

THE UNITED REPUBLIC OF TANZANIA

ENGLISH VERSION

THE PUBLIC PROCUREMENT REGULATIONS, 2024
GN NO. 518 OF 2024

[SUBSIDIARY LEGISLATION]

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Dodoma,

22 April, 2025

HAMZA SAIDI JOHARI

Attorney General

THE PUBLIC PROCUREMENT ACT,
(CAP. 410)

REGULATIONS

(Made under section 129)

THE PUBLIC PROCUREMENT REGULATIONS, 2024

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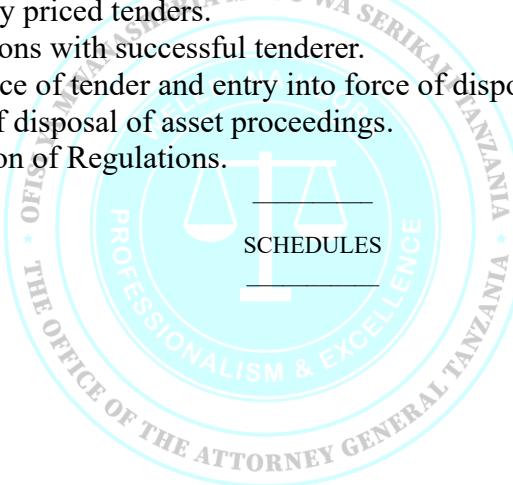
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THE PUBLIC PROCUREMENT ACT,
(CAP. 410)

REGULATIONS

(Made under section 129)

THE PUBLIC PROCUREMENT REGULATIONS, 2024

GN. Nos.

518 of 2024
817 of 2024
42 of 2025

PART I
PRELIMINARY PROVISIONS

Citation

1. These Regulations may be cited as the Public Procurement Regulations, 2024 and shall come into effect on 1st July, 2024.

Interpretation

2. In these Regulations, unless the context otherwise requires-

“accounting officer” means a public officer appointed in accordance with the provisions of the Public Finance Act or a public officer appointed by any other written law to hold a vote or subvention and accounts for all monies expended from such vote or subvention;

“call off order” means an order of goods, works or services issued by a procuring entity in accordance with the terms of contract;

“tender price” means the sum stated by a tenderer in his tender for executing the contract;

“common use items and services” means goods, works and services common to more than one procuring entity which are required continuously or

repeatedly over a set period of time and are subject to common procurement;

“tender board” means a tender board established under section 32 of the Act;

“tender security” means a guarantee or bond provided by a tenderer as part of its tender with the aim of protecting the procuring entity against the risk of tenderer’s conduct during the tender period which may warrant forfeiture of the security or otherwise being returned to the tenderer after completion of the tender process;

“performance security” means a security provided by a successful tenderer to the procuring entity to warrant performance of contractual obligations;

“Journal” means the Tanzania Procurement Journal;

“quotation” means a document used to invite tenderers to participate in mini-procurement tenders;

“public asset” means any tangible or intangible property owned by a public body and includes land, shares or proprietary rights;

“Appeals Authority” means the Public Procurement Appeals Authority established under section 112 of the Act;

“approving authority” means the accounting officer or tender board of a procuring entity;

“framework agreements” means agreements which allow a procuring entity to procure goods, services or works that are needed continuously or repeatedly at an agreed price or without an agreed price over an agreed period of time;

“turnkey contract” means a construction contract under which a contractor is responsible to design and build a facility at an agreed price;

“running contract” means a contract extending over a period of time for an estimated or variable quantity of goods, services or works obtained through request for submission of unit rates which are applied at that particular period of time and which offer the procuring entity to engage

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such tenderers without further competitive tendering;

“subcontract” means a process of assigning or providing part of the duties and tasks under a contract to another party;

“beneficial owner” has the meaning ascribed to it under the Anti-Money Laundering Act;

“foreign consultant” means an individual consultant whose nationality is of a foreign country or a consulting firm whose majority of its share capital, as far as the ownership thereof is or can be publicly known, is owned by citizens of foreign countries;

“contract supervisor” means a team, project manager, contract manager or consultant appointed by the accounting officer to ensure proper implementation of a procurement contract;

“service provider” means a person, entity or body duly registered and licensed by a competent authority to provide services and who, according to the contract, is a party or likely to be a party to a procurement contract with the procuring entity;

“tender validity period” means the period of time subsequent to the closing date for submission of tenders for which the tender price and the conditions of the tender shall not be subject to any change by the tenderer;

“tender document” means a written or electronic document or request for proposal inviting tenderers to participate in procuring or disposal by tender proceedings and includes a document inviting qualified tenderers for pre-qualification;

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“Act” means the Public Procurement Act;

“commercially operating entities” means public entities which operate on a commercial basis as defined in the law establishing the respective entity or recognised by the Treasury Registrar as operating commercially;

“procuring entity” means a public body or any other body or unit established and mandated by the Government to carry out public functions;

“bid securing declaration” means a security by way of declaration provided by the tenderer, as part of its tender to the procuring entity, intended to protect the procuring entity from the risk of the tenderer’s conduct during the tender period;

“micro value procurement” means procurement of goods, works or services with specifications of the aggregate amount which does not exceed the micro procurement threshold specified in these Regulations;

“minor value procurement” means procurement of goods, works or services which does not exceed the maximum limit of amount specified under these Regulations;

“procurement for commercial use” means procurement of goods, services and works by commercially operating entities for the purpose of making profit out of the said business, or any other similar undertakings;

“Agency” has the meaning ascribed to it under the Act;

“procurement agent” means a person, a private or public firm specialised in procurement, discharging procurement functions on behalf of a procuring entity; and

“restricted tender” means a tender allocated to few specified tenderers.

PART II
GENERAL PROVISIONS

(a) Principles and Standards of Procurement, Supply and Disposal of Assets

Sustainable supply chain

3. Subject to section 5 of the Act, a procuring entity shall abide to the general principles and standards in the management of sustainable supply chain in relation to the procurement of goods, works, services and

disposal of assets as provided in the Act, these Regulations and guidelines for implementation of sustainable procurement issued by the Authority.

Compliance with
environmental
conservation
GN. NO.
42 of 2025
reg. 2

4.-(1) The procuring entity shall comply with the principles of environmental conservation in the supply chain management in accordance with the laws of Tanzania and international treaties ratified by Tanzania governing environmental matters.

(2) In implementing subregulation (1), a procuring entity shall consider the following:

- (a) assessing the environmental impact when undertaking designing, identification and preparation of requirements or project planning, specifications and terms of reference and, in any case, before commencement of procurement proceedings;
- (b) identifying in the tender documents, the requirement for a tenderer to prove his technical and professional ability to implement terms of the contract relating to environment;
- (c) depending on the nature of procurement, terms for environmental conservation shall be included in procurement contracts;
- (d) assessing compliance to the need for the tenderer's technical and professional ability to implement terms of the contract relating to environment including prevention, precaution, cooperation and product productivity;
- (e) receipt, storage, handling and distribution of goods, supplies and assets is done in accordance with environmental conservation and the avoidance of risks to biodiversity;
- (f) ensuring that implementation of the contract complies with the obligations specified in the terms relating to environmental conservation

and maintaining records of such implementation; and

(g) the use and disposal of goods, supplies or assets is conducted in accordance with the principles of environmental conservation.

(3) In implementing subregulation (2)(g), a disposing entity shall, before disposal to the tenderers and procuring other assets, consider repairing and reusing such assets where it is possible and it reduces costs.

(4) A procuring entity shall, where possible, avoid procurement of chemicals, pesticides or other goods known to be or considered to be harmful to the public health, environment, animals and plants.

(5) Where procurement of goods referred to in subregulation (4) is necessary, a procuring entity shall ensure that such goods are used carefully to avoid or minimise risks to biodiversity and the environment.

Eligible tenderer
GN. NO.
42 of 2025
reg. 3

5.-(1) A tenderer who qualifies for consideration under these Regulations shall be eligible to participate in procurement or disposal proceedings by tender except where the tenderer is precluded by the Act or these Regulations.

(2) A procuring entity shall not deny pre-qualification to firm, if required, for reasons other than legal capacity, financial capability or experience to implement the contract effectively.

(3) Notwithstanding subregulation (2)-

(a) a foreign firm, goods manufactured in a foreign country, a contractor or consultant from a foreign country shall be excluded to participate on the procurement proceeding or disposal of assets through tender if-

(i) the laws of the United Republic prohibit commercial relations with that country;

(ii) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United

Nations, the United Republic prohibits any import of goods from that country or any payments to persons or entities in that country; or

(iii) it is proved beyond reasonable doubt that, the foreign supplier, contractor or consultant does not satisfy the requirements of these Regulations;

(b) a tenderer who engaged in a contract with a procuring entity for procurement of goods, works or services and any of its affiliates, shall be disqualified from subsequently procuring goods, works or services, other than a continuation of earlier contract, or acquiring assets from the same project.

(4) Subregulation (3) shall not apply to tenderers who perform the contractors' obligations under a turnkey contract.

(5) A Government owned enterprise may participate if the enterprise-

- (a) is legally and financially autonomous;
- (b) is registered by relevant authorities or professional bodies; and
- (c) operates commercially as prescribed in the law establishing such enterprise or recognised by the Treasury Registrar as operating commercially.

(6) A firm or agency dependent on a procuring entity under a public funded project shall not tender or submit a proposal for the procurement of goods or works under a project of the procuring entity other than force account procedures prescribed under the Act and these Regulations.

(7) For the purpose of subregulation (6) and subject to regulation 167, a firm or agency dependent on a procuring entity shall be deemed to be part of the procuring entity.

(8) A tenderer who is declared ineligible by the Government in accordance with the Act or these

Regulations shall be ineligible to be awarded a public financed contract.

Equality of participation

6.-(1) A procuring entity shall, in order to ensure widest participation by tenderers on similar terms, in inviting tenders for goods, works, services or disposal of assets take the necessary measures to-

- (a) ensure publication of invitations to tender or to submit expression of interest or proposal in the electronic public procurement system;
- (b) eliminate discriminatory practices, technical specifications or description of services which may limit equal participation;
- (c) ensure that all selection criteria are specified in the tender documents or prequalification and request for proposal; and
- (d) ensure that selected tender conforms to the requirements of the tender documents and meets the prescribed selection criteria.

(2) Except for the purposes of regulations 38 and 45, a procuring entity shall not impose qualifications, terms or procedures which discriminate tenderers on the basis of nationality, or whose purposes are invalid.

Eligibility to participate in tender
GN. NO.
42 of 2025
reg. 4

7.-(1) Unless otherwise specified in these Regulations, participation in procurement tenders for goods, works, service and disposal of assets shall be transparent and conducted equally to-

- (a) natural persons, firms or public or semi-public agencies, of Tanzania and foreign countries;
- (b) cooperative societies, community-based organisations, special groups, civil society organisations, farmers' associations and other legal entities governed by public or private law; and
- (c) association, joint venture or consortium of firms.

(2) A tenderer shall be permitted to participate in procurement proceedings of goods, works, services and

disposal of assets without regard to nationality, except in cases where a procuring entity decides, on grounds specified in these Regulations or according to the provisions of any written law, to limit participation in procurement proceedings on the basis of nationality.

(3) A procuring entity which limits participation on the basis of nationality pursuant to subregulation (2) shall include in the records of the tender process, a statement of the grounds and circumstances on which it relied in making the limitation.

(4) A procuring entity shall, when soliciting participation of tenderers in the procurement proceedings of goods, works, services and disposal of assets, declare to a foreign tenderer that, it may participate in the procurement proceedings regardless of nationality and such a declaration shall not later be altered.

(5) An eligible tenderer shall submit to the procuring entity evidence of his professional and technical eligibility, professional and technical capacity, adequacy of financial resources, equipment and other facilities, capacity of supervision, integrity, experience and reputation and adequacy of personnel to implement the contract effectively.

(6) A tenderer shall, for purposes of participating in the procurement proceedings of goods, works, services, disposal of assets or being awarded a contract-

- (a) be legally qualified to enter into a contract for procurement of goods, works, services or disposal of assets;
- (b) have ability to pay debts and not be under the trusteeship of any legal entity, under insolvency, bankrupt, debarred or suspended from his business;
- (c) not be subject to legal proceedings for any reason set forth in this regulation or under an order suspending payment which may result, in accordance with the national laws, in being declared bankrupt or in any case involving the total or partial loss of the right to

administer a contract for procurement of goods, works, services or disposal of assets;

(d) not be subjected to suspension of payment in accordance with a court judgment other than a judgment declaring bankruptcy or insolvency and resulting, in accordance with the national laws, in the total or partial loss of the right to administer a contract for procurement of goods, works, services and disposal of assets;

(e) not have been convicted of any criminal offence relating to professional conduct, making false statement or misrepresentation on qualification to enter into a procurement contract within a period of ten years prior to the commencement of the procurement process of goods, works or services or within a period of five years prior to the commencement of the process of disposal of assets;

(f) not have breached a contract for procurement of goods, works, services or disposal of assets entered into by the relevant procuring entity or other procuring entities;

(g) not have been debarred pursuant to section 72 of the Act or disqualified pursuant to section 108(7) of the Act; and

(h) have been proved that he has never failed to comply with duty to pay taxes and social security contributions or to comply with terms of employment, environmental conservation, health and safety, where necessary.

(7) Subject to the right of tenderers to protect their intellectual property or trade secrets, a procuring entity may require tenderers participating in the procurement proceedings of goods, works, services or disposal of assets to submit written evidence or other information as it may consider necessary to satisfy itself

that the tenderers are qualified in accordance with the provisions of subregulation (6).

(8) Any requirement established pursuant to this regulation shall be set out in the pre-qualification documents, if any, and in the tender documents or other documents for solicitation of proposals, offers or quotations, and shall apply equally to all tenderers.

(9) A procuring entity shall evaluate the qualifications of tenderers in accordance with the qualification criteria and procedures prescribed in the pre-qualification documents, if any, and in the tender documents or other documents for solicitation of proposals, offers or quotations.

(10) A procuring entity shall not impose a criteria, condition or procedure with respect to the qualifications of tenderers other than those provided for in this regulation.

(11) A tenderer who is a citizen of Tanzania may tender independently or in joint venture with a foreign firm save that a joint venture or other form of association between local and foreign companies shall not be mandatory.

(12) Where a tender document allows a tenderer to submit a tender as part of an association, joint venture or consortium of firms, the tender document shall state, if required, that-

- (a) a party to an association, joint venture or consortium of firms shall be jointly and severally liable for the performance of the contract;
- (b) a party to an association, joint venture or consortium of firms shall be eligible to participate in the procurement or disposal of assets by tender and where one party is deemed ineligible, the whole association, joint venture or consortium shall be declared ineligible;
- (c) a copy of the agreement or proposed agreement, of an association, joint venture or consortium, shall be required to be submitted

as part of the tender or as a condition of contract effectiveness;

- (d) the association, joint venture or consortium shall appoint a lead member who shall have the authority to bind the association, joint venture or consortium and the lead member shall at the time of contract award confirm the appointment by submission of a power of attorney to the procuring entity;
- (e) any tender from an association, joint venture or consortium shall indicate the part of the contract proposed to be implemented by each party, and each party shall be evaluated, pre-qualified or post-qualified with respect to its contribution; or
- (f) the responsibilities of each party in the paragraph (e) shall not be altered without the prior written approval of the procuring entity.

(13) A tender to be submitted shall contain the following information:

- (a) original documents defining the constitution or legal status, and establishing the place of registration, or statutory seat and if it is different, the place of central administration of the firm or each party of the joint venture constituting the tenderers;
- (b) details of experience and past performance of the tenderer or of each party to the joint venture in contracts of a similar nature including details of participation in each such contract;
- (c) where applicable, the major items of equipment proposed for use on the implementation of the contract, the qualifications and experience of the key personnel proposed for the administration and implementation of the contract, both at and away from the place of implementation of the contract;

- (d) proposals relating to the nature, conditions and modalities of sub-contracting wherever the sub-contracting of any elements of the contract amounting to more than ten per cent of the tender price is envisaged;
- (e) reports on the accounting and financial standing of the tenderer or of each party to a joint venture such as profit and loss statements, balance sheets and auditor's reports, an estimated financial projection for the next two years, and an authority from the tenderer or authorised representative of the association to seek references from the tenderer's bankers;
- (f) information regarding any current legal or arbitration proceedings or dispute in which the tenderer is involved, provided that the information referred to shall be confined to matters of direct interest to the award or implementation of the contract.

