to contract performance, such as delivery notes, progress
reports and other deliverables

c) all contract variations
d) all contract amendments
e) all documents relating to claims under the contract, including warranty claims
f) All documents relating to contract disputes and dispute resolution.

8.19.3 Next Step

Proceed to Completing the contract when all contractual obligations have been completed.

8.20 See chapter 6 subsection 6.26 on the procedures for contract completion.

8.21 See chapter 6 subsection 6.27 on the procedures for termination of a contract.

8.22 Other Methods of Selecting Consultants

The following methods of Selection of consultants may be used if conditions for their use as an alternative to QCBS are fulfilled. These selection methods use the same procurement procedures discussed under QCBS (for more about their procedures, see procedures discussed under QCBS) except that these selection methods are used under specific circumstances and which are explained against each of the method. The selection methods are listed below:

a) Quality Based Selection (QBS)
b) Selection Under a Fixed Budget (FBS)
c) Least Cost Based Selection (LCS)
d) Selection Based Upon Consultants Qualifications (CQS)
e) Single Source Selection (SSS)
f) Selection of Individual Consultants (IC)

Each of the methods is discussed in the following subsections:

8.22.1 Quality Based Selection Method (QBS)

8.22.1.1 Summary of the procedure

Selection method is based solely on the technical quality of proposals, where the degree of technical quality is of paramount importance and decisive for the success of the project, based on consultant’s qualification. This selection method is based on evaluating only the quality of the technical proposals and the subsequent negotiation of the financial proposal with the highest ranked consultant. When QBS is applied, the RFP shall clearly state that the selection of the first consultant to be invited to negotiate a contract will be made solely on the basis of the ranking of the technical proposals.

The purpose of the QBS selection method is to determine the proposal which offers the best quality for the procuring entity without any reference to price and where obtaining
highest possible technical quality is the main objective of the section method.

8.22.1.2 Application of QBS selection method

a) Complex or highly specialized assignments for which it is difficult to define a precise TOR and the required input from the consultants

b) Assignments where the downstream impact is so large that the quality of the service is of overriding importance for the outcome of the project e.g. engineering design of major infrastructure

c) Assignments that can be carried out in substantially different ways such that financial proposals may be difficult to compare; and

d) Assignments including supervision of large and complex construction works for which it is particularly important to take safety precautions.

Where the procuring entity use a quality-based selection method, it shall engage in negotiations with consultants in accordance with Section 11.18 of this manual.

8.22.1.3 Staff involved
Bid / proposal evaluation committee, the procurement unit and the PC.

8.22.1.4 Step by step procedures

a) Review the basic requirements of the RFP document and conduct a preliminary screening. Eliminate proposals which are not substantially responsive.

b) Evaluation committee members responsible for managing the evaluation should meet conduct the merit point evaluation, to review the terms of reference, the criteria and the maximum number of points for each specified in the request for proposals document and ensure that they all fully understood by all evaluators. Seek clarification from the person responsible for writing the request for proposals document or drafting the terms of reference, where necessary.

c) Conduct a detailed technical evaluation, assessing whether the proposals are responsive to the terms of reference and awarding merit point scores, to determine the (average) technical score of each proposal.

d) Rank the proposals according to their technical scores. Identify the proposal with the highest technical score, which will form the successful proposal subject to satisfactory negotiations. Eliminate all other proposals.

e) Prepare a technical evaluation report and seek PC approval for the report.

f) Notify consultants whose proposals did not obtain the highest technical score that their proposals are not proceeding to the financial evaluation and that their financial proposals will be returned unopened after completion of the evaluation process. The letter should not
reject the proposals at this stage.

g) Notify the consultant whose proposal obtained the highest technical score of the date, time and location for the financial proposal opening and conduct the proposal opening

h) Examine the financial proposal, correcting any arithmetic errors and checking whether all relevant costs have been included in the proposal. Assess whether the proposal prices offer value for money to the procuring entity, decide whether negotiations are required and prepare for negotiations.

i) Prepare a financial evaluation report and seek PC approval for the report

**8.22.1.5 Approval required**

PC approval is required for the technical evaluation report prior to the opening of the financial proposal of the best ranked consultant and also approval for the financial evaluation report, following completion of the evaluation prior to any negotiations. PC approval will be required for the opening of any other financial proposals where negotiations with the highest ranked consultant have failed

**8.22.1.6 Document / records required**

The approved technical and financial evaluation reports, and all supporting documents used in conducting the evaluation, such as signed individual score sheets and minutes of meetings of the evaluators, must be kept on the procurement file. Evaluation reports must be signed by all staff who have been involved in the evaluation.

**8.22.1.7** All other aspects of the selection process shall be identical to that of quality- and cost-based selection (QCBS) as discussed earlier in this chapter, except that all aspect of proposal including unit prices shall be subject to negotiations.

**8.22.2 Least Cost Selection Method (LCS)**

The purpose of the LCS selection method is to determine the lowest priced proposal, which meets the minimum quality standard set by the procuring entity in the RFP document. This ensures that the procuring entity purchases consultancy services of the required standard at the lowest minimum cost.

**8.22.2.1 When the method is appropriate**

This method is only appropriate for selecting consultants for assignments of a standard or routine nature, including audits and engineering design of noncomplex works where well-established practices and standards exist.

**8.22.2.2 Staff involved**

Bid / proposal evaluation committee, the procurement unit and the PC
8.22.2.3 Step by step procedures

i. Review the basic requirements of the RFP document and conduct a preliminary screening. Eliminate proposals which are not substantially responsive.

ii. Evaluation committee members responsible for managing the evaluation should meet and conduct the merit point evaluation, to review the terms of reference, the criteria and the maximum number of points for each specified in the request for proposals document and ensure that they all fully understood by all evaluators. Seek clarification from the person responsible for writing the request for proposals document or drafting the terms of reference, where necessary.

iii. Conduct a detailed technical evaluation, assessing whether the proposals are responsive to the terms of reference and awarding merit point scores, to determine the (average) technical score of each proposal.

iv. Compare the technical score of each proposal against the minimum technical threshold specified in the RFP document. Eliminate any proposals which do not reach this threshold or which the evaluators agree are not responsive to important aspects of the terms of reference.

v. Prepare a technical evaluation report and seek PC approval for the report.

vi. Notify consultants, whose proposals are being rejected, stating that their financial proposals will be returned unopened after completion of the evaluation process.

vii. Notify consultant whose proposals reached the threshold of the date, time and location for the financial proposal opening and conduct the proposal opening.

viii. Start the financial evaluation by determining the evaluated price of each proposal.

ix. Rank the proposals according to their evaluated price. Identify the proposal with the lowest price, which will be the successful proposal.

x. Prepare a financial evaluation report and seek IPC approval for the report.

8.22.2.4 Approvals Required

PC approval is required for the technical evaluation report prior to the opening of financial proposals and also PC approval is then required for the financial evaluation report following completion of the evaluation.

8.22.2.5 Document / records required

The approved technical and financial evaluation reports, and all supporting documents used in conducting the evaluation, such as signed individual score sheets and
minutes of meetings of the evaluators, must be kept on the procurement file. Evaluation reports must be signed by all staff who have been involved in the evaluation.

8.22.2.6 All other aspects of the selection process under LCS shall be identical to that of quality- and cost-based selection as discussed earlier in this chapter.

8.22.3 Fixed Budget Selection (FBS) Method

8.22.3.1 Summary of the procedure

FBS is based on disclosing the available budget to invited consultants in the Request for Proposals (RFP) and selecting the consultant with the highest-ranking technical proposal within the budget. Because consultants are subject to a cost constraint, they will adapt the scope and quality of their services to that budget. The Procuring Entity must, therefore, ensure that the budget is compatible with the TOR and that consultants will be able to perform the tasks within the budget.

8.22.3.2 FBS method is appropriate when

a. The budget is fixed and cannot be exceeded;
b. The TOR are precisely defined; and
c. The time and staff-month effort required from the consultants can be assessed with precision.

8.22.3.3 To reduce the financial risk to consultants and to avoid receiving unacceptable technical proposals or no technical proposals at all, FBS must only be used for well-defined and simple assignments, with a low financial risk (for the consultants).

8.22.3.4 Typical assignments for FBS may include the following:

a. Sector studies, market studies, and surveys of limited scope;
b. Simple pre-feasibility studies and reviews of existing feasibility studies;
c) Reviews of existing technical designs and bidding documents; and
d) Project identification for which the level of detail can be matched with the available funds.

8.22.3.5 Step by Step Procedures of conducting a FBS

a) The PE shall publish an invitation for the REOI. The consultants selection method will be stated in the REOI.
b) The EOI shall be submitted as per the date and to the place indicated in the REOI and a shortlist is prepared after evaluation of EOIs.
c) Under FBS, consultants are requested to submit their technical and financial proposals in separate envelopes.
d) Public opening of TP will be conducted immediately after the submission deadline by a proposal opening committee in the presence of consultants or their representatives who choose to attend.
e) Technical proposals will be evaluated first, using the same procedure followed for QCBS.

f) Following the evaluation of the Technical proposals, the financial envelopes of the firms meeting the minimum prescribed technical score are opened in the presence of representatives of the respective firms.

g) Proposals that exceed the indicated budget are rejected and will not be considered further

h) The consultant who submit the highest-ranked technical proposal and whose budget is within the threshold among those qualified is selected and invited to negotiate the contract.

8.22.3.6 Contract Negotiation under FBS Method:

As the budget is pre-determined, the consultant’s TOR cannot change substantially, therefore, technical negotiations shall cover minor aspects. Financial negotiations will not include discussion on remuneration rates and other unit rates, but only minor re-arrangements of activities and staff for compatibility with the work-plan and clarification of any tax liability.

8.22.3.7 Approvals Required

PC approval is required for the technical evaluation report prior to the opening of financial proposals. PC’s approval is also required for the financial evaluation report following completion of the evaluation. Draft negotiated contract must also be approved by the PC.

8.22.3.8 Document / records required

The approved technical and financial evaluation reports, and all supporting documents used in conducting the evaluation, such as signed individual score sheets and minutes of meetings of the evaluators, must be kept on the procurement file. Evaluation reports must be signed by all staff who have been involved in the evaluation. All other procurement documents relating to assignment must also be securely filed for future reference if required

8.22.4 Consultants Qualification Based Selection (CQS)

8.22.4.1 Summary of the procedure

CQS selection method does not necessarily require preparation of RFP documents and it is used for small assignment whose budgets are relatively small.

8.22.4.2 Important aspects of CQS selection method

i. This method may be used for small assignments for which the need for preparing and evaluating competitive proposals is not justified.
ii. In such cases, the procuring agency will prepare the TOR, request expressions of interest and information on the consultants’ experience and competence relevant to the assignment.

iii. Establish a short list, and select the firm with the most appropriate qualifications and references.

iv. The selected firm shall be asked to submit a combined technical-financial proposal and then be invited to negotiate the contract if the proposal is found responsive to the TOR.

8.22.4.3 All other aspects of the selection process shall be identical to that of QBS as discussed earlier in this chapter.

8.22.5 Single Source Selection (SSS) Method

8.22.5.1 Summary of the procedure

This selection method shall be allowed only in exceptional circumstances, subject to PC approval. The justification for SSS should be examined in the context of the overall interests of the procuring entity and therefore bears the responsibility to ensure efficiency and transparency in the selection process and non-discrimination among eligible consultants for contracts. SSS may be appropriate if only it presents a clear advantage over competition:

8.22.5.2 When the method is appropriate

a) For tasks that represent a natural continuation of ongoing or previous work carried out by the firm.

b) In emergency cases, such as in response to disasters and for consulting services required during the period of time immediately following the emergency

c) For very small assignments as would be defined in the procurement Regulations

d) When only one firm is qualified or has experience of exceptional worth for the assignment.

8.22.5.3 Important Aspect of SSS Method

The Procuring Entity shall ask the selected consultant, on the basis of the terms of reference furnished by the Procuring Entity to prepare a technical and financial proposal, which shall then be negotiated if the TP is found responsive to the TOR.

8.22.5.4 All other aspects of the selection process (evaluation and reports, approvals, records etc.) shall be identical to that of QBS as discussed earlier in this chapter.

8.22.6 Section of an Individual Consultant (IC) method

8.22.6.1 Summary of the procedure

Individual consultants’ selection method is used mainly on assignments for which teams of Personnel are not required and no additional outside professional support is required.
8.22.6.2 The IC selection process – step by step is indicated below.

a) The procuring entity may advertise to invite EOI from interested consultants or may select consultants from the list of prequalified consultants (database) who have the capacity to provide the required service.

b) The Invitation notice shall indicate the criteria for selection including the skills, experience and qualifications required

c) PE shall prepare TOR detailing clearly the services required and also to indicate how the interested consultants can access them

d) The PE should allow at least 14 days for the consultants to prepare and submit their application (CV) stating their qualifications as per invitation notice

e) Submission of CV shall be on the specified date and time. Consultants do not need to be there at the opening of their applications or the CV’S.

f) PE shall constitute a 3 member team to open and evaluate the CVs

g) Individual consultants shall be selected on the basis of their qualifications for the assignment.

h) Individuals considered for comparison of qualifications shall meet the minimum relevant qualifications, and those selected for employment by the Procuring Entity shall be the best qualified and shall be fully capable of carrying out the assignment.

i) Capability is judged on the basis of academic background; experience; and, as appropriate, knowledge of the local conditions, such as local language, culture, administrative system, and government organization.

j) The Procuring Entity shall shortlist at least three (3) individuals and compare their qualifications and capability relevant to the assignment. The individual with best qualifications shall be selected for the assignment. If there would be need to interview the candidate, the selection process will be finalized after the results of the interview

k) A contract is negotiated with the selected individual.

8.22.6.3 Single-Source Selection of Individual Consultant:

8.22.6.4 Individual consultants may be selected on a single-source basis with due justification in exceptional cases such as: (a) tasks that are a continuation of previous work that the consultant has carried out and for which the consultant was selected competitively; (b) for very small assignment as defined in the Regulations; (c) in emergency cases, such as in response to disasters and for consulting services required during the period of time immediately following the emergency; and (d) when the individual is the only consultant qualified for the assignment. A sufficiently detailed justification, including the rationale for single-source selection instead of a competitive selection process, and the basis for recommending a particular individual consultant should be recorded.
8.22.7 Contracts under consultancy services

1. Lump Sum Contract

Lump sum contracts are used mainly for assignments in which the content and the duration of the services and the required output of the consultants are clearly defined. They are widely used for simple planning and feasibility studies, environmental studies, detailed design of standard or common structures, preparation of data processing systems, and so forth. Payments are linked to outputs (deliverables), such as reports, drawings, and bills of quantities, bidding documents, and software programs. Lump sum contracts are easy to administer because payments are due on clearly specified outputs.