Participation of local and foreign tenderers in procurement proceedings

8.-(1) A local tenderer who participates in procurement proceedings shall comply with all registration requirements set by the relevant statutory bodies

(2) The provisions of subregulation (1) shall not apply to a foreign tenderer participating in procurement proceedings.

(3) Where, as result of procurement proceedings, any foreign tenderer is selected as the lowest evaluated tenderer, such tenderer shall be required, in addition to the conditions for registration in the relevant professional body, to comply with post-qualification criteria under regulation 231.

(4) A foreign tenderer shall, prior to signing a procurement contract, be registered or submit evidence of possession of qualifications to be registered with the relevant professional body.

Donor funded procurement

9.-(1) In dealing with donor funded procurement, the procuring entity shall observe the provisions of section 4(1) of the Act.

(2) A procuring entity shall not seek clearance of tender documents or award recommendations from a foreign government, agency or institution that extended the loan, credit or grant before obtaining internal clearance of the same from an appropriate approving authority.

(3) Where there is a conflict between the clearance or approval of the appropriate internal approving authority and the clearance or approval of the external approving authority arising out of the loan, credit or grant agreement, the clearance or approval of the external approving authority shall prevail to the extent of the conflict, save that where there is no conflict, the clearance or approval of the appropriate internal approving authority shall prevail.

Means of communication

10.-(1) Subject to the provisions of these Regulations, communication between tenderers and procuring entities shall be in writing through the electronic public procurement system.

(2) All communications to a tender board shall be addressed to the secretary of the tender board.

Electronic public procurement system

11.-(1) Subject to section 73 of the Act, a procuring entity shall undertake procurement, supply and disposal of assets proceedings specified in these Regulations through the electronic public procurement system.

(2) The Authority shall ensure the electronic public procurement system has sufficient modules to carry out all procurement, supply and disposal of assets proceedings in accordance with the Act and these Regulations.

(3) A user of the system shall be required to register in the electronic public procurement system by providing all required information and complying with

the security requirements and any other technical and operational guidelines issued by the Authority.

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(4) A user of the system shall be required to comply with requirements relating to beneficial ownership specified in the Companies Act.

(5) Where any fraudulent information is found or any document submitted by a user of the system is found to contain false information and the system user has not corrected the said information, his account shall be suspended or closed and appropriate action shall be taken in accordance with law.

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(6) A user of the system shall use a digital signature in accordance with the procedure stipulated by the Authority pursuant to the Electronic Transactions Act.

(7) The Authority shall establish a procedure for verification of qualifications of a system user, which may require the submission of original documents where electronic verification cannot be completed.

(8) The registration of a system user shall be completed after-

- (a) proof of qualification is completed;
- (b) the registration fees set forth in the First Schedule is paid; and
- (c) the user is approved by the Authority.

(9) The user of the system shall be responsible to ensure confidentiality of all information relating to his account and shall be accountable for all undertakings involving the use of his account in the electronic public procurement system.

(10) Registration may at any time be cancelled due to violation of any terms and conditions of the system use.

(11) For the purpose of this regulation, “user of the system” means procurement entity, prospective tenderers, system supervisors, inspectors, development partners, banks and financial institutions, civil society organisations and any group authorised by the Authority for purposes of the use of the electronic public procurement system.

Clarification and modifications of tender documents

12.-(1) A tenderer may request clarification of the tender documents from the procuring entity, provided that such request is submitted to the procuring entity at least-

- (a) in the case of competitive tendering methods, three days prior to the deadline for submission of the tenders; and
- (b) in the case of non-competitive tendering methods, two days prior to the deadline for submission of the tenders.

(2) A procuring entity shall, within two working days after receiving the request for clarification, communicate in writing to all tenderers to which the procuring entity has provided the tender documents without identifying the source of the request so as to enable the tenderers to take into account the clarification received in the preparation of their tenders.

(3) At any time prior to the deadline for submission of tenders, the procuring entity may, for any reason, whether on its own initiative or as a result of a request for clarification by a tenderer, modify the tender documents by issuing an addendum.

(4) The addendum shall be promptly communicated to all tenderers to whom the procuring entity has provided the tender documents and shall be binding on those tenderers, provided that the procuring entity may extend the tender period if deemed necessary.

(5) Where it is decided to extend the submission date, the notice of any extension of the deadline shall be given promptly to tenderers to which the procuring entity provided the tender documents.

Documentary evidence provided by tenderers

13. Where a procuring entity requires the authentication of documentary evidence provided by tenderers to demonstrate their qualifications in procurement or disposal of asset proceedings, the procuring entity shall not impose any requirements as to the authentication of the documentary evidence other than those provided for in the relevant written laws.

Record of
procurement or
disposal
proceedings

14.-(1) A procuring entity shall maintain and ensure the availability of record of the procurement or disposal of assets proceedings containing at a minimum the following information:

- (a) a brief description of the goods, works or services to be procured, or of assets to be disposed of;
- (b) the names and addresses of tenderers who were pre-qualified, short listed or selected and invited to submit tenders including the procedure used to select them;
- (c) the names and addresses of tenderers who submitted tenders and the names and addresses of the tenderers with whom the procurement or disposal contract is entered into and the contract price;
- (d) information relating to the qualifications, or lack thereof, of tenderers that submitted tenders;
- (e) the price, valuation of assets or the basis for determining the price, and a summary of the other principal terms and conditions of each tender and of the procurement contract and disposal of assets, where these are known to the procuring entity;
- (f) a summary of the evaluation and comparison of tenders, including the application of any margin of preference pursuant to these Regulations;
- (g) where all tenders are rejected in accordance with the requirements of the Act and these Regulations, statements to that effect and the grounds thereof pursuant to section 68 of the Act;
- (h) where procurement proceedings, selection or disposal of assets did not result in a procurement or disposal contract, a statement to that effect and of the grounds thereof;

- (i) information required for rejection of a tender in accordance with section 108(2) of the Act;
- (j) method of selection, grounds and circumstances used to justify selection of methods of procurement pursuant with the provisions of these Regulations;
- (k) a statement of the grounds and circumstances relied on by the procuring entity to limit the procurement or selection proceedings where the procuring entity has set a limit on participation on the basis of nationality;
- (l) a summary of-
 - (i) any request for clarification of pre-qualification, request for expression of interest or tender documents; and
 - (ii) response to the requests and any modifications of those documents under subparagraph (i); and
- (m) a summary of all complaints lodged by the tenderers before the award of the contract and the decisions thereof.

(2) The record referred to subregulation (1)(a) and (b) shall be made available through electronic public procurement system.

(3) The part of record referred to subregulation (1)(c) to (i) shall be made available at the request of the tenderer who submitted the tender or who requested to participate in the pre-qualification, or any other user of such information within five working days after-

- (a) a tender has been accepted; or
- (b) termination of procurement or disposal proceedings without contract for procurement or disposal of assets.

(4) A procuring entity shall not disclose information referred to subregulation (1)(d) to (e) except when ordered by the Authority, Appeals Authority or a competent court subject to the conditions of such order, and where-

- (a) the disclosure of such information would-
 - (i) be contrary to law;

- (ii) impede law enforcement;
- (iii) not be in the public interest;
- (iv) prejudice legitimate commercial interests of the parties; or
- (v) inhibit fair competition; or

(b) the information relates to the examination, evaluation and comparison of tenders and tender prices, other than the summary referred to subregulation (1)(f).

(5) Subject to section 71 of the Act, records under this regulation shall be kept for a period of not less than five years from the date of completion of the contract and may be made available within a reasonable time during that period to the Minister and the Controller and Auditor-General, the Authority or any other officer authorised by the accounting officer:

Provided that, where special circumstances demand, such records may be kept for not less than seven years.

(6) A procuring entity shall not be liable to tenderers for damages owing solely to a failure to maintain a record of the procurement proceedings pursuant to these Regulations.

Rejection of tenders

15.-(1) Subject to the provisions of section 68 of the Act, and notwithstanding the stage of tender process reached, where all tenders have been rejected or the selection proceedings have been annulled, all tenderers who submitted tenders shall be notified by the procuring entity within seven days from the date of such decision.

(2) The procuring entity shall not incur any liability solely by virtue of rejecting the tenders or annulling the selection process of tenderers who submitted tenders.

Rejection of abnormally low tender

16.-(1) A procuring entity may reject a tender if it considers it to be of abnormally low price in relation to the implementation of procurement and raise concerns as to the ability of the tenderer that submitted the tender to perform the procurement contract.

(2) Before rejecting an abnormally low tender, a procuring entity shall-

- (a) request for explanation of the tender or of those parts which it considers contribute to the tender being of abnormally low price;
- (b) take into account the evidence provided in response to a request under paragraph (a); and
- (c) verify the tender or parts of the tender with abnormally low price.

(3) The decision of the procuring entity and grounds thereof to reject a submission of tender pursuant to this regulation, shall be recorded in the procurement proceedings and promptly communicated to the tenderer concerned.

(4) The procuring entity shall not be liable to tenderers whose tenders have been rejected under subregulation (1).

(5) For the purposes of this regulation, “tender with abnormally low price” means a tender which, according to the estimates of the procuring entity and of all tenders submitted, the tender appears to be of abnormally low price by not providing a margin for normal level of profit.

Publication of general tender notice

17.-(1) A procuring entity intending to procure goods, works or services shall prepare a general tender notice based on its annual procurement plan and the accounting officer shall publish it through electronic public procurement system after obtaining an approval from the budget approving authority.

(2) The general tender notice shall indicate the name of the procuring entity, total estimated budget, tender number, tender descriptions, tender category, procurement method, selection method, source of fund and contract nature.

(3) Any modifications made by the procuring entity to the general tender notice shall be approved by the accounting officer and published in the electronic public procurement system.

Publication of specific tender notice

18.-(1) Procuring entities shall prepare a specific tender notice for national and international tenders and publish in the electronic public procurement system.

(2) In addition to the use of the electronic public procurement system under subregulation (1), a procuring entity may, where it considers appropriate, publish the tender notice through other means of publications including the procuring entity's website, Journal, notice boards, local or foreign newspapers, professional or trade journals for the purpose of reaching a wider range of qualified tenderers:

Provided that, the entire tender process shall be conducted through the electronic public procurement system in accordance with the provisions of the Act and these Regulations.

(3) A procuring entity may, in the case of an international tender, publish the notice in foreign or international publications, or professional or trade journals which are likely to be seen by the greatest number of potential tenderers.

Publication of contract awards and contract implementation reports

19.-(1) A procuring entity shall publish in the electronic public procurement system the contract award in respect to any procurement made without regard to the procurement method used.

(2) Subject to subregulation (1), the contract award shall be in the form provided by the Authority and shall include-

- (a) the name of the successful tenderer;
- (b) the value of the contract;
- (c) the date of an award;
- (d) the descriptions of tender; and
- (e) tender number.

(3) A procuring entity shall, from the date of the commencement of implementation of the contract, place in the electronic public procurement system information concerning implementation of the contract.

Fees for services rendered by Authority

20.-(1) The Authority shall collect fees and charges for services rendered as prescribed in the First Schedule.

(2) The Minister may, where there is public interest, and after receiving recommendations and advice of the Authority, grant to a procuring entity exemption from payment of the fees and charges as specified in these Regulations.

Description of goods, works, services or assets

21.-(1) Any terms, specifications, plans, drawings and design prescribing-

- (a) technical or quality characteristics of goods, works or services to be procured;
- (b) requirements on testing methods and tests, packaging, marking or labelling or conformity certification;
- (c) symbols and terminology; or
- (d) description of services,

which create obstacles to participation, including obstacles based on nationality of tenderers in the procurement proceedings, shall not be included or used in pre-qualification documents, tender documents or other documents for solicitation of tender.

(2) Any terms, specifications, plans, drawings, design and requirements or descriptions of goods, works or services shall be based on the objective, technical and quality characteristics of goods, works or services to be procured in conformity with the established and approved standards.

(3) Where no other precise or intelligible means is provided to describe the characteristics of the goods, works or services to be procured, the words “or equivalent” shall be used.

(4) Where there are no standards specified and approved, reference to a particular trademark, name, patent, design, type, source or specific producer shall not be issued.

(5) The comparative qualifications, requirements, symbols and terminology relating to technical and quality characteristics of the goods, works

or services to be procured shall be used, where available, in formulating any statement of requirements, specifications, plans, drawings and designs to be included in the pre-qualification documents, tender documents or other documents for solicitation of tenders, offers or quotations.

(6) The procuring entity shall use the standardised goods trade terms, where available, in formulating the terms and conditions of the procurement contract to be entered into as a result of procurement proceedings and in formulating other relevant aspects of the pre-qualification documents, tender documents or other documents for solicitation of tenders.

(7) Tender documents or notices for disposal of assets by tender, and any additional information made available to a prospective tenderer shall specify that the assets shall be sold on "as is, where is" basis and shall disclaim the liability after sale.

(8) Notwithstanding subregulation (7), a procuring entity shall provide a complete and accurate description of an asset to be disposed of.

(9) The description of an asset shall, where appropriate, state the risks and cost of dismantling and removing assets upon completion of the disposal of asset proceedings.

Approved
standards for
Government use

22.-(1) The standard of goods, works or services used by the Government in various categories shall be prepared and approved by the relevant authorities responsible for setting standards for use by the procuring entity during procurement of such goods as prescribed in the Second Schedule.

(2) The authorities specified under subregulation (1) shall before or by 31st May, and on or before 30th November, of each financial year, prepare and publish a list of updated standards of goods, works and services in the electronic public procurement system.

(3) The Authority may, require authority governing goods not specified in the Second Schedule to prepare and publish in the electronic public procurement

system a list of the standard of goods, works or services for the use of the procurement entity.

(4) Procuring entity shall, in procuring of goods, works or any services specified in Second Schedule, comply with the standards of specified goods published through the electronic public procurement system.

(5) Where certain goods are to be procured without observing the approved standards, the procuring entity shall request for approval from the Authority after obtaining the required standards from the relevant authorities responsible for setting the standards.

(6) For the purposes of this regulation, “standards” means a set of established specifications, qualifications, requirements or guidelines that describe the type, design, quality, capacity, safety and similarity of goods, works and services as specified for the purposes of public procurement.

Tender security
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23.-(1) Where the procuring entity requires tenderers submitting tenders to provide a tender security-

- (a) the requirements shall apply to all tenderers;
- (b) the tender documents shall stipulate that the issuer of the tender security and the confirmer, if any, of the tender security, and the form and terms of the tender security, have to be acceptable to the procuring entity; and
- (c) the confirmation of the acceptability of the proposed issuer or of any proposed confirmer shall not preclude procuring entity from rejecting the tender security on the grounds that the issuer or confirmer as the case maybe, has become insolvent or otherwise lacks credit worthiness.

(2) Notwithstanding the provisions of subregulation (1)(b) and unless the acceptance by the procuring entity of the tender security would be in violation of the laws of Tanzania, a procuring entity shall not reject the tender security on the grounds that the tender security was not issued by an issuer in Tanzania if

the tender security and the issuer otherwise conform with the requirements prescribed in the tender documents.

(3) Prior to the tender submission, a tenderer may request the procuring entity to confirm the acceptability of the proposed issuer of the tender security or the proposed confirmee, and the procuring entity shall respond promptly to such request.

(4) The tender security or bid securing declaration shall be in accordance with the security form of the tender or bid securing declaration included in the tender documents or any other form approved by the procuring entity prior to the submission of the tender.

(5) The tender security, as the tenderer may deem appropriate, shall be in the form of a certified cheque, letter of credit, bank guarantee from a reputable bank or insurance bond from a reputable insurance company as prescribed in the Third Schedule.

(6) The procuring entity shall specify, in the tender documents, any requirements with respect to the issuer and the nature, form, amount and other principal terms and conditions of the required tender security.