2. Time – Based Contract

This type of contract is appropriate when it is difficult to define the scope and the length of services, either because the services are related to activities by others for which the completion period may vary, or because the input of the consultants required to attain the objectives of the assignment is difficult to assess. This type of contract is widely used for complex studies, supervision of construction, advisory services, and most training assignments. Payments are based on agreed hourly, daily, weekly, or monthly rates for staff (who are normally named in the contract) and on reimbursable items using actual expenses and/or agreed unit prices. The rates for staff include salary, social costs, overhead, fee (or profit), and, where appropriate, special allowances. This type of contract shall include a maximum amount of total payments to be made to the consultants. This ceiling amount should include a contingency allowance for unforeseen work.
Chapter 9

Disposal of Supplies and Equipment

9.1 Introduction

9.1.1 These Guidelines are designed to assist the Procuring Entities to dispose of surplus goods and equipment and other assets, in an efficient, consistent, equitable and accountable manner as prescribed in PPCDB Part VII Article 147 and 148.

9.1.2 Assets are obtained as a result of the expenditure of public funds in the acquisition of Goods, Works and Services, or those supplied through Donor assistance. Where assets (stores, plant, equipment or other) become unserviceable due to fair wear and tear, or due to changing circumstances, become obsolete, or surplus, the persons responsible for the management of assets, shall initiate disposal and in conjunction of the Procurement Unit, prepare a technical report which states the condition of the item, the justification for disposal and suggested method of disposal.

9.2 Disposal Organization and Planning

9.2.1 Prior to the actual disposal of assets, the assets must be written-off from the asset register. Only then may the procedure of physical disposal commence. Disposal process is described below:

   a) Inspection team i.e. Board of Survey (BOS) assesses condition of the assets
   b) Prepares report of the condition of the asset(s)
   c) Request approval to dispose and recommends the method of disposal
   d) Obtain approval to write-off assets
   e) Arrange write-off of the assets(s) from the asset register
   f) Adjust the stock balances of the stores/stock records (where applicable)
   g) Physically remove from stock (where applicable)
   h) Set reserve price(s)
   i) Commence the disposal procedures.

9.3 Classification of Assets for Disposal

9.3.1 The following terms are commonly used to classify items for disposal

   a) An unused item. Is an item that may be held in a warehouse/store attract hidden costs in terms of storage, security, risk, fire hazards, record keeping and retain an artificial cost/stock/asset value and require repeat stock checking. Whatever reason, can no longer be put to use by the PE (example: expired item which can no longer be used and hence need be disposed of to free – up space and avoid unnecessary carrying cost.

   b) Damaged item that maybe does not work, works intermittently, or is no longer able to provide the function that was intended, or is possibly beyond repair.

   c) An obsolete item - Is any asset which can no longer be put to any further effective use, due to advancements in technological development, or its lack of compatibility with associated items/equipment, or where the annual maintenance and
breakdown costs are in excess of thirty percent (30%) of the estimated cost of a new replacement item.

d) An unserviceable item - Is any asset which can no longer be utilized for its original intended purpose in its current condition due to extensive defects or damage, and is beyond economic repair. Classification of an asset as “beyond economic repair” for the purpose of this section refers to a situation where the repair costs exceed fifty percent (50%) of the current market price of a new replacement item.

e) A surplus item - is any asset which has not moved for a period of over two years (for store items), or which has remained unused for a period in excess of two years (for plant & equipment), and where no potential use for the asset can be envisaged within the Entity. Care needs to be taken with plant and equipment to ensure that the parts are not strategic parts, or that the equipment for which it was intended to be used has been decommissioned.

f) Cannibalize items - refers to assets whose useable parts may be removed from a damaged, broken or non-working asset, and then the shell of the asset sent for scrap. The useable parts can be used to repair other non-working equipment and to bring them back to working order (particularly common with medical electronic equipment).

g) Scrap items refers to a situation where nothing can be gained by keeping the asset. The asset may be sold if it has some residual market value, or scrap value, otherwise it shall be disposed of by appropriate means.

9.4 Authority to Dispose

9.4.1 The Accounting Officer of a Public Entity shall be primarily responsible for ensuring that the Procuring Entity fulfills its obligations under the Article 147 of the PPCDB, the Regulations and this Manual. The Accountable Officer shall at least once a year, or as and when required, convene a Board of Survey (BOS) comprising not less than five (5) senior staff of the entity and persons with relevant expertise to examine, group, and price all unserviceable, obsolete, or surplus supplies and equipment and report its findings and recommend the best method of disposal in accordance with this procurement manual.

9.4.2 The Board of Survey with the support of the user department and to a great extent the procurement unit shall establish for all items to be disposed the reserve price by obtaining independent market-based valuations or by using other reasonable means. Upon the conclusion of identification of items to be disposed and establishing the reserve price, the BOS shall recommend the disposal method.

9.4.3 Where items become unserviceable for reasons other than fair wear and tear, such as through accident or expiry, a set procedure established by the Regulations for handling losses shall be followed before the items are disposed of.

9.4.4 A public entity shall not dispose of unserviceable, obsolete, or surplus supplies and equipment to an employee of the public entity or a member of a Board of Survey to avoid conflict of interest.
9.4.5 Staff of the Procuring Entity may participate in disposal proceedings as bidders subject to observing the rules of conduct of public officials, bidders, and suppliers set out in the Regulations.

9.4.6 The Procuring Entity shall report the disposed items to the Accountant General to allow their removal from the Register of Government Assets. In the case of other public entities, the concerned Officer shall ensure removal of such items from the Register of Assets of the Public Entity.

9.5 Disposal Plan

9.5.1 The head of the user department shall be responsible for identifying any items which are due for disposal and where possible assemble them together. It shall be expected that a proper inventory record shall be maintained by every user department. The head of stores shall be responsible for identification of stocked items which are due for disposal. The lists of all items identified for disposal shall be submitted to the head of procurement unit and to the Board of Survey.

9.5.2 The Board of Survey shall inspect all the items identified for disposal and shall issue their approval or disapproval of the list. Once the items for disposal are inspected and the Board is satisfied, Board of survey shall be responsible for developing an annual disposal plan showing all the items and other necessary information required to assist in conducting a smooth disposal process. The following shall be the content of an annual disposal plan.

a) A detailed breakdown of the stores, assets and equipment to be disposed of  
b) A schedule of the disposal  
c) An indication of the justification for disposal;  
d) An estimate of the value of each store, asset or equipment;  
e) A reference to the asset registers or records of the stores;  
f) An indication of the method of disposal envisaged for each disposal requirement, including any need for pre-qualification, and the anticipated time for the complete disposal cycle, taking into account the applicable approval requirements;  
g) An indication of whether the disposal of the stores, assets or equipment will be managed by the Procuring Entity or any special agency designated or hired;  
h) An indication of the resources available for managing the disposal workload.

9.5.3 Justification of the Disposal Requirement is paramount.

i) The Board of Survey shall take appropriate measures to effectively ensure that each disposal requirement is justified and does not present a risk for the on-going delivery of the public service nor a loss of public funds.

ii) The BOS should ensure that each disposal requirement is well delineated so as to avoid any possible confusion between disposal procedures and procurement procedures in the case where the two processes may be integrated as in the case of trade-in.