(7) Any requirement that refers directly or otherwise to conduct by a tenderer submitting the tender shall not relate to conduct other than-

- (a) withdrawal or modification of tenders after the deadline for submission of tenders, or before the deadline, if prescribed in the tender document;
- (b) disagreement with arithmetical corrections made in the tender price;
- (c) failure to sign a procurement or disposal of asset contract if required to do so by the procuring entity;
- (d) the failure to submit the required security for the implementation of contract or to comply with any other previous terms for the signing of procurement or disposal of asset contract prescribed in the tender documents.

(8) Tenderers shall be allowed to submit bank guarantees issued directly by banks of their choice, or

insurance bond issued directly by a company of their choice located in any country which shall be verified or certified by recognised local banks or insurance companies.

Validity of tender security or declaration

24. The tender security or bid securing declaration shall remain valid for a period of not less than twenty eight days beyond the tender validity period, in order to provide the procuring entity time to act if the security is called for.

Release of tender security for unsuccessful tenderers

25. The tender securities of unsuccessful tenderers shall be released within a period of not more than thirty days after expiry of tender validity period, or as extended where appropriate subject to the provisions regulation 201, or after issuance of award of contract, whichever comes first.

Discharge of tender security for successful tenderer

26. The tender security or bid securing declaration of the successful tenderer shall be discharged when the tenderer has submitted the performance security of a contract required in accordance with the requirements of procuring entity or has signed the contract.

Application of bid securing declaration

27.-(1) The bid securing declaration shall apply in the procurement-

- (a) where the value does not exceed the threshold of the exclusive preference as prescribed in the Fourth and Fifth Schedules; and
- (b) under framework agreement.

(2) Subject to the provisions of these Regulations, the bid securing declaration may apply in direct procurement from manufacturers, agents or wholesalers.

(3) The bid securing declaration to be used in this regulation shall be in Form No. 1 prescribed in the Third Schedule and shall be signed by the respective tenderers.

(4) Any tenderer who fails to meet the conditions of bid securing declaration shall be debarred pursuant to section 72 of the Act.

No claim to tender security amount

28. The procuring entity shall not claim the amount of the tender security and shall promptly return the tender security document issued, upon any of the following:

- (a) the expiry of the tender security;
- (b) the entry into force of the procurement contract and the provision of a security for the performance of the contract if such a security is required by the tender documents;
- (c) the rejection of all tenders by the procuring entity pursuant to these Regulations; or
- (d) withdrawal of tender prior to the deadline for submission of tenders, unless the tender documents stipulate that such withdrawal is not permitted.

Performance security

29.-(1) The procuring entity shall require the successful tenderer to submit a performance security in order to guarantee effective implementation of the contract.

(2) The procuring entity shall specify in the tender documents any requirement with respect to the issuer and the nature, form, amount and other principal terms and conditions of the required performance security.

(3) Within the period prescribed in the tender documents, the successful tenderer shall, upon receipt of the contract award letter and prior to the signing of the contract, furnish the procuring entity with performance security in accordance with the conditions of the contract and in the form prescribed in the tender documents.

(4) The procuring entity may require the successful tenderer to submit performance security in any of the following form:

- (a) cash, certified cheque, cashier or manager's cheque, or bank loan;

- (b) an irrevocable letter of credit issued by a reputable commercial bank or in the case of an irrevocable letter of credit issued by a foreign bank, the letter shall be confirmed or authenticated by a reputable local bank;
- (c) a bank guarantee confirmed by a reputable local bank or, in the case of a successful foreign tenderer, bonded by a foreign bank;
- (d) surety bond callable upon demand issued by any reputable surety or insurance company;
- (e) securing declaration of contract performance in accordance with the guidelines of the Authority; or
- (f) other types of performance securities subject to the guidance of the Authority.

(5) Prior to the signing of the contract, the procuring entity shall verify the accuracy of the performance security submitted, and for that purpose, the Authority may provide mechanism for the implementation of this subregulation.

(6) Where circumstances necessitate amendment of contract after signature, and the amendment is effected, the procuring entity shall require the successful tenderer or consultant to provide an additional performance security to satisfy any cumulative increase of more than ten percent of the contract price.

(7) The performance security shall be kept by the procuring entity until the final completion of contract and shall be released after issuance of the certificate of acceptance of final contract performance report or certificate of completion of works or services and if there is no claim filed against the tenderer, the contract guarantor or the surety company.

Application of
performance
securing
declaration

30.-(1) Performance securing declaration shall apply to all tenders which fall within threshold of the regional exclusive preference prescribed in the Fourth and Fifth Schedules.

(2) Notwithstanding subregulation (1), performance securing declaration may, if circumstances

require, be used in the procurement direct from manufacturer or agent or in procurement from public institutions.

(3) The performance securing declaration to which this regulation applies shall be in Form No. 2 set out in the Third Schedule and shall be signed by the respective tenderers.

(4) Any tenderer who fails to meet the requirements of performance securing declaration shall be debarred pursuant to section 72 of the Act.

Price capping

31.-(1) The Authority shall prepare, maintain and update as it deems appropriate, information on price capping for goods, works, services which have set price ceilings in public procurement.

(2) In preparing price caps, the Authority shall, in collaboration with the relevant public institutions, conduct market price survey for standardised goods, works and services for the purpose of ascertaining the prevailing market price.

(3) The price caps obtained shall be made available in the electronic public procurement system and may be applied according to the zones, regions and district as may be determined by the Authority.

(4) Price caps for standardised goods, works and services prepared and maintained by other relevant mandated public institutions shall be made available in the electronic public procurement system by such institutions immediately after its preparation for use in the tendering process.

(5) The Authority shall use the standard and technical specifications of goods, works and services uploaded in the electronic public procurement system by the mandated public institutions, as a basis for establishing price caps for goods, works and services.

(6) The price caps prepared and uploaded in the electronic public procurement system shall not be disclosed to the tenderers, and if the quoted price is higher than the set price cap, that tender shall be rejected through the electronic public procurement system.

(7) During evaluation of tenders, the procuring entity shall take into account the price caps in the procurement of standardised goods, works and services, except where the price caps have not been provided for particular goods, works or services.

(8) In implementing the provisions of this regulation, the procuring entity shall adhere to the guidelines issued by the Authority.

(b) Preference and Exclusive Preference for Local Persons, Special Groups and Local Firms

Promotion of local industries

32.-(1) A procuring entity shall ensure that procurement undertaken aims at promoting domestic industries and support socio-economic development by considering-

- (a) the eligibility requirements for benefiting from the preference and reservation schemes;
- (b) the percentage of margin of preference, where applicable;
- (c) the type of goods, works and services set aside or reserved for particular groups; and
- (d) the means of measuring its effectiveness in achieving objectives.

Promotion of special groups

33.-(1) Without prejudice to regulation 35, and subject to section 64 of the Act, a special group shall be eligible for the preference scheme where it-

- (a) is registered and recognised by the relevant body responsible for special groups;
- (b) has been entered into a special group register of the Authority upon being submitted by the relevant body responsible for special groups;
- (c) has at least seventy percent membership of the members forming such special group and is governed entirely by the specific group in question; and
- (d) has necessary qualifications, capability, adequate resources, equipment and facilities

to procure goods, works and services that are intended to be procured.

(2) For the purpose of this regulation, the “relevant body responsible for special groups” includes a ministry, agency, Government entity, local government authority and department responsible for the development and empowerment of special groups.

Registration of special groups

34.-(1) A special group seeking to be granted an exclusive preference under these Regulations shall be registered by the relevant body responsible for special groups in a manner to be determined by it before being forwarded by such body to the Authority for the purpose of being registered in the list.

(2) The relevant body responsible for special groups shall, before issuing certificate of registration to the registered special groups, ensure that it offers necessary training for the better carrying out of their functions.

(3) The Authority may request details of the special groups for the purpose of verifying their eligibility for exclusive preference scheme.

(4) A procuring entity shall not award a contract to a special group which is not registered in the list of the Authority.

Exclusive preference to special groups

35.-(1) The procuring entity shall grant an exclusive preference of thirty percent in its annual procurement of goods, works, and services to special groups within its locality.

(2) Subject to subregulation (1), the procuring entity shall provide reasons for its failure to meet the exclusive preference requirements.

(3) The threshold for tenders to be granted to special groups shall not exceed the value of the quotation of goods, works, non-consultancy services and individual consultancy services prescribed in the Sixth and Seventh Schedules.

(4) A procuring entity which grants preferences to special groups shall comply with the guidelines issued by the Authority.

(5) An accounting officer who contravenes this regulation shall be subject to disciplinary action by the relevant authority.

Payment to special groups

36.-(1) For the purpose of ensuring sustainability of special groups, such groups shall be timely paid for completed contracts.

(2) Subject to subregulation (1), a procuring entity shall ensure that it allocates or commits funds for the purpose of payment prior to procurement proceedings.

Eligibility for preference for local people and firms

37. A person or firm shall be eligible to benefit from preference schemes if such person or firm meets the criteria prescribed in section 56(4) of the Act and-

- (a) has the qualifications, capability, experience and, where appropriate, the resources, equipment and facilities necessary to supply the goods, works or services intended to be procured;
- (b) has a legal capacity to enter into procurement contract;
- (c) is not insolvent, under receivership, bankrupt or is in the process of being wound up, and is not the subject of any legal proceedings related to any subject matter under this paragraph; and
- (d) is not debarred from participating in procurement proceedings under section 72 of the Act.

National preference

38.-(1) A procuring entity shall, when procuring goods, works or services by means of international and national competitive tendering, grant a margin of preference to local firms or association between local and foreign firms participating in the tendering process for the procurement of goods, works or services and for

certain goods manufactured, mined or produced in the United Republic.

(2) Tenderers who are Tanzanian citizens or association between local and foreign firms, shall be granted preference as stipulated in subregulation (1) provided that they meet the criteria provided under section 56 of the Act.

(3) The procuring entity shall grant a preference margin up to ten percent for local firms or association between local and foreign firms as prescribed in the Fourth Schedule, where contracts for works, consultancy services or non-consultancy services are awarded by means of national or international competitive tendering where foreign firms are participating.

(4) The Authority in consultation with the relevant stakeholders, shall prepare guidelines on the implementation of conditions for preference to local persons and firms.

Entering into joint venture

39.-(1) Tenderers may, for the purpose of obtaining preference in public procurement tenders, enter into joint venture.

(2) The joint venture may be entered between local firms only or local and foreign firms.

(3) Subject to subregulation (2), a local firm entering into a joint venture with a foreign firm shall hold not less than fifty-one percent of the paid-up share capital of the firm and fifty percent in the provision of the required expertise in the execution of the contract.

(4) In the tender process involving a local firm which has entered into a joint venture with a foreign firm, the local firm shall be required to submit in the tender documents evidence to prove the amount of the paid-up share capital of the firm in order to verify whether the firm qualifies to be a local firm eligible for preference.

(5) The joint venture entered shall, among other things, specify the allocation of human and financial resources and the obligation of each party.

(6) Subject to subregulation (5), the allocation of financial resources to the local firm shall not be less than fifty percent of the total contract price.

(7) In any contract for joint venture between a local firm and a foreign firm, it shall not be permitted to violate the terms agreed by the parties, and where any violation is determined, appropriate measures shall be taken against the parties involved, including the termination of the contract.

(8) Any joint venture contract entered into between a foreign firm and a local firm shall be part of the procurement contract to be entered.

(9) The joint venture agreement to be entered shall conform to the form prescribed in the guidelines which may be issued by the Authority.

(10) Subject to subregulation (3), where the value of the procurement of works or non-consultancy services exceeds fifty billion shillings, a foreign tenderer participating in the tendering process shall be required to enter into a joint venture with a local firm.

Entering into sub-contract
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reg. 6

40.-(1) A foreign firm may, for the purpose of obtaining preference in public procurement tenders, subcontract a local firm.

(2) Procedures for obtaining a tenderer under a sub-contract shall be in accordance with the provisions prescribed under regulation 247.

(3) A procuring entity shall provide the margin of preference of up to six percent for a foreign firm which shall subcontract a local firm as prescribed under the Eighth Schedule.

(4) Where a contract in respect of procurement required to be undertaken based on preference to local firms is awarded to a foreign tenderer, such tenderer shall subcontract a local firm to the extent not exceeding thirty percent and not less than five percent of whole contract value.

(5) Any subcontract entered between a foreign firm and local firm shall be part of a procurement

contract entered between a procuring entity and foreign firm.

(6) Where procurement value of works or non-consultancy services exceeds fifty billion shillings, a foreign tenderer who is awarded a contract shall be required to subcontract local firms.

Entering into
partnership
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reg. 7

41.-(1) Foreign tenderers may, for the purpose of obtaining preference in public procurement tenders, enter into joint venture with local tenderers.

(2) Subject to subregulation (1), a local tenderer entering into a joint venture with a foreign tenderer shall hold not less than fifty-one percent of the paid-up share capital in the joint venture and not less than fifty percent in the provision of the required expertise for the execution of the contract.

(3) In the tender process where a local tenderer has entered into a joint venture with a foreign tenderer, the local tenderer shall be required to submit in the tender documents evidence proving the amount of paid-up share capital in order to verify whether the said joint venture is eligible for preference.

(4) The joint venture entered shall, among other things, prescribe the allocation of human resources, finances, and the obligation of each party to the joint venture.

(5) Subject to subregulation (4), the allocation of financial resources shall not be less than fifty percent of the total contract price.

Inclusion of local
firms and experts
in consultancy
contracts
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reg. 8

42.-(1) Subject to section 58 of the Act, in all consultancy works to be conducted by foreign firms, the procuring entity shall ensure the inclusion of local experts and local firms in those works.

(2) A procuring entity shall include in the tender documents the requirement for inclusion of local experts or local firms in consultancy works.

(3) Where a foreign firm enters into a joint venture with a local firm, the local firm shall have a paid-

up share capital wholly owned by citizens of the United Republic as prescribed in section 63 of the Act.

(4) Subject to subregulations (1) and (2), a foreign firm awarded a consultancy contract shall ensure that not less than fifty percent of the required experts or key personnel needed for execution are Tanzanians, except where evidence of unavailability of the required expertise in the country is provided.

(5) A foreign firm performing a consultancy contract shall be required to employ supporting staff as specified in the tender documents, who shall be Tanzanians.

(6) Where a local staff or expert employed in the consultancy work has been substituted for any reason, his position shall be filled by a local expert.

(7) In a consultancy contract between a procuring entity and a foreign consultant who has entered into a joint venture with a local firm, the allocation of financial resources to the participating local company shall not be less than fifty percent of the total contract price.

(8) Any joint venture contract or sub-contract entered into between a foreign firm and a local firm shall be part of the procurement contract to be entered between the procuring entity and the foreign consultant.

(9) Subject to section 58(3) of the Act, calculation of the highest weight of the financial tender scores shall follow the following requirements:

- (a) from the weight allocated for the calculation of the financial tender scores, five percent shall be set aside to measure the ratio of cost and financial allocation between the foreign consultant and the local consultant;
- (b) if in the joint venture or subcontract, fifty percent of the financial tender indicates to be undertaken to the local consultant company, all the five percent allocated marks shall be awarded;
- (c) if the funds allocated for the local consulting firm in a joint venture or subcontract is less than fifty percent of the financial tender, the

five percent marks set aside under the provisions of paragraph (a) shall not be awarded in full, but shall be awarded proportionately to the percentage of funds allocated to the local firm compared to fifty percent, and the relevant ratio shall be multiplied by five percent to obtain the marks to be added to the overall weight scores of the financial tender;

- (d) the calculation of the weight of the financial tender in comparison to the financial tender ratio of other tenderers, shall take into account the specified weight limit of the financial tender minus the five percent of the provisions of paragraph (a); and
- (e) the highest score of the financial tender to be awarded to a successful tenderer is the total of the marks obtained from the five percent as per the provisions of paragraph (a) added to the marks obtained under the provisions of paragraph (d), or the marks of paragraph (d) added to the marks calculated using the provisions of paragraph (c).

(10) In any consultancy contract entered into by a foreign consultant, it shall not be permissible to violate the allocation of funds to local persons or firms to the extent specified in the financial tender, and if a violation is determined, appropriate measures shall be taken against the parties involved, including termination of the contract.

Preference of local goods

43.-(1) The procuring entity shall provide preference to the procurement of goods manufactured, mined, extracted or produced in the United Republic and related services, as prescribed in the Fourth Schedule.