9.6 Choice of Disposal Methods

9.6.1 Subject to specific conditions, a Procuring Entity may choose any disposal method provided in Article 148 of the PPCDB for disposal which are: -
9.7 Budgeting and Allocation of Disposal Funds

9.7.1 The Procuring Entity shall ensure that adequate funds are budgeted and allocated prior to initiating the disposal proceedings, taking into account all costs involved in the disposal. The costs involved may include the following:

- Valuation of stores, assets or equipment
- Consultancy costs for preparation of a disposal proposal
- Disposal proceedings management and supervision costs in the case that a disposal agent may be hired; or
- Costs relating to facilities, services or resources to be provided by the Procuring Entity, such as office space or communication facilities for consultants or counterpart staff, access to the stores, assets and equipment in the case of pre-bid site visits and conferences.

9.7.2 The Procuring Entity should also ensure that adequate funds are available for managing the disposal proceedings, including, but not limited to, any funds required for publication of notices.

9.8 Reserve Price for disposal by open bidding or by public auction

9.8.1 What is a Reserve Price?

A reserve price is a set minimum price (lowest price) that PE may be willing to accept for items, goods or assets on disposal. If the bidding or the auction ends without any bids that meet the reserve price, PE is not required to sell the items. PE is only obligated to sell the items once the bid amount meets or exceeds the reserve price.

9.8.2 To determine the reserve price

The Board of Survey (BOS) shall use the valuation (where the valuation has been conducted to determine the value of goods / assets for disposal) to select the disposal method and where required, to determine the reserve price. For the purposes of determining the reserve price, the BOS shall make recommendation of the reserve price for approval by the Procurement Committee. The reserve price shall be the minimum sale price of a public asset. This means that disposal items will only be sold if the bid amount either meet or exceeds the set reserve price. However, in justified circumstances, an asset may be sold below reserve price as elaborated later in relevant section below (sec 9.16.8.1 and 9.18.7.1).

9.9 Sale / Disposal by Open Bidding Method;

9.9.1 Procuring Entities should ensure that the disposal method is properly approved by the Accounting Officer. A Procuring Entity that conducts disposal using sale by open bidding method shall conduct the process as in the case of procurement by open tender / bid discussed in chapter 6.
9.10 Publication and Invitation to Bid for the Disposal Process

9.10.1 Bids should be invited through the publication of an announcement of tendering proceedings. No pre-qualification should be conducted for disposing of stores, assets or equipment. Pre-qualification may only be resulted to with the prior approval of the PPA.

9.10.2 Invitation to participate in disposal proceedings shall have the following contents.

a) The name, address and contact details of the Procuring Entity
b) The nature of the disposal requirement, including the quantity and / or dimensions of stores, assets and equipment and the location and timetable for disposing of the stores, assets and equipment to the selected bidder;

c) A statement of any key technical requirements, qualification requirements and evaluation criteria,
d) Instructions on obtaining the bidding documents, including any price payable and the language of the documents; and

e) Instructions on any pre-bid conference, site visits, access to stores, assets and equipment for potential bidders to assess the conditions and value of the items under disposal.

f) Instructions on the location and deadline for submission of bids.

9.10.3 The invitation to bid to participate in a disposal process shall be: Published in a daily newspaper, which must be of nation-wide circulation to reach sufficient bidders to ensure effective competition. Where international participation is required the notice should also be published in media of wide international circulation or on widely read internet sites, in the English language. In addition, where the Procuring Entity believes it is necessary to ensure wide competition, it may send the notice directly to potential bidders. The Procuring Entity should keep a record of any bidders to whom the notice is sent directly, which should form part of the disposal record.

9.10.4 Minimum Bidding Period

9.10.4.1 The bidding period should start on the date of the publication of the invitation to bid and should end on the date specified in the disposal bidding documents as bid submission date. In determining the appropriate bidding period for each requirement, the Procuring Entity should take into account whether the focus is on local or international participation. In determining the bidding period, the PE shall consider the following factors

a) The time required for preparation of bids, taking into account the level of detail required and the complexity of bids.

b) Any need for bidders to submit authenticated legal documents or similar documents as part of their bids and the time required to obtain such bidding document and for the delivery and submission of bids to the Procuring Entity

c) For local participation in the disposal process shall be 30 days while participation by international bidders shall be 45 days
9.11 Contents of Bidding Documents for sale by Public Bidding

9.11.1 Procuring Entities should use the appropriate standard disposal bidding document issued by the PPA. The bidding documents should provide bidders with all the information that they require in order to submit bids that are responsive to the needs of the Procuring Entity. In particular, the bidding documents should include the following information:

a) A clear description of the stores, assets or equipment;
b) Instructions on the preparation of bids, including any standard forms to be submitted and the documentary evidence and information required from bidders;
c) Instructions on the sealing, labeling and submission of bids, including the location and deadline for submission and procedures for the withdrawal, modification or replacement of bids;
d) Instructions on participation to pre-bid conferences, site visits and on access to the stores, assets or equipment such as dates, time and conditions;
e) Information on the methodology for the evaluation of bids, any evaluation criteria to be applied and the manner in which the criteria will be applied;
f) Information on the procedure for contract award, including the requirement for publication of a notice of proposed award and the bidders’ right to appeal;
g) The type of contract to be awarded;
h) The terms and conditions of the proposed contract; and
i) Information on the Bidder’s right to appeal under the review process and on the Government’s policy on fraud and corruption, including the debarment of bidders.

9.12 Issuance of Disposal Bidding Documents

9.12.1 Bidding documents should be issued, as appropriate to all bidders responding to the invitation to bid notice. The Procuring Entity should maintain a record of all bidders to whom the documents are issued. The Procuring Entity may charge a fee for the bidding documents, but the price should be calculated to cover the costs related to printing, copying and distribution of the documents only and should not include any element of profit. Where bidding documents are sold, the Procuring Entity should:

a. Issue signed receipts for the documents and bidders may be required to submit a copy of the receipt with their bid.
b. Allow potential bidders to inspect the documents, prior to purchasing the document.

9.13 Clarifications and Amendments to the Disposal Bidding Documents

9.13.1 The bidding document should state that a Bidder may seek clarification of the bidding document and should state the final date after which such clarification may not be sought. Such date should
allow adequate time for potential bidders, including foreign bidders, to receive and study the bidding document. Where a request for clarification is received, the Procuring Entity should promptly provide a clarification in writing. The clarification should be published and copied to all bidders and should include a description of the inquiry, but without identifying the source.

9.13.2 At any time prior to the deadline for submission of bids, the Procuring Entity may, either at its own initiative or in response to a request for clarification from a Bidder, amend the bidding document by issuing an addendum. Any addendum should be issued in writing and the same information should be provided to all Bidders at the same time. All addenda should be numbered sequentially. All clarifications and addenda to the bidding document shall be considered as part of the bidding documents.

9.13.3 To give Bidders reasonable time to action on any clarification or addendum issued to the bidding documents, the Procuring Entity, may, at its discretion, extend the deadline for the submission of bids and also to ensure that all the bidders participating in the disposal process receive the new bid submission date.

9.13.4 The bidding documents should state that bidders may withdraw, substitute or modify their bids at any time prior to the deadline for submission of bids, without forfeiting any bid security. The bidding documents should state the procedures to be followed for withdrawal, substitution or modification.

9.14 Pre – Bid Conference and Site Visits

9.14.1 The Procuring Entity may organize:

a) A pre-bid conference in order to brief potential bidders or to offer the opportunity for them to seek clarifications; and / or.

b) A site visit, to enable bidders to gain access to the stores, access or equipment to make their own evaluation of the price.

c) Details of pre-bid conferences and site visits, including the date, time and location, should be included in the bidding document and, where possible, in the invitation to bid notice. The date of any pre-bid conference or site visit should be sufficiently early in the bidding period, to enable bidders to take the information into account in preparing their bids, but should not be so early as to make attendance difficult for any potential bidders.

d) The Procuring Entity should prepare minutes of any pre-bid conference and should promptly send them to all bidders to whom the bidding documents are issued. The minutes should include:

- All information provided as part of any briefing;
- Details of any clarifications requested, but without identifying the source of the inquiry; and
- The details of all responses provided to clarifications.

9.14.2 Following any pre-bid conference or site visit, the Procuring Entity should where required, issue clarifications or amend the bidding document.
9.15 **Bids Receipts / Opening of Sale by Public Bidding**

9.15.1 The Procuring Entity should make arrangements for the receipt and safe-keeping of bids up until the deadline for submission of bids, which may include:

a) The use of a tender box, in which bidders are responsible for depositing their bids directly and which should remain locked until the time for bid opening or

b) The receipt of bids by staff of the Procuring Entity, who should be responsible for issuing signed receipts, showing the precise date and time of receipt and keeping bids in a secure location until the time for bid opening.

c) Where any bid is too large for the bid box, the Procuring Entity should receive and keep the bid, or samples.

d) Where the Procuring Entity is receiving bids and issuing receipts, it should maintain a record of all bids received, indicating the name of each bidder, the date and time of receipt and the name of the person responsible for receipt.

e) Bids shall only be received electronically, or by other means which do not permit sealed bids, where authorized by the PPA.

f) The Procuring Entity shall not be held liable for the loss or delay in delivery of any bid delivered by mail or courier.

g) The Procuring Entity should ensure that appropriate staffs are available at the location for submission of bids or that bidder has access to the bid box, at all period of time indicated in the bid documents.

h) The Procuring Entity should not disclose the number or identity of bids received, prior to the bid opening, other than to public officials who may require the information as part of their official duties.

9.15.2 **Bid Closing for Sale by Public Bidding**

9.15.2.1 Where a tender box is used for the receipt of bids, the Procuring Entity should seal the tender box at the precise date and time of the deadline and ensure that no further bids are placed in the tender box. The Procuring Entity should assign suitable, experienced staff to manage the bid closing.

9.15.2.2 Any bid that is received after the date and time of the deadline for submission of bids should not be accepted, but should be declared late and rejected. Late bids should be labeled as late, stating the date and time of receipt and should be returned unopened to the bidder. Any late bid which is not labeled with the bidder’s name should be left unopened and destroyed. A bidder submitting a late bid personally should be asked to go back with it.
9.15.3 Public Opening of Bids for the Public bidding Sale Method

9.15.3.1 The Procuring Entity should open in public all bids received on time at the date, time and location indicated in the bidding document. The time for bid opening should be immediately after the time of the deadline for submission of bids.

9.15.3.2 The opening of bids shall be managed by the staff of the procurement unit of the Procuring Entity. Bidders, or their representatives, should be permitted to attend the opening and details of the bid opening should be included in the bidding document.

9.15.3.3 The Procuring Entity should first open any envelope marked “withdrawal” and the corresponding bids should be located and returned unopened to the bidder. Opening shall be by a bid opening committee member appointed by the disposal committee from among its members. The committee shall have not less than three members.

9.15.3.4 All the envelopes, including substitutions and modifications and alternative bids should be opened and the details indicated in the bidding document read out. All bids opened should be stamped on key pages and signed or initialed by all the members of the opening committee.

9.15.3.5 With the exception of late bids, no bids should be accepted, rejected or evaluated in any way at the bid opening. Any discrepancies or missing documents should be noted in the record of bid opening minutes.

9.15.3.6 The Procuring Entity should make a record of the bid opening, which should be kept as part of the disposal record. The record should include the following:

a) The name of all bidders whose bids were opened
b) The presence or absence of a bid deposit, if one was required
c) The total price of the bid, including the currency, except where the opening is of technical bids only
d) The names of all staff and bidders’ representatives attending the opening.

9.15.3.7 All Bidders’ representatives attending the bid opening should be requested to sign the record, but the absence of any signature should not invalidate the record. The opened bids should immediately be taken to a secure location, where they should be kept until the evaluation begins.

9.15.3.8 All the bid opening committee members are also required to sign on the minutes Prepared.

9.16 Bid Evaluation Process for Sale by Public Bidding

9.16.1 Establish a bid evaluation Committee.

9.16.1.1 The Accounting Officer shall appoint an evaluation committee to evaluate the bids. The evaluation committee shall have not less than three members. Members of the BOS may be appointed as members of the evaluation committee.

9.16.1.2 The Evaluation Committee shall be responsible for the evaluation of bids and the preparation of evaluation report and recommendations for contract awards by the procurement committee. The number and level of members of the Evaluation Committee should depend on the value and complexity of the disposal requirement, but should in all cases be a minimum of three
members. The Evaluation Committee should include skills, knowledge and experience relevant to the disposal requirement, which may include the following:

a) Technical skills relevant to the disposal requirement  
b) End user representation  
c) Procurement and contracting skills  
d) Financial management or analysis skills and  
e) Legal expertise.

9.16.2 Preliminary Evaluation of the bids of sale by public bidding

9.16.2.1 The Evaluation Committee should conduct a preliminary examination to determine whether bids are complete and are responsive to the basic instructions and requirements of the bidding document. The preliminary examination should determine the following:

a) The bid has been submitted in the correct format;  
b) Any required bid security has been submitted, in the correct form and amount and valid for the period required  
c) The bid has been submitted without material reservations or deviations from the terms and conditions of the bidding document  
d) The bid has been correctly signed and authorized  
e) The correct number of copies of the bid have been submitted  
f) The bid is valid for at least the period required  
g) All key documents and information have been submitted; and  
h) The bid meets any other key requirements of the bidding document.

9.16.2.2 Any deviations, which are considered to be material deviations, should result in rejection of the bid and such bids should not be considered for technical evaluation. Deviations which are considered to be non-material should not result in rejection of the bid. The preliminary examination should also determine whether Bidders are eligible if this was a condition set in the bidding document.

9.16.3 Technical Evaluation of bids of sale by public bidding

9.16.3.1 The Evaluation Committee shall conduct a technical evaluation by comparing each bid to the technical requirements of the disposal in the bidding document to determine whether the bids are responsive.

9.16.3.2 The technical evaluation will determine whether bids are, or are not, responsive to the technical standard defined and criteria set in the bidding document. The factors taken into account should be those indicated in the bidding document only and may include the following:

a) Conformity to specifications, standards, without material deviation or reservation;  
b) Satisfactory understanding of a disposal requirement, as demonstrated by any methodology or design; or  
c) Suitable staffing or arrangements for supervision or management of the disposal.
d) The evaluation should not take into account any requirements which were not included in the Bidding Document. Any material deviations should result in rejection of the bid and such bids should not be subject to financial evaluation and comparison. Non material deviations may be corrected. Where technical evaluation is not necessary it shall be skipped.