(2) The procuring entity shall ensure that the procurement contract for goods to be entered specifies instructions requiring the tenderer of the goods to ensure that the goods to be delivered are manufactured,

produced, mined or extracted within the United Republic.

(3) The procuring entity shall ensure that the procurement contract for works or provision of services to be entered specifies instructions requiring the contractor or service provider to ensure that the goods procured for the works or provision of services are manufactured, produced, mined or extracted within the United Republic.

(4) The ministries responsible for matters of industry, commerce, energy and minerals shall prepare a list of goods manufactured, mined, extracted or produced within the United Republic, and such list shall be submitted to the Authority for publication in the electronic public procurement system for the use by procuring entities.

Applicability of margin of preference

44. The margin of preference shall be applied in the cost comparison of the submitted tender and the calculation of the margin of preference in the course of tender evaluation, and shall be in accordance with the provisions prescribed in the Fourth and Fifth Schedules.

Exclusive preference schemes to local persons or firms

45.-(1) The procurement of works, goods, consultancy services or non-consultancy services with a value not exceeding the amount prescribed in the Fourth and Fifth Schedules, shall be reserved exclusively for local persons or firms which meet the requirements of section 53 of the Act.

(2) A joint venture between a foreign and local firm in which the local firm's contribution to the joint venture is seventy-five percent shall be eligible for exclusive preference schemes.

(3) In applying exclusive preference to local contractors, consultants or service providers, a procuring entity shall ensure that the selected person or firm is capable of providing quality works or services.

Preference to local communities

46. A procuring entity shall set aside works, goods, consultancy services or non-consultancy services

with a value not exceeding the amount prescribed in the Fourth and Fifth Schedules for local firms that are located and operating in local government authorities or regions, except where there are no local firms capable of performing such works.

Splitting of tenders

47.-(1) A procuring entity may, for the purpose of ensuring maximum participation of local firms in public procurement, split tenders into practicable sizes and quantities pursuant to section 51 of the Act.

(2) A procuring entity shall split tenders into lots and invite firms to submit tenders for a single or several lots, and shall limit the award of contract to a number of lots per tenderer in order to allow many firms to participate.

(3) The size of the lots shall depend on the capacity of the local firms targeted to benefit from such scheme.

(4) A procuring entity shall submit to the Authority details of the tender that is targeted for splitting, and the Authority shall, within seven days, provide its approval to the procuring entity after receiving such details to proceed with the tender process.

Capacity building
of local persons
and firms
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48.-(1) Subject to the provisions of sections 57, 61 and 63 of the Act, a procuring entity shall be required to set aside not less than thirty percent of the value of annual procurement for tenders reserved for local persons and firms.

(2) A procuring entity shall specify in the annual procurement plan the tenders which are reserved for local persons and firms, and those tenders shall not be subjected to competitive tendering with foreign tenderers.

(3) Where local persons or firms lack the capacity to participate in tenders reserved for capacity building, such local persons or firms may enter into a joint venture or partnership with other local persons or firms.

(4) Where the joint venture or partnership entered under subregulation (3) lacks the capacity to participate

in tenders reserved for capacity building, that joint venture or partnership may enter into a joint venture or partnership with a foreign firm, and the contribution of the local person or firm joint venture or partnership shall not be less than seventy-five percent.

(5) The relevant statutory bodies shall ensure that necessary support is provided to the local persons and firms involved in the capacity building scheme to enable them to perform the contract.

(6) During the evaluation of tenders reserved for capacity building which have been submitted by a partnership or joint venture, the criteria related to experience, cash flow, annual turnover, experts and the value of projects performed shall be inclusive and shall not be measured in respect of one person or firm individually.

(7) Where a procuring entity specifies in the tender documents the criterion of submitting a statement of average annual turnover for a particular period, the information to be submitted by the tenderer shall not be less than twenty five percent of their tender price.

Practical training
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reg. 10

49.-(1) During the implementation of works contracts and consultancy services, contractors and consultants shall be required to provide practical training opportunities for professional graduates for purposes of capacity building in areas which the procuring entity shall specify in the tender document.

(2) Professional graduates shall be drawn from any practical training program recognised or supervised by the Government.

(3) Subject to subregulation (4), contractors and consultants shall be required to indicate in their tenders the number of professional graduates who shall be involved in the implementation of projects as well the areas for capacity building.

(4) During the procurement process and in the course of contract implementations, the professional graduates shall be given opportunities for practical training in the implementation of projects as follows:

- (a) for all works projects with a value less than one billion shillings, a minimum of three graduates shall be required;
- (b) for all works projects with a value exceeding one billion shillings, a minimum of five graduates shall be required;
- (c) if the works project involves a foreign firm, a minimum of ten professional graduates shall be required;
- (d) for advisory services, a minimum of two professional graduates shall be required.

(5) For non-consultancy services, where required, the service provider shall provide opportunities for practical training for a minimum of two professional graduates for the purpose of capacity building.

Payment on time

50.-(1) A procuring entity shall ensure that payments are timely made to tenderers in order to support the growth of local firms and enable such firms to fulfill their contractual obligations.

(2) The procuring entity shall, before signing a contract under a preference or reserved scheme, ensure that funds for the implementation of the contract have been set aside and approved.

Monitoring of compliance of law

51.-(1) The Authority shall monitor the implementation of the preference schemes of the procuring entity through procurement audits.

(2) All procurement awards made by procuring entities shall, where exclusive preference scheme was applied, be reported to the Authority.

(3) The Authority shall maintain a database of all contract awards under the preference scheme and shall publish the same in the Journal and the electronic public procurement system.

(c) Delegation of Procurement Authority and Handling of Disagreements

Delegation of procurement functions

52.-(1) Subject to the provisions of the Act and these Regulations, the accounting officer may in writing delegate some procurement, supply and disposal of assets functions-

- (a) of the accounting officer to the respective procurement officer of the procuring entity;
- (b) of the tender board or Procurement Management Unit to a sub-division of that entity;
- (c) of the tender board, Procurement Management Unit or user department to another procuring entity, agent of procurement or Agency.

(2) The accounting officer shall remain accountable for all decisions made under the delegated authority:

Provided that, the delegated officer shall not be absolved from liability for the actions undertaken in the implementation of the delegated functions.

(3) Where a function has been delegated, the accounting officer shall ensure the independence in the performance of the functions and powers in accordance with section 43 of the Act.

(4) The function may be delegated within or outside the procuring entity where it is cost effective due to the work load or nature of the work, lack of technical capacity or the organisational structure of the procuring entity does not allow the formation of a tender board or Procurement Management Unit.

(5) Delegation shall not be used for the purpose of avoiding responsibility and accountability under the Act, these Regulations or guidelines issued under the Act.

(6) A person, firm or procuring entity to whom a procurement function has been delegated shall at all times be required to comply with the Act, Regulations and guidelines issued under the Act and any conditions of the delegation.

Delegation of accounting officer's own functions

53.-(1) The accounting officer may delegate his functions in writing to an officer of the procuring entity except for the following functions:

- (a) establishment and appointment of members of the tender board;
- (b) establishment of the Procurement Management Unit;
- (c) handling of tenderers' complaints; and
- (d) submission of reports of findings in respect of complaints to the Authority.

(2) Where the functions of the accounting officer of a procuring entity have been delegated to a member of the tender board or staff of the Procurement Management Unit, such member or staff as the case may be, shall not be involved in the activities of the respective tender board or Procurement Management Unit while exercising the delegated authority.

(3) An accounting officer shall not appoint a person to the tender board if he delegates to that person his functions on a regular basis.

(4) A person to whom the functions of the accounting officer have been delegated shall perform the delegated functions according to the limitations prescribed by the accounting officer.

Delegation of tender board and Procurement Management Unit functions to sub-division of entity

54.-(1) Delegation under regulation 52(1)(b) shall take into account the threshold value or other special circumstances such as:

- (a) a procuring entity has a large procurement, supply or disposal of assets work load which would be effectively managed by the sub-division of the procuring entity;
- (b) a procuring entity has a specialised procurement, supply or disposal of assets work load which would be effectively managed by the sub-division of the procuring entity;
- (c) the sub-division of the entity is geographically distant from the head office of the procuring entity and a delegation would

reduce practical and logistical challenges or reduce cost;

- (d) the sub-division operates in practical terms as an independent entity and would operate more effectively under delegated authority; and
- (e) any other reasonable circumstances that may arise.

(2) Where the accounting officer delegates to a sub-division, he shall-

- (a) appoint a delegated tender board for the respective sub-division; and
- (b) cause to be established a delegated procurement management unit for the respective sub-division of the procuring entity.

(3) The delegated tender board appointed under subregulation (2)(a) shall consist of three or five members depending on the size of the procurement and the structure of the entity, whereas one of them shall be the chairperson.

(4) Where procurement, supply or disposal of assets functions have been delegated to a sub-division of the procuring entity, the tender board and the Procurement Management Unit shall-

- (a) ensure that the procurement, supply and disposal of assets proceedings for the delegated entities comply with the requirements of the Act;
- (b) submit to the accounting officer consolidated reports of all procurement, supply or disposal of assets activities of the procuring entity;
- (c) liaise with the Authority or any other body on behalf of the entity to which the procurement, supply or disposal of assets functions are delegated; and
- (d) advise the entity to which the procurement, supply or disposal of assets functions are delegated on all matters relating to procurement, supply and disposal of assets.

(5) The delegated tender board and Procurement Management Unit shall-

- (a) submit reports to the tender board of the procuring entity as may be required;
- (b) submit copies of minutes of all its meetings to the tender board of the procuring entity;
- (c) seek advice from the tender board or Procurement Management Unit of the procuring entity on all matters relating to public procurement, supply and disposal of assets by tender; and
- (d) request the tender board and Procurement Management Unit of the procuring entity to act on its behalf in matters requiring liaison with the Authority or any other body.

(6) The accounting officer shall not delegate the following functions of the Procurement Management Unit to a sub-division of the procuring entity:

- (a) preparing reports required for submission to the tender board or accounting officer;
- (b) providing overall guidance on the development of procurement and supply within the procuring entity;
- (c) making recommendations to the accounting officer regarding the delegation of functions;
- (d) coordinating the procurement, supply and disposal of assets activities of all departments of the procuring entity;
- (e) maintaining a list or register of all awarded contracts; and
- (f) planning and managing all procurement, supply and disposal of assets by tender processes of the procuring entity.

(7) The accounting officer may revoke the delegation of the authority through written instructions to the holder of delegated functions in the case-

- (a) the holder of delegated function is not complying with the Act, these Regulations, guidelines made under the Act and conditions of the delegation;

- (b) the circumstances prompting the delegation have changed;
- (c) there is allegation, proof or suspicion of malpractice; or
- (d) any other justifiable reason.

Procurement at lower levels of local government authorities

55.-(1) Subject to the provisions of regulations 52, 53 and 54, the accounting officer may delegate procurement authority to lower-level local government supervisors for the purpose of facilitating the performance of procurement undertakings.

(2) Procurement at the lower levels of local government shall be conducted pursuant with the guidelines to be issued by the Authority.

(3) For the purpose of this regulation, “lower levels of local government” means units of local government authorities that provide social and administrative services, which include health service delivery points, primary and secondary schools, ward, village and street offices which utilise public funds to carry out various public functions.

Delegation to another procuring entity

56.-(1) Subject to the provisions of the Act, the accounting officer may delegate all procurement, supply or disposal of assets by tender functions to another procuring entity-

- (a) where the procuring entity is unable to comply with the Act, these Regulations or guidelines due to its size or any other reason;
- (b) where the accounting officer determines that it would be more economical or efficient to delegate such functions; or
- (c) any other justifiable reason.

(2) The accounting officer may delegate part of the procurement, supply or disposal of assets functions by tender to another procuring entity where-

- (a) another entity has specialised knowledge, expertise or experience in the subject matter of the procurement, supply or disposal of assets by tender;

- (b) a requirement is subject to common procurement, supply or disposal by tender;
- (c) a project is jointly implemented;
- (d) it will be more cost effective or efficient to delegate the requirements; or
- (e) any other justifiable reasons.

(3) Where the procurement, supply or disposal of assets by tender function is delegated to another procuring entity, the accounting officers of the respective procuring entities shall agree on-

- (a) any function which may be excluded from the delegation in the case of delegation of entire procurement functions;
- (b) the type of requirements or projects to be covered under the agreement, in the case of partial delegation of procurement functions;
- (c) the mechanism for implementation of procurement, supply or disposal of assets by tender;
- (d) reporting, monitoring, procedures and responsibilities;
- (e) any limitations or exceptions to the contract; and
- (f) any costs to be paid.

(4) The agreement for delegation shall be evidenced in writing and signed by the accounting officers of the respective procuring entities.

(5) Where part of the procurement, supply or disposal of assets by tender functions have been delegated to another procuring entity, the institutional arrangements for the approval of the requirements shall be agreed upon by the accounting officers, and may include:

- (a) approval by the accounting officer or the tender board of the procuring entity initiating the requirements;
- (b) approval by the accounting officer or the tender board of the procuring entity to which the procurement, supply or disposal of assets by tender function has been delegated;

- (c) a condition that a representative of the tender board of the procuring entity initiating the requirements may observe or participate in the meetings of the tender board of the procuring entity to which the procurement, supply or disposal of assets by tender function has been delegated;
- (d) the requirement for joint tender board approval established by the respective procuring entities.

(6) The procuring entity shall furnish the Authority with a copy of the agreement entered between the respective procuring entities.

Procurement through agent

57.-(1) A procuring entity may procure the services of a procurement agent to perform all or part of the procurement, supply or disposal of assets by tender functions that would otherwise be performed by that procuring entity, provided that the procurement, supply or disposal of assets by tender functions shall be performed in accordance with this Act and these Regulations.

(2) A procuring entity may contract out any of the following procurement, supply and disposal of assets by tender functions to a procurement agent:

- (a) advising the user department on procurement, supply or disposal of assets by tender;
- (b) recommending the appropriate methods of procurement, supply and disposal of assets by tender;
- (c) preparing-
 - (i) a statement of requirements or terms of reference;
 - (ii) tender documents and any clarification or amendments thereto;
 - (iii) contract documents; and
 - (iv) amendments to the contract;
- (d) managing the tender evaluation process.

(3) A procuring entity may contract out the following contract management functions of a user department to a procurement agent:

- (a) contract management;
- (b) reporting to the Procurement Management Unit any departure from the terms and conditions of the awarded contract;
- (c) preparing contract amendments in accordance with the terms and conditions of the contract; and
- (d) certifying invoices for payments to consultants.

(4) The procuring entity shall-

- (a) be responsible for instructing any procurement agent that may be appointed to comply with the relevant provisions of this Act and these Regulations; and
- (b) authorise the procurement agent to act on its behalf to ensure that any procurement is reviewed and authorised by the appropriate approving authority before any contract is entered.

(5) The procuring agent shall, on behalf of the procuring entity, comply with the procurement procedures prescribed in these Regulations including the use of the standard tender documents and guidelines issued by the Authority.

(6) Where the procurement, supply, disposal of assets by tender or contract management functions have been contracted out to a procurement agent, the accounting officer and the procurement agent shall enter into an agreement specifying-

- (a) type of requirements or projects to be subject of the contract;
- (b) mechanisms for implementation of the procurement, supply, disposal of assets by tender or contract management functions;
- (c) mechanism for reporting, monitoring and responsibilities;

- (d) any limitations or exceptions to the contract; and
- (e) the payment conditions for any costs involved.

(7) An agreement for contracting out shall be confirmed in writing and signed by the accounting officer of the procuring entity and the procurement agent or their authorised representatives.

(8) The procuring entity shall not contract out jointly the procurement, supply, disposal of assets by tender and contract management functions to the same procurement agent where potential conflict of interest is likely to arise.

(9) The functions of the accounting officer and the tender board shall not be contracted out to a procurement agent.

(10) The procuring entity shall furnish the Authority with a copy of the contract entered into between the procuring entity and the procurement agent.

Delegation of authority of accounting officer to sub-division of entity situated in foreign country

58.-(1) The accounting officer may, pursuant with terms and conditions stipulated in regulations 52, 53 and 54, delegate in writing the procurement, supply and disposal of assets by tender functions of a procuring entity to a sub-division of that entity situated in a foreign country.

(2) Notwithstanding the provisions of subregulation (1), the accounting officer may establish a procurement committee for that sub-division of the entity situated in a foreign country for the purpose of conducting procurement, supply or disposal of assets by tender where the organisational structure of the procuring entity does not allow the formation of a delegated tender board or Procurement Management Unit.

(3) The procurement committee referred to in subregulation (2) shall consist of not less than three and not more than five members who shall all be public servants from the United Republic.

(4) The accounting officer shall set threshold value and other limitations as he may deem fit in procurement, supply or disposal of assets by tender for that sub-division of the institution located in a foreign country.

(5) Where the structure of the sub-division of that entity situated in a foreign country is too small to allow formation of a procurement committee, the respective procuring entity shall seek guidance from the Authority.

(6) The procurement committee shall-

(a) prepare an annual procurement plan based on the approved budget for the respective financial year;

(b) supervise the procurement, supply and disposal of assets by tender pursuant to the provisions of the Act and these Regulations; and

(c) prepare and submit quarterly reports on the implementation of the annual procurement plan to the head of the sub-division, who shall submit them to the accounting officer.

(7) All procurement and disposal of assets by tender functions in the sub-division of the procuring entity situated in a foreign country shall be authorised by the head of the respective sub-division of the entity.

(8) The sub-division of the procuring entity situated in a foreign country shall comply with the Act, these Regulations and guidelines in the implementation of procurement, supply and disposal of assets by tender functions.

(9) For the purpose of this regulation, “procurement committee” means a committee appointed for the purpose of performing the functions of the Procurement Management Unit and tender board in the sub-division of the procuring entity situated in a foreign country.

Disagreement
between
accounting officer
and tender board

59. Where the accounting officer disagrees with the decision of the tender board regarding the application or interpretation of any procurement method, process or

practice by tender under these Regulations, the accounting officer shall-

- (a) return the decision to the tender board for further review, and shall give written reasons for dissatisfaction; and
- (b) where dissatisfied with the outcome of the review by the tender board, request for an independent review by the Authority and state the reasons for the disagreement.

Disagreement
between tender
board and
Procurement
Management Unit

60.-(1) Where the tender board disagrees with the recommendations of the Procurement Management Unit, the tender board shall return the submission to the Procurement Management Unit for review and shall give reasons in writing for such decision.

(2) Where the tender board is dissatisfied with the outcome of the review by the Procurement Management Unit, the chairperson of the tender board shall refer the matter to the accounting officer for further review.

(3) Where the tender board disagrees with the outcome of the review by the accounting officer, the tender board shall refer the matter to the Authority for directives.

Disagreement
between delegated
tender board and
delegated
Procurement
Management Unit

61.-(1) Where the delegated tender board disagrees with the recommendations of the delegated Procurement Management Unit, the delegated tender board shall refer the matter to the tender board of the procuring entity, stating the reasons for such disagreement for decision.

(2) Where the delegated tender board is dissatisfied with the decision of the tender board of the procuring entity, the delegated tender board shall refer the matter together with its reasons to the accounting officer for decision.

Disagreement
between
Procurement
Management Unit

62.-(1) Where there is disagreement between the Procurement Management Unit and the user department concerning any decision pertaining to the application or

and user department

interpretation of any procurement method, process or practice, any party may refer the submission of reasons for disagreement to the tender board for its decision.

(2) Where the Procurement Management Unit or user department is dissatisfied with the decision of the tender board, any party shall refer the matter together with its reasons to the accounting officer for its decision.

Disagreement between Procurement Management Unit and evaluation committee

63.-(1) Where the evaluation and preparation of the report is not conducted in accordance with the evaluation guidelines, the Procurement Management Unit shall return the evaluation report to the evaluation committee for re-evaluation.

(2) Where the re-evaluation fails to resolve the disagreement or the Procurement Management Unit disagrees with the evaluation committee on any other matter relating to the evaluation report, the Procurement Management Unit shall refer the matter to the tender board for decision.

(d) Approval Authority for Procurement, Supply and Disposal of Assets by Tender

Procurement approval

64.-(1) Any procurement by a procuring entity shall, before commencement, be approved by the accounting officer.

(2) Procurement of goods, works, services or disposal of asset by a procuring entity by tender shall be approved by the accounting officer except for procurements within the thresholds prescribed in the Ninth Schedule which shall be approved by the tender board.

(3) The Procurement Management Unit shall, before inviting tenders, furnish to the tender board or the accounting officer, as the case may be, for approval, the text of invitation to tender, specifications or expression of interest, and terms of reference, other tender documents and draft contract documents together with the description of advertisement procedure to be followed for the tender.

(4) The accounting officer or the tender board shall, before approving the issuance of the tender invitation, review the draft tender documents and may direct the Procurement Management Unit to make such modifications to the documents as the accounting officer or the tender board may deem appropriate.

(5) Any modification to the tender documents shall require the approval of the accounting officer or the tender board before being issued to the prospective tenderers.

(6) Where tenders have been received and evaluated, the Procurement Management Unit shall, within five working days, submit for review a detailed evaluation report and a comparison of tenders received together with recommendations for award and any other information to the accounting officer or the tender board as may be required.

(7) The accounting officer or the tender board shall review the evaluation and the recommendations submitted by the Procurement Management Unit and may-

(a) approve the recommendations and award the contract in the manner specified in the tender documents; or

(b) reject the award recommendations and return the evaluation report to the Procurement Management Unit and give reasons for re-evaluation, re-tendering or any other action.

(8) Where pre-qualification is required, the Procurement Management Unit shall, before inviting pre-qualification, inform the accounting officer or the tender board of the proposed procedure, and make such modifications to the procedure as may be directed by the accounting officer or the tender board.

(9) Before notifying the applicants of the decision of the procuring entity, the Procurement Management Unit shall recommend pre-qualified tenderers together with their qualifications and reasons for the exclusion of any applicant from the pre-qualification to-

- (a) tender board for approval and advise the accounting officer accordingly, in case the procurement is within the approval threshold of the tender board; and
- (b) the accounting officer for approval, in case the procurement is within the approval threshold of the accounting officer.

(10) Subject to subregulation (9), the Procurement Management Unit shall make such modifications to the list as directed by the accounting officer or the tender board, except where the Procurement Management Unit considers that such modifications are inconsistent with the provisions of the Act and these Regulations.

Tender approval

65.-(1) Subject to the provisions of Section 32 of the Act, tender documents shall be issued after approval of the accounting officer or the tender board, subject to the thresholds prescribed in the Ninth Schedule.

(2) The accounting officer or the tender board shall, before approving the issuance of tenders, examine the draft tender documents.

(3) The accounting officer or the tender board shall review the evaluation and recommendations provided by the Procurement Management Unit and may-

- (a) approve the recommendations and acceptance of the tender and award of contract in the manner prescribed in the tender documents; or
- (b) refuse to authorise recommendation for award of the tenders and refer the evaluation report back to the Procurement Management Unit, with the reasons for re-evaluation of the tenders, re-tendering or other actions.

Approval through circular resolution

66.-(1) Decisions of the tender board may be made without convening a meeting, through a circular resolution, pursuant to the guidelines issued by the Authority.

(2) For the purposes of this regulation, a “circular resolution” means the issuance of a tender board’s decision without a meeting, by circulation of the relevant documents among the tender board members for approval, and expression of the views of the majority in writing.

(3) Notwithstanding subregulation (2), any member of the tender board is entitled to require that the decision be deferred, and the subject matter be considered at a meeting of the tender board.

(4) Half of the members of the tender board shall constitute a quorum of the decision of tender board through a circular resolution.

Validity of
procurement
authorisation

67.-(1) Where the approval to award and to enter into a contract has been granted, but the procuring entity is unable to enter into a contract with the successful tenderer, the approval granted shall be valid for ninety days, and the procuring entity may, after ensuring that the value of the goods or the scope of the services or works is not varied significantly with the original submission, extend the validity period of the tender for an additional ninety days without changing the terms and conditions of the original contract.

(2) The provisions of subregulation (1) shall apply where the successful tenderer-

(a) agrees to extend the tender validity period in accordance with the provisions of these Regulations; and

(b) has not been notified of the award of contract.

(3) Where the approval granted by the tender board expires and the successful tenderer has not been notified of the contract award-

(a) all the tenders received shall be rejected; and

(b) the procurement proceedings shall be annulled, and new tenders shall be invited from at least all the tenderers who submitted tenders in the first instance, and new tenderers.

(e) Local Government Tender Board

Composition of tender board for local government

68.-(1) The local government tender board shall consist of:

- (a) a Chairperson, who shall be one of the heads of department or a person with the qualifications to be appointed as a head of department, and who shall be appointed by the accounting officer; and
- (b) six members who are heads of department or persons with the qualifications to be appointed as heads of department in the local government, who shall be appointed by the accounting officer.

(2) The Legal Officer of the local government authority or his representative shall attend all meetings of the tender board as an advisor, but he shall not have the right to vote in the decision-making.

(3) The Head of the Procurement Management Unit shall be the Secretary to the tender board.

(4) The accounting officer shall submit to the Finance Committee the names and qualifications of the members of the tender board for endorsement and approval.

Operation of local government tender board

69. The conditions relating to the term of appointment, attendance by non-members, meetings, quorum, minutes, conduct of proceedings, sub-committees, fees and allowances for the local government tender board shall be as prescribed in the Second Schedule to the Act.

Notification on decision

70. The notification on a decision made by the board and all other correspondences to be sent on behalf of the board shall be signed by the secretary to the tender board.

Functions of Finance Committee

71. The Finance Committee shall be responsible for the following functions in public procurement:

- (a) reviewing and approving the annual procurement plan, taking into account the plan and budget of the local government authority;
- (b) reviewing the quarterly procurement report submitted by the accounting officer;
- (c) supervising the implementation of contracts through the inspection of projects and received goods;
- (d) directing the accounting officer to conduct a procurement audit or value for money audit if the Committee is not satisfied with the explanation provided;
- (e) approving the names of the members of the tender board; and
- (f) receiving the report from the tender board on the award of procurement contracts and disposal of assets.

Vetting of contracts by Attorney General

(f) Vetting of Contract

- 72.-(1) Any formal contract arising out of acceptance of tender-
 - (a) whose value is one billion shilling or more; and
 - (b) for all international procurement contracts, shall be vetted by the Attorney General before being signed by the parties.
- (2) A contract referred to under subregulation (1) which has not been vetted by the Attorney General shall be void.
- (3) The accounting officer shall, within three working days after-
 - (a) awarding a contract; or
 - (b) being notified by the tender board of its decision to award a contract,submit a draft contract to the Attorney General for vetting.
- (4) The Attorney General shall, within fourteen days after receiving the draft contract from the

accounting officer, vet the draft contract and provide legal advice to the accounting officer.

(5) The accounting officer shall, upon receiving the legal advice on the draft contract from the Attorney General, shall take into account and incorporate the advice into the draft contract.

Vetting of contracts by legal officer

73.-(1) Any contract arising out of the acceptance of tender whose value is less than one billion shillings shall be vetted by a legal officer of the procuring entity before it is signed by the parties.

(2) During the vetting of any contract, the legal officer shall be responsible for ensuring compliance with the law, other applicable laws, codes of ethics and professional conduct applicable to legal officers in the public service.

(3) The legal officer of the procuring entity shall, within seven days after receiving the draft contract from the accounting officer, vet the draft contract and provide legal advice to the accounting officer, if any.

(4) Without prejudice to subregulation (1), the procuring entity shall not be precluded from seeking legal advice from the Attorney General in respect of a contract that is required to be vetted by the Legal Officer of the procuring entity.

(5) Where the legal advice of the Attorney General is sought in relation to the contract referred to under subregulation (4), the procuring entity shall specify the issue and the relevant considerations, along with the legal opinion from within the procuring entity.

(6) The conditions under subregulation (5) shall also apply in relation to the draft contract submitted to the Attorney General under regulation 72(3).

(g) Procedures for Emergency Procurement

Emergency procurement

74.-(1) Subject to the provisions of the Act, where the public interest demands the emergency procurement of goods, services or works, the accounting officer shall-

- (a) evaluate the need for the emergency procurement and decide the procurement method in order to guarantee cost-effectiveness and efficiency;
- (b) ensure that the criteria prescribed under section 77(2) of the Act are complied with;
- (c) identify, specify and prioritise the immediate procurement activities which may be used in the period of emergency;
- (d) where possible, identify other Government entities that can provide immediate assistance; and
- (e) specify the time-frame within which the emergency procurement shall be undertaken.

(2) Upon satisfying the requirements under subregulation (1), the accounting officer shall proceed to procure the goods, works or services in accordance with the selected procurement method and as pursuant to section 77(4) of the Act.

(3) The accounting officer shall submit an application for retrospective approval to the Paymaster General within fourteen days from the date of contract award and explain the circumstances which prevented him from following the normal procurement procedures.

(4) The Paymaster General may, upon application and justification by the accounting officer, extend the time limit provided under subregulation (3).

(5) Upon receiving the application for retrospective approval, the Paymaster General shall seek advice of the Authority.

(6) The Authority may, upon receiving the request to advise the Paymaster General, require the procuring entity to submit any information or documents related to the emergency procurement undertaken.

(7) The procuring entity required to submit information or documents under subregulation (6) shall submit such information or documents within fourteen days from the date of receiving the request.

(8) Where the information or documents referred to under subregulation (7) are not submitted within the

specified time, the Authority may proceed to advise the Paymaster General.

(9) Subject to subregulation (5), the Authority shall, in collaboration with the Government Assets Management Department and the technical audit department of the ministry responsible for procurement or, where necessary, any other competent body, advise the Paymaster General on the appropriate actions to be taken.

(10) The Paymaster General may, after receiving the advice of the Authority-

- (a) approve the application for retrospective approval; or
- (b) disapprove the application for retrospective approval.

(11) Where the Paymaster General does not grant the retrospective approval due to non-compliance with the requirements of section 77 of the Act, he may take action against the accounting officer or refer the matter to the relevant authority for appropriate action.

(12) Where the Paymaster General acts upon the advice given under subregulation (9), he shall not be personally liable for his actions.

Report on
emergency
procurement

75.-(1) The accounting officer shall, within fourteen days after the completion of the procurement proceedings, prepare and submit a report on the emergency procurement to the Paymaster General, the Authority, the Controller and Auditor General and the Internal Auditor General.

(2) The report under subregulation (1) shall be in the format stipulated in the guidelines issued by the Authority.

Application of
emergency
procurement

76. A procuring entity shall not use an emergency procurement method if:

- (a) the goods or services fall under a common procurement arrangement; or
- (b) the specific event was anticipated and planned for.

Liability of
accounting officer

77.-(1) Subject to regulation 74(3), where it is proved that-

- (a) the accounting officer has engaged in unnecessary or extravagant procurement; or
- (b) the procurement is undertaken by lack of foresight or timely action,

the accounting officer shall be liable to disciplinary action and shall, in addition to any other penalty imposed, be required to pay the difference between the actual cost of the procurement and what the cost would have been through the appropriate channel.

(2) The award of contract made by accounting officer and not approved retrospectively shall be valid, and the accounting officer who approved the award shall be liable as provided for under subregulation (1).

(h) Procurement and Disposal of Assets Plan by Tender and Financial Controls

Preparation of
implementation
plan

78.-(1) Preparation of the implementation plan shall involve the preparation of a procurement plan and identifying the resources necessary to carry out various undertakings.

(2) Proper planning of the procurement of recurrent items shall be based on an adequate stock control system.

(3) The time scale for each procurement shall be calculate on the basis of standard processing times prescribed in the Tenth and Eleventh Schedules, allowing time for delays in submission of documents or clarifications of tenders.

(4) Subject to subregulation (3), the dates for commencement of the procurement process and other critical issues shall be set out in the procurement plans.

Procurement plan

79.-(1) The procurement plan shall commence at the design stage during the identification and preparation stages of the project cycle.

(2) A procuring entity shall make strategic decisions with a view to ensuring that procurement is conducted in the most economical and efficient manner, including separating contracts for each component.

(3) A procuring entity shall forecast its requirements for goods, services and works as accurately as is practicable by reference to services or undertakings already programmed in the annual work plan and included in the annual estimates.