9.16.4 Clarification of Bids of sale by public bidding

9.16.4.1 The Procuring Entity may seek clarification from a bidder of its bid. The request and the clarification shall only be in writing. The request for clarification should not seek and the bidder should not be permitted to:

i. Amend its bid price
ii. Change the substance of the bid; or
iii) Substantially alter anything which is a deciding factor in the evaluation.

9.16.4.2 Any clarification received, which is not in response to a request from the Procuring Entity, should not be taken into account. The failure of a bidder to reply to a request for clarification may result in the rejection of its bid.

9.16.5 Financial Evaluation and Comparisons of bids of sale by public bidding

9.16.5.1 The Evaluation Committee should conduct a financial evaluation and compare the bids considered technically responsive to determine the evaluated price of each bid. This again will help to determine the highest evaluated bid and that which is responsive to the requirements of the bidding document. The evaluated price for each bid should be determined by:

i. Taking the bid price, as read out at the bid opening;
ii. Making adjustments for any non-material non-conformity, error or omission;
iii. Applying any additional evaluation criteria, through an increase or decrease to the bid price
iv. Converting all bids to a single currency, using the currency and the source and date of exchange rate indicated in the bidding document; and
v. Bids should be compared by ranking them according to their evaluated price and determining the bid with the highest evaluated price.

9.16.6 Post-qualification conducted if so required in the bid documents

9.16.6.1 Where so indicated in the bidding documents, the Procuring Entity may conduct a post-qualification of the bidder who submitted the highest evaluated responsive bid, to determine whether the bidder is qualified to perform the contract effectively. The criteria for post qualification should be as set out in the bidding document.

9.16.6.2 If post qualification is conducted on the successful and found not to meet post qualification criteria as set in the bidding document, such bid shall be rejected and the second ranked bidder shall be considered and if found qualified shall be awarded the contract.
9.16.7 Evaluation Reports and Recommendations

9.16.7.1 The Evaluation Committee shall prepare an evaluation report for submission to the Procurement committee. The evaluation report shall include the following information:

i. A summary of the bids received and opened;
ii. The results of the preliminary examination
iii. The results of the technical evaluation
iv. Reasons why bids were declared non responsive
v. Details of any non - material deviations, which were accepted and the way in which they were quantified and taken into account in the financial evaluation
vi. The evaluated price of each bid, showing any adjustments to the bid price and any conversion to a common currency
vii. The ranking of the bids, according to their total evaluated price
viii. A statement of the highest evaluated and responsive bid, for each lot where applicable
ix. The results of any post-qualification;
x. The comparison of the bid price with reserve price
xi. A recommendation to award the contract or contracts to the highest evaluated responsive bid or combination of bids, or other appropriate recommendation, such as rebidding or the cancellation of the disposal process.
xii. In case of highest bid of two or more bidders being the same, which is above reserve price, a recommendation to re-invite fresh bid price from these bidders.

9.16.7.2 The evaluation report and recommendations shall be dated and signed by all the members of the evaluation committee. The evaluation shall be completed within 30 days from the date of bid opening.

9.16.8 Failure to Reach the Reserve Price

9.16.8.1 Where the best evaluated bid is less than the reserve price, the evaluation committee may recommend the following:

a) Obtain a further valuation of reserve price from an independent source, if there is doubt about the reserve price
b) Sale below the reserve price giving strong justification to do so
c) To go for fresh bidding process
d) Use an alternative disposal method.

9.16.8.2 In arriving at a decision on the appropriate action to take the Evaluation Committees, shall be guided by:-

1. The difference between the best evaluated bid price and the Reserve price; and
2. The likely costs implications of any further action.
9.16.9 Inviting revised bids due to identical highest price bids

i. Where two or more bidders offer the same highest price for a bid, and is equal to or above reserve price, the procuring entity shall invite these bidders to submit revised bids.

ii. A bidder who is invited to submit a revised bid shall not quote a price lower than the price quoted in the original bid.

iii. A revised bid shall be written, sealed and submitted in the same way as the original bid.

iv. A procuring entity shall give the bidders who are invited to submit revised bids reasonable time within which to submit revised bids.

v. The procedure for opening the revised bids shall be the same as the procedure for opening the original bids.

vi. Where the revised bids have identical price the process shall be repeated in accordance with this subsection mentioned above.

9.17 Contract Award

9.17.1 The procurement committee shall award the contracts taking into consideration the evaluation report and the agenda prepared by the secretary of the bid committee. Notification of contract award shall be made to the winning bidders and at the same time the other bidders shall be informed that their bids were not successful.

9.17.2 The payment and delivery schedule shall clearly be stipulated in the contract based on the provisions in the bidding document. In case of failure to pay for and collect the items awarded, the security deposit shall be forfeited and the contract shall be terminated.

9.18 Sale of Disposal Items by Public Auction

9.18.1 Procuring Entities shall ensure that they have complied with all relevant requirements prior to initiating disposal procedures in accordance with this part. A Procuring Entity that conducts disposal using the Public Auction Sale Method shall ensure that the procedure has been approved by the Accounting Officer. The auctioneer shall also be appointed through the public procurement process.

9.18.2 No pre-qualification for Public Auction Sale Method

9.18.2.1 No Pre-qualification may be conducted for disposing of stores, assets or equipment under this method.

9.18.3 Contents of the Invitation to participate Public Auction Sale Proceedings

Where the Procuring Entity publishes an announcement of auction sale, this shall be published in the form of an auction notice, inviting all potential bidders to participate in the sale. Invitation notices should include the following:

a) The name, address and contact details of the Procuring Entity

b) The nature of the disposal requirement, including the quantity and / or dimensions of stores, assets and equipment and the location and timetable for disposing of the stores, assets and equipment to the selected bidder;
c) A statement of any key eligibility requirements to participate to the auction sale, such as official identification paper for individuals, company registration, cash or bank draft, evidence of qualification to dispose of the stores, assets or equipment in the context of public health and safety and environmental protection; and

d) Instructions on any site visits, access to stores, assets and equipment for potential bidders to assess the conditions, specifications and value of the items under disposal.

e) Instructions on the location and time of the auction.

9.18.4 Advertisement / Publication of notice to conduct sale by Public Auction

9.18.4.1 The public advertisement notice shall be:

a) Published in the print media in at least one daily Newspaper, of wide circulation inviting bidders to inspect the items and attend the auction proceedings.

b) Not less than 14 days shall be allowed before the date of the auction.

9.18.5 Preparation of an Auction list of goods and equipment.

9.18.5.1 Procuring entities shall prepare an auction list containing all the items to be auctioned. The auction list shall provide bidders with all the information that they require in order to participate with sufficient information in the auction sale. In particular, the auction list shall include:

a) A clear description of the stores, assets or equipment;

b) Instructions on the auction sale rules such as official documentation required, proof of solvability, bid security, form of payment authorized rules on declaring the winner and any other instructions that the PPA may prescribe by Circular;

c) Instructions on site visits and on access to the stores, assets or equipment such as dates, time and conditions;

d) Any qualification criteria and the procedure for verification of qualification information;

e) The type of contract to be awarded;

f) The terms and conditions of the proposed contract and

g) Information on the Bidder’s right to appeal under the procurement review process and on the Government’s policy on fraud and corruption, including the debarment of bidders.

9.18.6 Public Auction Sale, Administration and Contract Award

9.18.6.1 The Auction shall be conducted by a registered auctioneer who shall be contracted by the procuring entity. The auction may also be conducted by the staff of the procuring entity or staff of another public entity.
9.18.2 The auction shall be conducted professionally with all the participating bidders being given chances to participate in the bidding process until the highest bidder is determined.