(4) Subject to subregulation (3), the forecasts shall include an estimate of the optimum time to the nearest month of performance and completion of the services.

(5) The estimate of such requirements shall be compared with the likely availability of budgeted or donor funds so that priorities for procurement may be determined based on the available funds.

(6) The procuring entity shall prepare its estimates-

- (a) pursuant to the price caps prescribed under these Regulations; or
- (b) based on prevailing market prices, where no price cap has been prescribed.

(7) A procuring entity shall prepare procurement plans for requirements for which sufficient funds have been included in the approved budget for the current financial year or, if payments will be due in subsequent financial year, such payment has been budgeted for.

(8) Notwithstanding the provisions of subregulation (7), the procurement plans of commercially operating entities, Agency, the Medical Stores Department or agents procuring on behalf of procuring entities may be prepared without the requirement of an approved budget.

(9) In compiling such plans, a procuring entity shall indicate the appropriate method of procurement to be used for each requirement.

(10) Where there is a crucial procurement requirement and it has not been included in the procurement plan, the approval of the accounting officer

shall be obtained by inclusion of that procurement in the procurement plan or by a specific request of such item of procurement.

Preparation and publication of annual procurement plan

80. A procuring entity shall, within fourteen days after the completion of the budgeting process, prepare and publish its annual procurement plan through the electronic public procurement system.

Submitting of tenders by lots

81.-(1) In considering how a project may be carried out, the advantages of dividing the project into homogeneous lots which are as large as possible shall, for social, technical and cost-effectiveness reasons, be taken into account.

(2) Where procurement is divided into lots, the size of the lots should be appropriate so as to foster maximum competition and obtain the most economic contract.

(3) Where similar items are to be procured for several sub-components in a project or for several projects, it may be convenient to combine them all into one procurement lot in order to achieve cost-effectiveness.

(4) Where a project is divided into lots, the instructions to tenderers shall state-

- (a) the number of lots;
- (b) the nature, location and size of each lot; and
- (c) where appropriate, the minimum and maximum number of lots for which a tenderer may tender.

(5) The procedure for submission of tenders for tenders with lots shall be as follows:

- (a) tenderer may submit tenders for each lot;
- (b) unless the instructions to tenderers provide otherwise, a tenderer may include in the tender, the overall rebate he may grant in the event of amalgamation of some or all of the lots for which he has submitted tenders;
- (c) unless the instructions to tenderers state that lots apportioned to the same tenderer shall

form a single contract, each lot shall form a separate contract; and

(d) where lots are to be apportioned to different tenderers, the invitation to tender documents or instructions to tenderers may provide that the tenderer for a particular lot shall ensure the coordination of the execution of all the lots.

(6) For the purpose of maximising participation in such tenders, tenderers may be permitted to submit tender in separate lots and shall be required to tender for all items in a lot, or individual contracts or a combination of contracts for works or services.

Aggregation of requirements

82.-(1) For the purpose of maximising economy and efficiency in the procurement or disposal of assets by tender process, a procuring entity may group goods, works or services of a similar or related nature, or pool assets for the purpose of common disposal into a single tender or a number of tenders of a size and type that may be likely to attract a reasonable number of tenderers, if such grouping is practicable and may not cause unreasonable delay in the procurement or disposal of assets by tender process.

(2) Where the services to be procured require coordination or collective responsibility of the consultants, a procuring entity shall group those services and seek to engage one consultant for the performance of those services.

(3) Requirements that are to be debited to different votes shall be grouped into one tender if the total costs of procurement can be easily identified and paid separately.

(4) Tenders under subregulation (3) shall be received and opened by the same deadline and evaluated simultaneously with a view to determine the tender or combination of tenders that offer the lowest evaluated cost, or the highest evaluated price.

(5) Assets to be disposed of shall be grouped into a tender or lot in a manner that attracts maximum possible competition.

Prohibition of tender splitting

83.-(1) Unless for the reason provided in section 51(1)(c) of the Act, a procuring entity shall not split its procurement into separate tenders for the purpose of avoiding international or national competitive tendering.

(2) The accounting officer of a procuring entity proved to have split its procurement in contravention of subregulation (1) shall be personally liable in accordance with section 128 of the Act.

Contract period

84.-(1) The contract period shall be a realistic assessment of time in which a reasonable tenderer could be expected to complete delivery of goods, complete the works or complete the provision of services, having regard to the desired completion date and the locality.

(2) Where circumstances dictate a shorter than desirable contract period, the prospective tenderers shall be notified of this requirement in the documents.

(3) For particular types of contracts and particular weather conditions, sufficient time shall be allowed for seasonal changes.

(4) Where, after the preparation of the tender documents, there is a delay for any valid reason in inviting tenders, the contract period allowed for completion shall be reviewed prior to invitation to tenders.

Commitment of funds

85.-(1) Procuring entities shall ensure that funds are allocated or committed before the commencement of procurement proceedings.

(2) Notwithstanding the provisions of subregulation (1), a procuring entity may commence procurement proceedings for scheduled or routine activities if the procuring entity is certain of funds availability in its budget for such activities.

(3) Commercially operating entities and agents procuring on behalf of other procuring entities, other

than those delegated under these Regulations, may enter into framework agreement before the allocation of funds.

(4) Where a contract extends over a year, the allocation of funds may be issued annually, so that the total amount issued does not exceed the contract price plus a percentage of price and contingencies, unless a specific approval is obtained for additional works and price increase.

Selection of procurement methods

86. Except as otherwise provided for by these Regulations, a procuring entity undertaking the procurement of goods, works, services and disposal of public assets by tender, shall do so by means of competitive tendering.

Procurement procedures for Authority and Appeals Authority

87.-(1) Procurement of the Authority and the Appeals Authority which exceeds the threshold prescribed in the Twelfth Schedule shall be undertaken by the Agency.

(2) Where the procurement or disposal of assets by tender function is undertaken by the Agency, the accounting officer of the Authority or the Appeals Authority shall enter into an agreement with the Agency, specifying-

- (a) the functions which are subject of the agreement;
- (b) the reporting and monitoring procedures;
- (c) any limitation or exceptions to the agreement;
- (d) rights and obligations of the parties to the agreement;
- (e) any costs to be paid; and
- (f) mechanisms for implementation of a procurement plan in respect of the specific procurement or disposal by tender requirement.

(3) The Agency shall be responsible for the entire process during the tender preparatory stages prior to contract signing of the awarded tender.

(4) The accounting officer of the Authority or the Appeals Authority shall be responsible for the execution of the awarded contract.

(5) Complaints or disputes between the Agency and tenderers arising out of the procurement proceedings shall be resolved in accordance with the procedures prescribed in the Act.

(i) Prohibition

Declaration
against fraud and
corruption

88. For the purposes of section 107(7) of the Act, every public procurement contract shall contain a formal declaration by a tenderer to comply with the laws of the country against fraud and corruption as prescribed in the Thirteenth Schedule.

Conflict of interest

89.-(1) Subject to the provisions of the Act, where a staff of a procuring entity or a member of the approving authority has any direct or indirect conflict of interest in any tender, contract, proposed contract or other matter, and is present at a meeting of the procuring entity at which the contract or matter is the subject of consideration, the staff or member shall, at that meeting and as soon as practicable after the commencement of the meeting, disclose the fact by making a statement that they have a conflict of interest and shall not participate in the consideration of the contract or other matter or vote with respect to that matter.

(2) A staff of a procuring entity or a member of the approving authority who has made a statement to disclose a conflict of interest in accordance with this regulation shall immediately withdraw from the meeting.

(3) For the purpose of subregulation (1), a person shall be considered as having indirectly a pecuniary interest in a contract, proposed contract or other matter if-

(a) the person or his nominee is a member of a company or other body with which the contract was entered or is proposed to be

entered or which has a direct pecuniary interest in the other matter under consideration; or

(b) the person is a partner, or is in the employment of a person with whom the contract was entered into or is proposed to be entered or who has a direct pecuniary interest in the other matter under consideration.

(4) Subregulation (3) shall not apply to membership of, or employment under, any public body and a member of a company or other body shall not, by reason only of his membership, be treated as having an interest in any contract, proposed contract or other matter if he has no beneficial interest in any securities of that company or other body.

(5) In the case of married persons, the interest of one spouse shall, if known to the other, be considered to be an interest of the other for the purposes of this regulation.

(6) A disclosure of interest made in accordance with subregulation (1) shall be recorded and shall be available for inspection at any time.

(7) A person who contravenes the provisions of this regulation commits an offence and shall be liable in accordance with the provisions of section 128 of the Act.

Prohibition of running contract

90. A procuring entity shall not, except as otherwise provided for in these Regulations, invite, accept or enter into a running contract for the supply of goods, for provision of services or for the implementation of works.

Contract anticipation

91. A procuring entity shall not place an order or prepare an inception report in anticipation of tender acceptance without the necessary approval from the appropriate approving authority.

(j) Monitoring of Procurement and Supply Undertakings

GN. No. 261 (Contd)

Monitoring within
procuring entity

92.-(1) The internal audit unit of each procuring entity shall prepare and submit to the accounting officer a quarterly audit report which shall include a report on compliance with the Act and these Regulations.

(2) The accounting officer shall, within fourteen days after receiving the report under subregulation (1), submit a copy of such report to the Authority.

(3) Upon receiving the report, the Authority may, if it considers necessary, require the accounting officer to submit a detailed report on the public procurement and supply implemented in violation of the Act and these Regulations for review and necessary action.

(4) Subject to subregulation (3), the accounting officer shall, within fourteen days of receiving the request, submit the requested report.

(5) The report under this regulation shall be in the format prescribed by the Authority.

Continuous
monitoring

93.-(1) Procuring entities, through the electronic public procurement system, shall prepare reports on the implementation of public procurement and supply which shall include:

- (a) the annual procurement plan;
- (b) tender notices;
- (c) invitation for quotations;
- (d) tender documents;
- (e) the procurement proceedings;
- (f) any modifications or amendments of the procurement contract;
- (g) monthly, quarterly and annual procurement;
- (h) contract awards; and
- (i) terminated contracts,

for the purpose of enabling the Authority to monitor the activities of public procurement and supply.

(2) Procuring entities and the Appeals Authority shall, within seven days after making a decision on complaints or disputes in the procurement process, submit copies of such decisions to the Authority.

(3) The Authority may, upon receipt of reports from a procuring entity or a decision from the Appeals

Authority, recommend to the competent authority to take disciplinary action against a person or entity implicated in the report or decision in accordance with the provisions of the Act.

Audit procedures

94.-(1) The Authority shall, before conducting an audit in accordance with section 10 of the Act, notify the respective procuring entity of the intention, objectives and indicators of compliance with the Act to be used for the audit.

(2) For the purpose of enabling the Authority to efficiently carry out the audit, a procuring entity shall, depending on the circumstances, make available all the documents requested in a timely manner.

(3) Procuring entities shall be required, for ease of information retrieval, to keep public procurement and supply records in a proper manner as prescribed in the guidelines issued by the relevant Authority.

(4) Upon completion of the audit and before issuing the final audit report, the Authority shall submit, in writing, the audit findings to the audited procuring entity.

(5) A procuring entity shall submit to the Authority detailed responses to the audit findings within twenty-one days from the date of receiving the audit findings.

(6) The Authority shall, after approval by the relevant committee of the Board, submit the audit report to the procuring entity together with its recommendations.

Collaboration with other authorities

95. In the course of or after conducting an investigation or procurement contract and performance audit, the Authority may collaborate with investigative authorities or any other relevant authorities, and for that purpose, the Authority may establish a mechanism for sharing of information relating to the investigation or audit of the procurement contract and performance audit, or enforcement of the investigation or audit findings.

Actions to be taken after investigation and audit

96.-(1) The Authority shall, after conducting an investigation or procurement contract and performance audit, submit a written report containing its findings and recommendations to the competent authority.

(2) The recommendations in the report referred to under subregulation (1) may include-

- (a) disciplinary actions against the accounting officer or the Chairman or a member of the tender board, the head of the Procurement Management Unit, a member of the tender evaluation committee, or any other officer concerned with the procurement process;
- (b) replacement of the head of the Procurement Management Unit, the Chairman or any member of the tender board, as the case may be;
- (c) termination of the procurement or disposal proceedings;
- (d) rectification of the contravention by taking such actions as may be necessary to rectify the same; or
- (e) conduct of further investigations by other law enforcement organs or institution of criminal charges.

(3) Where recommendations require the procuring entity to take action, the relevant procuring entity shall respond in writing to the Authority's recommendations within fourteen days and submit to the Authority a report on implementation status within three months from the date of receiving the recommendations.

(k) Debarment from Participating in Public Procurement and Disposal of Assets by Tender

Initiation and grounds for debarment

97.-(1) Debarment proceedings may be initiated by the Authority as a result of an audit or investigation conducted by the Authority, or upon receiving information about a tenderer's breach of obligation during the procurement process, or where a debarment proposal is submitted to the Authority by any person.

(2) Any debarment by the Authority shall be pursuant to sections 72 and 107 of the Act.

(3) Subject to the provisions of the Act, debarment shall be for a period-

- (a) of ten years, where the debarment is due to corrupt, fraudulent, collusive, inducement, coercive or obstructive practices;
- (b) of not less than six months and not exceeding two years, where the tenderer fails to abide with the bid securing declaration and the performance securing declaration;
- (c) of not less than one year and not exceeding five years, where the tenderer fails to implement the procurement or disposal of asset by tender contract;
- (d) of not less than one year and not exceeding ten years, where the tenderer makes false representation about his qualifications during the tender proceedings.

(4) Where a tenderer is barred from participating in public procurement or disposal of asset on grounds other than those specified in subregulation (3), the period of debarment may be determined by the Authority depending on the gravity of the offence.

Debarment procedures

98.-(1) A proposal for debarment of a tenderer shall be submitted to the Authority within twenty-eight days of becoming aware of the circumstances or grounds which give rise to the debarment.

(2) Where the debarment proposal is submitted outside the time frame prescribed under subregulation (1), the proposal shall include detailed explanations justifying the reasons for late submission and the Authority may proceed with the matter under regulation 104 after being satisfied with the reasons provided.

(3) Where the procurement proceedings are in progress, the proposal for debarment may include a recommendation that a potential tenderer be suspended from participating in the procurement proceedings

pending the determination of the submitted debarment proposal.

(4) A debarment proposal initiated by the Authority or submitted under subregulation (1) shall specify-

- (a) the name and address of the potential tenderer recommended for debarment;
- (b) the grounds for debarment;
- (c) all factual records which include evidence, information and documents; and
- (d) any other relevant information or documents in the possession of, or known to, the person submitting the debarment proposal.

Investigation in
debarment
proceedings

99.-(1) The Authority may require any public body or person to produce information, documents or evidence concerning possible grounds for debarment of a tenderer.

(2) A public body or person required under subregulation (1) to produce information, documents, or evidence, shall produce documents or evidence within fourteen days from the date of receiving the request.

Issuance of
debarment notice

100.-(1) Where the Authority determines that there are grounds for debarment on the basis of information, documents and evidence produced, the Authority shall, within twenty-eight days from the date of receiving the evidence, issue a debarment notice to the tenderer.

(2) The debarment notice shall inform the tenderer of the facts, including the grounds for the debarment proposal.

(3) The notice shall require the tenderer to submit a written representation showing cause why he should not be debarred from participating in public procurement and disposal of asset by tender for the period prescribed by the Act and these Regulations.

(4) The tenderer shall respond to the notice referred to in subregulation (3) within fourteen days from the date of receiving the notice.

(5) Any representation submitted under subregulation (3) shall contain a certificate signed by the tenderer that the information contained is true to the best of the knowledge of such tenderer.

(6) The tenderer shall be considered to have received the debarment notice if-

- (a) the tenderer acknowledges receipt of the notice by signing or stamping and writing the date of receipt on the notice copy;
- (b) the notice is delivered through a registered postal address;
- (c) the notice is sent to the email address used for correspondence with the procuring entity;
- (d) the notice is published on the electronic public procurement system or through other communication channels; or
- (e) in case of an international tenderer whose office is outside Tanzania, the notice is sent electronically to their official address as specified in the electronic public procurement system, or the address used for correspondence with the procuring entity, or the address provided in the relevant contract documents.

Suspension
pending
completion of
debarment
proceedings

101.-(1) Upon receipt the representation under regulation 100, the Authority may, depending on the circumstances of the case, determine whether or not the tenderer should be suspended from participating in the procurement proceedings pending the completion of debarment proceedings.

(2) Where the Authority determines that the tenderer should be suspended in accordance with subregulation (1), the Authority shall suspend the tenderer for a period that the Authority may determine or until a final determination of the debarment proceedings.

(3) The Authority may terminate the suspension where it considers that the grounds for suspension are no longer valid.

(4) Any suspension under this regulation shall remain in effect until determination of the proposed debarment or until the suspension is terminated pursuant to subregulation (3).

(5) The Authority shall send a copy of its decision under subregulations (1) and (2) to the tenderer and, where applicable, to the person who submitted the debarment proposal.

Debarment decision

102.-(1) The Authority shall decide on the proposed debarment within thirty days-

- (a) from the date of receiving the tenderer's representation;
- (b) from the date of the decision to suspend the tenderer pursuant to regulation 101(1); or
- (c) after the expiry of the period prescribed in regulation 100(4).

(2) The period of the tenderer's debarment shall be determined pursuant to regulation 97(3) and (4).

(3) The Authority's decision shall be in writing and include a summary of the findings and reasons for the decision.

(4) The Authority shall send a copy of its decision under subregulation (3) to the tenderer and to any other person who has legitimate interest on the procurement in question.

(5) The Authority shall notify the procuring entities of the decision made under this regulation and shall publish such decision on the website, Journal and electronic public procurement system.

Register of debarred and suspended tenderers

103.-(1) The Authority shall maintain a register of suspended or debarred tenderers, which shall among other things specify the name and address of each suspended or debarred tenderer, the grounds for suspension or debarment and the period of the suspension or debarment.

(2) The register shall be available to the public through the website, Journal and electronic public procurement system.

Effect of
suspension or
debarment

104.-(1) A tenderer who has been debarred under the Act and these Regulations shall, during the period of debarment, not be permitted to start a new supplies, contracting or consulting firm engaging in public procurement.

(2) Procuring entities shall not procure from, contract with or engage a tenderer who is debarred from participating in the public procurement proceedings pursuant to the Act and these Regulations.

(3) Where a tenderer is debarred under the provisions of these Regulations, any person who, at the time of debarment, was concerned with the management of the affairs of the debarred firm as a director, partner, agent or officer, shall be debarred from participating in public procurement or disposal of asset by tender for the entire period of the firm's debarment.

(4) The Authority shall inform the relevant statutory bodies upon debarring and blacklisting a tenderer.

Effect on existing
contracts

105. Suspension or debarment of a tenderer under these Regulations shall not affect any contracts entered into between the tenderer and a public body prior to the debarment decision, except in cases where fraud and corrupt practices are established.

Right to appeal
against the
debarment
decision

106.-(1) A tenderer who is dissatisfied with the debarment decision made by the Authority under these Regulations may appeal against the decision to the Appeals Authority within twenty-one days from the date of receiving the decision.

(2) The Appeals Authority shall conduct a hearing of appeal or review in accordance with the rules and procedures established under the Act.

(l) Review of Procurement or Disposal of Assets by Tender Decision and Dispute Settlement

Right to review

107. A tenderer who claims to have suffered or who may suffer any loss or injury as a result of breach of duty imposed on a procuring entity or an approving authority by the Act or these Regulations may apply for a review in accordance with section 119 of the Act.

Submission of complaints or disputes to accounting officer

108.-(1) Any application for the review of complaints or disputes shall be submitted to the accounting officer through the electronic public procurement system and a copy to the Authority within five working days of the tenderer becoming aware of, or should have become aware of, the circumstances giving rise to the complaint or dispute.

(2) The application for review of complaint or dispute shall include-

- (a) details of the procurement or disposal requirements to which the complaint or dispute relates;
- (b) the provisions of the Act or these Regulations which have been breached or omitted;
- (c) an explanation of how the provisions of the Act or these Regulations have been breached or omitted, including the dates and name of the responsible public officer, where known;
- (d) documentary or other evidence in support of the complaint or dispute, where available;
- (e) the remedies sought; and
- (f) any other information relevant to the complaint or dispute.

(3) The accounting officer shall not entertain a complaint or dispute after the procurement or disposal of asset by tender contract has entered into force.

Other matters related to resolution of complaints or disputes by accounting officer

109.-(1) Where the accounting officer constitutes an independent review panel pursuant to section 120(7) of the Act, he shall consider the expertise and experience of the members of the panel in the respective tender.

(2) In handling a complaint or dispute, the following may be considered:

- (a) the information and evidence contained in the application;
- (b) information in records maintained by the procuring entity;
- (c) information provided by other tenderers; and
- (d) any other relevant information.

(3) The accounting officer shall submit to the Authority a copy of the decision on the complaint or dispute within seven days from the date of the decision.

(m) Miscellaneous Provisions

Procedures for amendment of standard contracts

110.-(1) Procuring entities shall use the samples of standard contract document prepared by the Authority in collaboration with the Office of the Attorney General and other professional bodies.

(2) Any deviation from the use of the standard contract documents shall be approved by the Authority.

Confidentiality of process

111. Before issuing a notice of intention to award a contract, information related to the analysis, clarification requested by the procuring entity after tender opening, the evaluation and comparison of tenders and the recommendation for awarding a contract shall not be disclosed to tenderers or to any other person who was not involved in the analysis, evaluation or comparison of tenders or in the decision for accepting the tender.

Submission of contract documents

112. The accounting officer shall send a copy of the contract upon request by either the Authority, Office of the Attorney General, Controller and Auditor General, Internal Auditor General, Government Assets Management Department or Tanzania Revenue Authority.

Participation of public entities in tenders issued by public or private entity

113.-(1) A public entity which participates in tenders issued by other public or private entities for the purpose of implementation works contract or obtaining goods and services shall ensure-

(a) value for money and efficiency in the use of public funds;

(b) an approval of budget and a list of requirements for the purpose of implementation of works contract or obtaining goods and services; and

(c) the tender price is based on the market price.

(2) The tender offer shall be approved by the accounting officer before it is submitted in response to the tender invitation.

(3) A public entity shall, before participating in a tender issued by other public or private entities, ensure that it obtains a list of manufacturers, agents or suppliers of goods and service providers for the supply of goods and provision of services required under the terms of the potential contract.

(4) During contract implementation, the public entity shall-

(a) obtain from shortlisted manufacturers, agents, and service providers the price of goods or services to be provided from the approved list of requirements;

(b) approve the offer with a competitive advantage;

(c) obtain approval of the accounting officer to purchase various items from the list of requirements against the approved offer; and

(d) sign a procurement agreement for implementation of the contract.

(5) The accounting officer shall maintain all necessary records on how the offer price was arrived at and used in the implementation of the contract for audit purposes by the Authority, the Controller and Auditor General, or any other entity with an interest in the efficient use of public funds.

(6) The accounting officer shall submit to the Authority the name of the client, date of entering into a contract and the contract amount for publication in the electronic public procurement system.

PART III
PROCEDURES FOR PROCUREMENT OF GOODS, WORKS AND
NON-CONSULTANCY SERVICES

Pre-qualification
proceedings

114.-(1) The pre-qualification proceedings may be conducted if-

- (a) the invitation to tender requires capable contractors to carry out large or complex contracts, or turnkey contract, or build-own and transfer contracts;
- (b) quality and performance are of primary importance for supply of goods or equipment or suppliers' back up and maintenance services are critical; or
- (c) a list of capable tenderers is required for tendering.

(2) Where a procuring entity engages in pre-qualification proceedings it shall provide a set of pre-qualification documents to each tenderer who request for the document in accordance with invitation to pre-qualify and upon payment of prescribed fee.

(3) The procuring entity shall prepare and update, as may be necessary, a list of tenderers to be used in the procurement process for goods, works and services, in accordance with guidelines issued by the Authority.

(4) The provisions of regulation 7 shall apply to the pre-qualification evaluation stage.

Contents of
invitation for pre-
qualification

115.-(1) An invitation for pre-qualification shall contain-

- (a) the name and address of the procuring entity;
- (b) the nature, quantity and place of delivery of the goods to be supplied or the nature, quantity and location of the works to be effected or the nature of the services and the location where they are to be provided;
- (c) the required time for the supply of goods or for the completion of works or the timetable for the provision of services;

- (d) the criteria and procedures to be used for evaluating the qualifications of suppliers, service providers or contractors in conformity with regulation 7;
- (e) a declaration which may not later be altered that tenderers may participate in the procurement proceedings regardless of nationality or declaration that participation is limited on the basis of nationality pursuant to regulations 38 and 45;
- (f) the price, currency and terms of payment for the pre- qualification documents;
- (g) the means of obtaining the pre-qualification documents;
- (h) the language of the pre-qualification documents;
- (i) the date and deadline for the submission of application of pre-qualification; and
- (j) any other information as the Authority considers necessary and as prescribed in the standard pre-qualification documents.

(2) The invitation for pre-qualification shall be prepared by the Procurement Management Unit and approved by the accounting officer or the tender board subject to the threshold of approval, and shall be advertised in accordance with the provisions of regulation 18.

(3) The minimum period for national and international competitive tendering shall be allowed for the preparation and submission of pre-qualification applications as prescribed in Tenth and Eleventh Schedules.

(4) An invitation for pre-qualification shall not be valid if it is issued without prior approval of the accounting officer or tender board or if it does not satisfy these Regulations.

Preparations and contents of pre-qualification documents

116.-(1) The pre-qualification documents shall be prepared by the Procurement Management Unit in consultation with the user department and shall be

approved by the accounting officer or the tender board, subject to the threshold of approval, before being issued to tenderers.

(2) The pre-qualification documents shall contain-

- (a) instructions for preparing and submitting pre-qualification applications;
- (b) a summary of the required terms and conditions of the procurement contract to be entered into as a result of the procurement proceedings;
- (c) any documentary evidence or other information that must be submitted by tenderers to demonstrate their qualifications;
- (d) the manner and deadline for the submission of application for pre-qualification, allowing sufficient time for suppliers, service providers or contractors to prepare and submit their applications, taking into account the reasonable needs of the procuring entity; and
- (e) any other conditions that may be established by the procuring entity in conformity with these Regulations relating to the preparation and submission of applications and pre-qualification proceedings.

(3) The qualifications of pre-qualified tenderers shall be based on the legal capacity, capability and the resources of the applicants to execute the contract, and the procuring entity shall consider-

- (a) experience and past performance on similar contracts;
- (b) knowledge of the working condition;
- (c) capabilities of personnel, equipment and construction or manufacturing facilities;
- (d) financial position;
- (e) current commitments; and
- (f) compliance with the required statutory obligations.

Clarification and evaluation of applications for pre- qualification

117.-(1) A tenderer shall submit to the procuring entity a request for clarification of the pre-qualification documents at least three days before the deadline for submission of tenders.

(2) The response by the procuring entity to the request submitted under subregulation (1) shall-

(a) be given within two working days to enable the tenderer to timely submit the application for pre-qualification;

(b) be submitted to all tenderers to whom the procuring entity has provided pre-qualification documents without identifying the source of the request.

(3) Upon receiving the applications for pre-qualification, the appointed evaluation team shall evaluate such applications based on the criteria for qualification prescribed in the pre-qualification invitation and prepare an evaluation report specifying a list of qualified firms recommended for consideration.

(4) The evaluation report shall prescribe the criteria used and the justification for the selection of pre-qualified and non pre-qualified firms, and shall be submitted to the Procurement Management Unit for scrutiny before being submitted to the accounting officer or the tender board for approval, depending on the approval threshold.

(5) Pre-qualification shall not be used to limit the number of tenderers, and all firms which are capable of performing the contract in accordance with the approved pre-qualification criteria shall be pre-qualified, unless the pre-selection proceedings are initiated.

(6) The procuring entity may undertake pre-selection proceedings where it intends to limit the number of tenderers from which to request proposals pursuant to these Regulations.

(7) The provisions of regulation 7 shall apply *mutatis mutandis* to pre-selection proceedings.

(8) All tenderers who pre-qualify to participate in the tender shall be invited to do so, unless otherwise disqualified in accordance with regulation 7.

(9) Firms which have been individually pre-qualified may form a joint venture and submit a tender:

Provided that, firms which have been pre-qualified as partners in a joint venture shall not be permitted to submit individual tenders.

Notification of results of pre-qualification process

118.-(1) An applicant who has complied with the pre-qualification criteria and who is approved by the accounting officer or tender board depending on the threshold of approval shall, within three working days after approval, be notified in writing by the procuring entity to submit a tender according to the requirements.

(2) The notification shall indicate the terms and conditions under which tender documents shall be obtained including the date, time, and place for delivery of tenders and tender opening.

(3) An applicant who is not successful in the pre-qualification shall be informed by the procuring entity within three working days after receipt of all the required approvals to the pre-qualification.

(4) A tenderer who is pre-qualified shall be entitled to participate in the procurement proceedings.

(5) A procuring entity shall, upon request-

(a) furnish any person with the names of all tenderers who are pre-qualified; and
(b) communicate to tenderers the grounds for their rejection to pre-qualify and the procuring entity shall not be required to provide evidence or reasons.

Confirmation of verification information

119. The verification of the information provided in the submission for pre-qualification shall be confirmed through a post qualification process before the notice of intention to award the tender is communicated to the tenderers, and award may be denied to a tenderer who is assessed to have no capability or resources to successfully perform the contract.

Waiver of certain requirements

120.-(1) In a situation where all firms fail to pre- qualify on the basis of the prescribed requirements, the procuring entity may revise some of the requirements and evaluate all firms on the basis of the revised requirements with a view to ensuring that they satisfy the conditions during the tendering of the goods, works or services.

(2) In revising the requirements under subregulation (1), the procuring entity may waive or alter the prescribed requirements.

(3) Notwithstanding the provisions of subregulation (1), the procuring entity shall not revise requirements establishing the tenderer's experience in carrying out assignments of similar nature and his capability to finance the assignment.

Tenders related to public security

121. Where the contract involves access to confidential information-

- (a) a procuring entity shall notify the tenderer of the security classification of the contract, elements of the contract and any subsequent revisions in such security classification;
- (b) the tenderer shall, prior to the commencement of the contract, safeguard all classified elements of the contract and shall provide and maintain a system within his own organisation; and
- (c) an authorised representative of the armed, security or police force shall have the right to inspect the procedures, methods and facilities utilised by the tenderer or the compliance by the tenderer with the security requirements under the contract.

Appointment of consultant for procurement of works

122.-(1) Where the appointment of a consultant is considered necessary for the effective procurement of works, which have not already been undertaken, a procuring entity shall complete selection proceedings and enter into a contract with the selected consultant in accordance with the provisions of these Regulations in

sufficient time for that consultant to prepare the tender documents prior to the issue of tender.

(2) The responsibilities of a consultant in terms of their employment contract may include the preparation of tender documents.

(3) Subject to subregulation (2), the requirements of the procuring entity shall be detailed in writing to the consultant, the need to use standard tender documents and associated forms in all tendering documents.

(4) The draft tender documents prepared by a consultant shall be scrutinised by the Procurement Management Unit to ensure compliance with subregulation (3) before they are submitted for approval to the accounting officer or tender board, depending on the threshold of approval.

Turnkey contract
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reg. 11

123.-(1) A procuring entity may issue a tender for a turnkey contract involving a major specialised works project if the supply of goods and the performance of various works need to be integrated.

(2) Without prejudice to subregulation (1), the design and engineering, supply and installation of equipment and the construction of the plant or works shall be provided by a single contractor under one contract procured through international or national competitive methods of procurement approved by the accounting officer or tender board depending on the threshold of approval.

(3) A procuring entity may-

- (a) issue a tender for a single contract for all components of the design and works contract, and may issue separate tenders for the supply of the goods required for a project; or
- (b) issue a single tender for a management contractor who may subcontract all the design, engineering, supply and works components of a project and who shall be responsible for the timely completion of the

project and all attendant risks which may be involved.