9.18.3 Bidders who shall have provided auction deposits shall be given auction bidding numbers which they shall be stating when announcing their bids. The participating bidders shall also have acquired copies of the auction list. The deposit shall be placed for each item or lot of the auction. The auctioneer shall have staff who shall keep the record of the winning bidders per item or lot. The procuring entity shall also have its own staff who shall also keep the same record of the winning bidders. At the end of the auction the two lists of winners shall be tallied and signed by the representatives of the auctioneer and the procuring entity. Where the auction is conducted by the staff of the procuring entity, the records shall be recorded by two different persons for the purpose of tallying at the end of the auction and it shall also be signed by both parties.

9.18.7 Sale by Auction - Reserve price

9.18.7.1 Asset would be sold if the highest price achieved is equal or above the reserve price. In case the auction is fully conducted by the hired auctioneer and the final decision of sale at the highest call is bestowed to auctioneer, in no circumstances any asset would be sold below the reserve price. In case the auction is fully conducted by the government official or the final decision to sale at the highest call is taken by the government official, the asset may be sold below reserve price, if there is strong justification to do so, which would be recorded. In such cases the sale would be declared to be subject to further approval by the Procurement Committee. The decision of the Procurement Committee would be communicated to the bidder within 7 days of auction date.

9.18.8 Payment for and Collection of Items

9.18.8.1 The bidders who win items in the auction shall make payment for the items as per the payment schedule provided in the auction sale document and take procession and remove them from the procuring entities premises. Failure to do this, the bid security deposits shall be forfeited and the sale would be cancelled.

9.19 Transfer to Government Department or other Public Entity

9.19.1 Use of this Method

Procuring Entities shall ensure that they have complied with all relevant requirements and approval of disposal method is approved by the accounting officer or the head of the procuring entity. The transfer to another public entity method of disposal shall apply only when a Procuring Entity may decide to dispose of stores, assets or equipment to another Procuring Entity, hereafter named the receiving Procuring Entity or the other party, which should always be a public entity as defined in Article 3 of the PPCDB The transfer may be as a result of a request by the receiving entity or the proposal by a procuring entity.
9.19.2 Justification for the Transfer to another Public Entity

The transfer should be justified by the Disposal Committee when preparing the disposal recommendations to the accounting officer or the head of the procuring entity. The justification should emanate from the need of the Procuring Entity to dispose of the stores, assets or equipment. The receiving entity may pay an agreed amount of money for the items or may be issued with the items free of charge. Sometimes instructions with regards to goods, equipment and assets transfer to another PE may be issued by PPA and in such cases, the instructions must be followed.

9.19.3 Authority for Disposal

9.19.3.1 Where disposal through transfer to another public entity is free of charge, the approval of the accounting officer or the head of a procuring entity shall be adequate and the approval of the procurement committee shall not be required. Where the transfer is subject to payment of any money, the transfer shall be effected only after the money has been paid by the receiving entity and subject to approval by the procurement committee.

9.20 Disposal by Destruction, Dumping or Burying

9.20.1 Use of this method

This method shall be used in the following circumstances

i) Where the asset has no residual value and cannot be transferred to any other entity or converted into any other form which subsequently gives it value; or

ii) On grounds of national security or public interest, or health and safety, or legal and human rights issues or environment considerations.

iii) Procuring Entity that conducts disposal by use of Destruction, Dumping or Burying Method shall ensure that all other related laws regarding safety and health are observed in the disposal process.

9.20.2 Justification for the Destruction, Dumping or Burying

9.20.2.1 All destruction, dumping or burying should be justified by the disposal committee. The justification should emanate from the need of the Procuring Entity to dispose of the stores, assets or equipment using destruction, dumping and / burying.

9.20.3 Disposal Process by Destruction, Dumping or Burying Method

9.20.3.1 The BOS shall conduct an evaluation to determine if the Procuring Entity is capable of disposing of the stores, assets or equipment itself or if it should seek assistance of an agent or contract a qualified entity. The BOS shall also determine if the destruction, dumping or burying method presents a risk of non-compliance to public health and safety and environmental protection laws and standards and then take the necessary action in liaison with other related government departments.
9.20 4  Financial Evaluation and Comparison of bids – Destruction, Dumping or Burying Method

9.20.4.1  The BOS shall conduct a financial evaluation and comparison to determine if the destruction, dumping or burying method is most economical method and efficient use of public funds. An evaluation of the costs and benefits should be performed to assess the following:

i. Transactions costs that will be involved
ii. Costs of destruction, dumping or burying, including costs of contracting out the supervision, management and / or execution;
iii. Benefits to the receiving Procuring Entity;
iv. Potential disruption of public service;
v. Other costs such as health and environmental costs; and
vi. Any other considerations that may inform the decision on Disposal

9.20.5  Evaluation Reports and Recommendations

9.20.5.1  The BOS shall prepare an evaluation report for submission to the Procurement Committee of procuring entity. The evaluation report should include:

i. A summary of the economic and financial evaluations and comparisons and their parameters;
ii. The results of the evaluation;
iii. Recommendation on the destruction, dumping or burying or other disposal method to be used; and
iv. The financial estimation, including estimated costs of contracting out.
v. The evaluation report and recommendations should be approved by the procurement committee or any other relevant committee by the accounting officer of the PE prior to proceeding with disposal

9.20.6  Documents required for the Destruction, Dumping, and Burying Disposal Cycle

9.20.6.1  As noted in Section 16.2 of this procurement manual, PE shall prepare a Disposal Plan. All the disposal process undertaken shall be recorded and after the disposal, a destruction certificate shall be issued and signed by the disposal committee.

9.21  Disposal Process shall be confidential

9.21.1  Regardless of the method of disposal that PE may adopt, all the information relating to the examination, clarification, evaluation and comparison of bids and recommendations for the award of a contract shall not be disclosed to asset buyers or to any other person not involved officially in the process.

9.21.2  Any effort by a bidder to influence the procuring entity or approving authority with a view to processing of bids or award decisions may result in the rejection of the bid

9.22  Records of Disposal Proceedings

9.22.1  All procuring entities shall file the documents relating to disposals and to ensure that all documents are adequately filed in the disposal requirement files and referenced in their paper
and electronic records. All disposal files shall safely be stored and archived for a period of six years. Files should be protected from theft, fire, flooding and rain and shall only be accessed by authorized persons. PE to ensure that files are accessible when required. The following information shall be contained in a disposal procurement file:

a) a request to initiate disposal proceedings, including a report of the Board of Survey
b) A copy of an invitation notice;
c) Copies of solicitation documents, their amendments or clarifications and any additional information;
d) A report of inspection of the assets by potential bidders
e) A record of the tender openings;
f) A copy of all bids evaluated, clarifications requested and responses received;
g) The evaluation report
h) Minutes of meetings on the disposal, including negotiation proceedings
i) A copy of a letter of tender acceptance to a successful bidder, if any
j) The contract, if any
k) All documents related to contracts management, including records of receipts of payment and handing over certificates
l) A copy of the update to the procuring entity asset register;
m) All correspondence between a disposing entity and a bidder or a third party disposal agent; and

n) A copy of all submissions to the tender board and all decisions related to the disposal, including, the choice of disposal method, approval of solicitation documents, approval of an evaluation report, approval of negotiations, contract award decision, approval of contract documents and any decision to suspend or cancel disposal proceedings

o) The write-off approval from the Paymaster General or competent authority.
10. Complaints and Appeal Review Process

10.1 Introduction

10.1.1 If there is evidence of inappropriate behavior, indiscretions, fraudulent and corruptive actions by individuals or firms involving procurement and / or disposal activities, then an appeal can be made. Complaints may be lodged with Independent Procurement Review Panel (IPRP) as per Article 54 and 149 of the PPCDB.

10.1.2 A potential or actual bidder that claims to have suffered, or that is likely to suffer, loss, or injury due to a breach of a duty imposed on the Procuring Entity by Procurement Bill, and the bidding documents may seek review at any stage of the procurement proceedings in accordance with PPCDB Article 149.

10.1.3 An application for review shall not be entertained unless it identifies the specific act of omission, agency, or Procuring Entity alleged to have violated the Procurement Bill and the bidding documents.

10.1.4 Where an application for review concerns alleged improprieties in the solicitation of applications to prequalify, or to solicitation of bids, which are apparent prior to bid opening, such applications shall be entertained only if submitted prior to bid opening.

10.2 Right to Review

10.2.1 Any supplier, contractor or complainant that claims to have suffered, or that may incur loss or injury, due to a breach of a duty imposed on them by the Procuring Entity on the provisions of this manual, may seek review first from the Accounting Officer of the PE and if not satisfied to proceed and seek a review from the IPRP.

10.3 Report of the Complaint

10.3.1 A complaint means a written objection, submitted by one or more of the suppliers (the complainants), regarding a solicitation, contract award or proposed contract award for goods, works or services. The complaint must be received in a written form and should contain the following information:

1. Company name, address, contact person name, telephone number, fax number, email address.

2. The nature of the problem and if applicable, identifying the part of The Procurement Bill that are believed to have been broken.

3. Description of the background leading to the problem, statement of Breach of Bid /Contract, relevant dates and times, Bid / Contract reference number

4. If known, what part of the Procurement Bill has been broken

5. The supporting and provable facts
6. The Procuring Entity’s representative, originally contacted to review the problem and the results of those discussions
7. Listed in detail, the action that is requested

10.3.2 Prior to formally presenting a written complaint, suppliers / contractors are strongly encouraged to contact Accounting Officer of the Procuring Entity to discuss its concerns. This is because there are minor errors, omissions or other inadvertent actions that can be clarified and corrected, to the satisfaction of the complainant without necessarily having to follow the lengthy part of full review.

10.4 Initial Review by Accounting Officer of the Procuring Entity

10.4.1 Prior to the entry into force of a contract, application for review shall be made in the first instance in writing to the Accountable Officer.

10.4.2 The Accountable Officer shall not entertain an application for review unless it is submitted within 14 calendar days after notification of proposed contract award, pursuant to Article 81(2) of the PPCDB or when the bidder submitting it became aware of the circumstances giving rise to the complaint or of when that bidder should have become aware of those circumstances, whichever is earlier.

10.4.3 Upon receipt of a complaint in connection with any bid proceedings, the Accountable Officer shall notify the Authority and all bidders of the complaint.

10.4.4 Unless the complaint is resolved by mutual agreement, the Accountable Officer shall suspend the procurement proceedings and shall, within five (5) calendar days after submission of the complaint, issue a written decision to the complaint and shall state:

a) The reasons for the decision;

b) Whether the complaint is upheld in whole or in part; and

c) Indicate the corrective measures that are to be taken where applicable

10.4.5 If the Accountable Officer does not issue a decision within the time stated in Article 150 Sub-Article (4) of the PPCDB, or if the complainant shall not be satisfied with the decision of the Accountable Officer, the complainant is entitled to submit a complaint to the Independent Procurement Review Panel pursuant to Article 151 of the PPCDB.

10.5 Review by the Independent Procurement Review Panel

10.5.1 Subject to Article 149 of the procurement Bill, an application for review may be brought before the Independent Review Panel in the circumstances listed below:

a) In the form of an appeal by the complaining bidder against a decision by the Accountable Officer, provided that the appeal is submitted within ten (10) calendar days of the date of the decision by the Accountable Officer;

b) Where the Accountable Officer fails to render a decision within the required timeframe, provided that the application for review is filed within ten (10) calendar days after the expiry of the time set for notification by the Accountable Officer referred to in Article 150 of the PPCDB.

c) In the case where the contract has already been signed by the parties, any application for review submitted in the first instance to the Independent Procurement Review Panel shall not
be entertained except where in the opinion of the Review Panel the contract was signed without following the correct procedures provided in the procurement Bill.

10.5.2 In order for an application for review to be considered by the Independent Procurement Review Panel, the application shall be accompanied by a fee as may be specified.

10.5.3 The Independent Procurement Review Panel shall make a decision within thirty (30) calendar days after receiving the complaint.

10.5.4 A complaint may be dismissed if it:

   a) Fails to comply with any of the requirements of the PPDCB and this Procurement Manual

   b) Sets forth only allegations that do not state a valid basis for a complaint, or that do not set forth a detailed legal and factual statement;

   c) Is filed in an untimely manner at the initial level of Independent Procurement Review Panel;

   d) Concerns contract implementation or administration rather than contract award; and

   e) Challenging an affirmative determination of qualifications as regards a competing bidder.

10.5.5 Unless a complaint is dismissed, the remedies that may be ordered by the Independent Procurement Review Panel include:

   a) Prohibiting the Procuring Entity from acting or deciding in an unauthorized manner or from following incorrect procedure.

   b) Annulling in whole or in part any unauthorized act or decision of a procuring entity, other than any act or decision bringing the contract into force.

   c) Reversing a decision by the Procuring Entity or substituting its own decision for such a decision, other than any decision bringing the contract into force;

   d) Award of costs incurred in participating in the bidding process where the results were not in accordance with the Procurement Bill

10.5.6 The timely submission of a complaint in accordance with deadlines set in PPCDB 152 sub article 1 (a) suspends the procurement proceedings until a decision on the complaint is issued by the Independent Procurement Review Panel.

10.5.7 The suspension provided by PPCDB 151 (6) shall not apply if the Procuring Entity certifies to the Authority that urgent public interest considerations, such as natural disasters, medical emergencies, civil strife, and outbreak of war, require the procurement to proceed.
10.5.8 The certification, which shall state the grounds for the finding that urgent considerations exist, shall be made a part of the record of the procurement proceedings and shall be conclusive with respect to all levels of review, except judicial review.

10.6 Procurement Process Judicial Review

10.6.1 The decision of the Review Panel shall be final and may be appealed only in a Court of Law pursuant to Schedule 2 of PPCDB.

10.6.2 A party to proceedings before the Review Panel who is aggrieved by the decisions of the Review Panel, may, within fourteen (14) days after being notified of the decision of the Review Panel or within such further time as the court of law may allow, apply for judicial review in the High Court.

10.6.3 The party who intends to appeal against a decision of the Review Panel shall serve a copy of the notice of appeal on the other party to the proceedings before the Review Panel.

10.6.4 The Court of Law has jurisdiction over petitions for judicial review of decisions made by the Procuring Entity or Independent Procurement Review Panel or of the failure of those bodies to make decisions within the prescribed time limit.

10.6.5 The Procedures to be followed by the Review Panel are prescribed in Schedule 2 of PPCDB