PART IV
PROCUREMENT OF SECTOR SPECIFIC GOODS AND SERVICES

(a) Procurement of Common Use Items and Services

Procurement from
Agency

124.-(1) A procuring entity shall procure from the Agency items included in the approved current stores catalogue where such items and services are available at current market prices.

(2) Where the procuring entity submits a request for purchase of items in the catalogue to the Agency and where those goods are not available in stock, the Agency shall, within one working day after receiving the request, issue non-availability certificate to be used once indicating the quantity of items not available at that time.

(3) The procuring entity shall after-

- (a) receipt of the notice referred to under subregulation (2); or
- (b) lapse of time stipulated under subregulation (2),

opt for another appropriate procurement method.

(4) Each year, the Agency in collaboration with the Authority, shall publish a list of goods available in the catalogue on the electronic public procurement system.

(5) Without prejudice to subregulation (4), the Agency shall, in collaboration with the Authority, where appropriate review the list of goods.

(6) Unless otherwise specified in these Regulations or any other written law, the procuring entity shall procure from the Agency clearing and forwarding services.

(7) For the purpose of ensuring efficiency and value for money in public procurement, where clearing and forwarding services offered by the Agency are priced above the market price at a particular time, the

Minister may grant permission for a procuring entity to obtain such services from any other service provider.

Procurement of common use items and services

125.-(1) Subject to section 52 of the Act, procuring entities shall procure common use items and services from the list of registered tenderers on the electronic public procurement system where such goods and services are not available from the Agency.

(2) For the purposes of subregulation (1), the Agency shall prepare and submit to the Authority for review and inclusion in the electronic public procurement system-

(a) a list of requirements for the procurement of common use items and services, including the standards and specifications to be used by the procuring entities;

(b) criteria for the procurement of common use items and services to be included in the tenderer's registration for all common use items and services requirements; and

(c) proposed terms and conditions for participation of tenderers in the procurement of common use items and services.

(3) Procuring entities shall procure common use items and services by inviting a mini-competition from at least three tenderers and service providers registered for the procurement of common use items and services.

(4) The procurement of common use items and services shall not exceed the threshold for procurement through quotations specified in Sixth Schedule.

(5) The procuring entity shall, through the electronic public procurement system, conduct a price comparison of the quotations submitted in the mini-competition.

(6) After approval of the accounting officer, the procuring entity shall issue a local purchasing order to the successful tenderer.

(7) Subject to subregulation (6), if the first-ranked successful tenderer fails to fulfill the purchase order, the procuring entity shall have the right to issue the local purchasing order to the second-ranked successful tenderer and so forth.

(8) The procuring entity shall be required-

- (a) by the end of January each year, to submit to the Agency preliminary annual estimates of the common use items and services required, including statement of requirements, specifications and quantities; and
- (b) to prepare reports on the procurement of common use items and services indicating the names of suppliers or service providers, details of goods, equipment or services, quantities and values.

Obligations of tenderers and procuring entity in procurement of common use items and services

126.-1(1) A tenderer who is registered under regulation 125 shall adhere to the following:

- (a) comply with the invitation for a mini-competition prepared and issued by the procuring entity;
- (b) sign the local purchasing order issued by the procuring entity;
- (c) supply and deliver common use items and services to the procuring entity in the standards, price and location specified in the local purchasing order;
- (d) where samples are required, provide samples for approval and the common use items to be supplied shall be in accordance with the approved samples;
- (e) indemnify the procuring entity for any damage or loss caused by delays or any other act of the tenderer;
- (f) pay the participation fee in the tender of common use items and services as prescribed in First Schedule.

(2) The Authority shall allocate fifty percent of each fee paid under subregulation (1)(f) to the Agency.

(3) The procuring entity shall be responsible for-

- (a) effecting payments for goods and services delivered and accepted by the inspection and receiving committee; and
- (b) reporting on any violations by a tenderer under a contract entered with a procuring entity for the procurement of common use items and services.

(4) The procuring entity shall have the right to claim indemnity for damages caused by delayed delivery of goods, services, or any other actions of the tenderer, in accordance with the provisions of these Regulations.

Framework agreements for procuring entity

127.-(1) Subject to section 52(1) of the Act, the procuring entity may enter into framework agreements for goods, services or works.

(2) The procuring entity shall use a national or international open competitive tendering process to invite tenderers to submit tenders with prices or without prices for goods, services or works.

(3) The procurement of goods, services or works and the award of contracts may be done by tendering or by lots depending on the requirements of the relevant tender documents.

(4) Framework agreement may be concluded with more than one tenderer in a tender or lot, where in the opinion of the procuring entity, a single tenderer cannot meet the procurement requirements.

(5) Framework agreement under this regulation shall not be less than one year and shall not exceed three years.

(6) Where the procuring entity has entered into framework agreements-

- (a) with prices, it shall issue a local purchasing order to the successful tenderer; or
- (b) without prices, it shall invite a mini-competition from at least three tenderers

with framework agreements and issue a local purchasing order to the successful tenderer.

(7) The procuring entity shall not use the procedure under this regulation if the procurement involves common use items and services that use the procedures prescribed under regulations 124 and 125.

Fees to Agency

128. The Authority, the Appeals Authority and procuring entities shall pay fees to the Agency for procurement services provided by the Agency as specified in the Fourteenth Schedule.

Procurement procedures of Agency

129.-(1) The Agency shall procure goods included in the catalogue for resale from manufacturers, authorised agents, wholesalers or any other sources while taking into account the value for money.

(2) The Agency may procure petroleum products directly from any source at a particular time where such products meet the required standards and are available at market prices.

(3) Subject to subregulation (2), there shall be no limit on the procurement of petroleum products through any procurement method undertaken by the Agency.

(b) Procurement of Maintenance and Repair of Motor Vehicles, Plant and Equipment, and the Installation of Electrical, Refrigeration, Air Conditioning and Electronic Services in Buildings owned by Government

Procurement of motor vehicles, heavy plant, equipment and spare parts

130.-(1) The Secretary to the Cabinet may, on the direction of the Cabinet and on the advice of the ministry responsible for electrical, and mechanical engineering, determine the type, make and size of motor vehicles or other motorised equipment to be procured for official use of specified state officials or other senior Government officers and shall issue a circular for that purpose.

(2) The ministry responsible for electrical and mechanical engineering shall prepare detailed and acceptable schedule of requirements and specifications in accordance with prescribed and approved standards pursuant to subregulation (1) which shall be made available to the Authority for use by procuring entities when procuring such items.

(3) The preferred motor vehicles or other motorised equipment under subregulation (1) shall be procured directly from the manufacturer of the motor vehicles or through competitive quotations from reputable authorised local and international suppliers or dealers of the specified vehicles.

(4) The Authority shall liaise with the ministry responsible for electrical and mechanical engineering to produce standard specification documents for use by the procuring entities.

(5) Notwithstanding the provisions of subregulations (1) and (2), the approval of the Government or any organisation for any specific department of Government, ministry or region to increase the fleet of equipment or vehicles shall not specify the make of such equipment or vehicles and equipment or vehicle shall be procured through competitive tendering.

(6) For the purposes of this regulation, “motor vehicles and heavy plant” include both movable and immovable plant and machinery such as engines, generators, boilers, lorries, motor cars, motor cycles, tractors, road rollers and motor graders.

Procurement of
electrical,
electronic and
mechanical and
maintenance
services

131.-(1) The agency shall-

- (a) maintain and repair Government-owned motor vehicles, plant and electronic equipment;
- (b) maintain, repair and install electrical, air conditioning, refrigeration and electronics services in Government owned plants;
- (c) plan, through open or closed framework agreements, for the procurement of-

(i) maintenance and repair services of Government owned motor vehicles, plant and electronic equipment;

(ii) maintenance, repair and installation of electrical, air conditioning and refrigeration services and electronic equipment; and

(d) conduct inspection prior and after the service and issue a certificate of approval, except that a fee shall not be charged for such inspection.

(2) Subject to subregulation (1), the agency shall provide services to procuring entities in accordance with the market price at the time of service.

(3) The agency shall provide a warrant of service to a procuring entity of not less than three months for the maintenance which does not require warrant from the date of completion of repair or maintenance services and delivery.

(4) Without prejudice to subregulation (1), a procuring entity with a workshop, facilities, qualified personnel and equipment may, upon approval of the ministry responsible for mechanical and electrical services, carry out repair and maintenance of its own motor vehicles and plants.

(5) Subject to subregulation (1)(a) and (b), where the agency is unable to carry out the repair and maintenance due to non-availability of spare parts, technical know-how or other resource constraints, it shall issue a certificate of approval to procure such services from other approved service providers within a period of three days from the date of service request.

(6) A procuring entity shall, after obtaining a certificate of approval to procure service from approved service providers, procure electrical, electronic and maintenance of plants service from the list of tenderers registered in the electronic public procurement system.

(7) For purposes of subregulation (5), the agency shall prepare and submit to the Authority for registration and approval the recommended criteria and

conditions for qualified tenderers to provide electrical, electronics and maintenance of plants services which shall be made available on the electronic public procurement system.

(8) Where a procuring entity obtains approval to procure services from registered service providers, the agency shall, subject to payment of fees prescribed by the Minister responsible for mechanical and electrical services, inspect prior to and after maintenance and issue a certificate to certify the inspection on the maintenance performed.

(9) Service providers who shall provide services under subregulation (5) shall, after completion of maintenance services, issue to a procuring entity a warrant for the service provided of the period not less than three months from the date of completion and acceptance of the service.

(10) Every procuring entity shall maintain a record of-

- (a) maintenance, repairs and replacement of each motor vehicle, spare parts, piece of plant and equipment;
- (b) maintenance, repair and installation of electrical, air conditioning and refrigeration; and
- (c) electrical services,

for inspection by the ministry responsible for electrical, machinery and mechanical engineering, the Controller and Auditor General, the Authority and the agency.

(11) Where there is continuous non-satisfactory performance by the service provider, the procuring entity may terminate the procurement contract and report the matter to the Authority.

(12) For purposes of this regulation, “agency” means the Mechanical and Electrical Agency.

(c) Procurement of Health Commodities

Interpretation

132. In this Part, unless the context otherwise requires-

“health facility” means a place where health care is provided and includes a dispensary, health centre and hospital; and

“catalogue items” mean approved list of health commodities stocked by the Medical Stores Department.

Procurement of
health
commodities

Emergency
procurement of
health
commodities
GN. NO.
42 of 2025
reg. 12

133. Health facilities regardless of their statutory establishment shall procure all health commodities from the Medical Stores Department.

134.-(1) Subject to the provisions of sections 77 and 82(5) of the Act, where emergency procurement of any health commodity is required, the Medical Stores Department shall-

- (a) specify the commodities required and the time frame and place of delivery of commodities; and
- (b) procure through single source method or direct from the manufacturer, dealer or wholesaler.

(2) An invited tenderer shall submit a quotation specifying the price and quantity of the available commodities and the time frame of delivery.

(3) The Medical Stores Department shall evaluate the quotations submitted in accordance with subregulation (2) and award a procurement contract to the qualified tenderer based on the following criteria:

- (a) time frame of delivery;
- (b) quantity of the commodities; and
- (c) price quotation in comparison to the prevailing market price or from recently concluded contracts.

(4) Without prejudice to subregulation (3), the Medical Stores Department may award a contract to more than one tenderer based on the prevailing needs.

(5) The Medical Stores Department shall issue award a contract for the supply of health commodities under the certificate of emergency.

(6) The procedure of application for retrospective approval from the Paymaster General prescribed in section 77 of the Act shall apply after completion of emergency procurement under this regulation.

(7) The Medical Stores Department shall use standard documents of certificates of emergency provided by the Authority.

(8) For purposes of this regulation, “certificate of emergency” means a document issued by the procuring entity specifying the commodities or services and prices needed under emergency.

Urgent
procurement of
health
commodities

135.-(1) Urgent procurement of health commodities may be undertaken where-

- (a) there is an urgent need of health commodities;
- (b) existing framework agreements do not satisfy the urgent need of health commodities; or
- (c) procurement of health commodities uses donor funds whose conditions require a shortened period of procurement process.

(2) Where, depending on the type or need of health commodities, the procurement of such commodities requires urgent procurement, the Medical Stores Department may conduct the following:

- (a) select urgent procurement or where such method is already selected, change the procurement method depending on the need;
- (b) shorten the period for preparation and publication of tender;
- (c) review the prices immediately after price read out and submit to the accounting officer for approval;
- (d) for health commodities contracts which require submission to the Attorney General for vetting, submit the said contracts together with notice of emergency.

(3) Where the tenderer who has been awarded a contract through urgent procurement fails to implement the terms of the contract, the Medical Stores Department shall award the contract to the next ranked successful tenderer without re-tendering in respect of such commodity.

(4) The Medical Stores Department shall submit to the Authority a proposal for debarment in accordance with section 72 of the Act in respect of a tenderer who fails to implement the contract in accordance with subregulation (3).

Procurement of catalogue items

136.-(1) The Medical Stores Department shall maintain a list of catalogue items which shall be published on a yearly basis in the Department's website, health commodities logistic system and electronic public procurement system.

(2) By the end of January each year, health facilities shall submit to the Ministry responsible for health, the provisional annual estimates of the required catalogue items including descriptions, specifications, statement of requirements and quantities.

(3) Provisional annual estimates submitted in accordance with subregulation (2) shall specify the quantity of health commodities required for two months consumption.

(4) Health facilities shall accept the health commodities delivered by the Medical Stores Department in accordance with the forecasts submitted in the respective financial year.

(5) The Ministry responsible for health shall conduct semi-annual review of the forecasts to make necessary adjustments for the remaining half of the year.

(6) The Medical Stores Department shall plan for procurement of catalogue items which are required continuously or repeatedly over a set period of time and which are common to more than one procuring entity and may be procured through framework agreements by placing call off orders.

(7) Health facilities shall place orders to the Medical Stores Department for any item included in the price catalogue upon reaching a stock sufficient to meet the needs for two months subject to the guidelines for ordering health commodities provided by the ministry responsible for health.

(8) The Medical Stores Department shall scrutinise requests submitted by a health facility and where the requested health commodities are not available or insufficient, issue a non-availability notice to the procuring entity in accordance with the guidelines issued by the Ministry responsible for health.

(9) Upon receipt of a notice issued under subregulation (8), a health facility may commence procurement proceedings in respect of unavailable health commodities.

(10) The non-availability notice under subregulation (8) shall be used to procure the unavailable health commodities once in the relevant distribution cycle.

Procurement of
non-catalogue
items

137.-(1) Procuring entities shall, by the end of January each year, submit to the Medical Stores Department the provisional annual estimates of the required non-catalogue items which shall include descriptions, specifications, statement of requirements and quantities.

(2) The Medical Stores Department shall arrange for procurement of non-catalogue items which are required continuously or repeatedly over a set period of time and are common to more than one health facility and are subject to common procurement.

(3) The Medical Stores Department shall procure non-catalogue items for use by health facilities from suppliers awarded framework agreements through placing of call off orders.

(4) Upon receipt of requests from a health facility, the Medical Stores Department shall issue a proforma invoice for the health facility to make payment.

Procurement
procedures of
Medical Stores
Department

138.-(1) The Medical Stores Department shall procure catalogue and non-catalogue items from manufacturers, authorised agents, whole sellers or any other source giving consideration to value for money.

(2) Procurement of health commodities and tender award shall be conducted on item or lot basis depending on the requirements of the tender documents.

(3) Framework agreements may be concluded with more than one tenderer for one product where in the opinion of the Medical Stores Department, one tenderer cannot meet the requirements of such product.

(4) Framework agreements under this regulation shall not be for less than one year and not exceed three years and where there is a need for a contract exceeding three years, the Medical Stores Department shall seek the approval of the Authority.

(5) Where the Medical Stores Department intends to conclude a framework agreement with more than one tenderer for a single item, the tender documents shall clearly state that the contract shall be awarded to more than one tenderer.

(6) Subject to subregulation (5), the Medical Stores Department shall issue a call off order to the first ranked successful tenderer, and where the first ranked successful tenderer fails to satisfy the order, the Medical Stores Department reserves the right to issue a call off order to the second successful tenderer and so forth.

(7) Notwithstanding the provisions of regulation 124(6), the Medical Stores Department shall conduct clearing and forwarding services for the health facilities in respect of health commodities procured from abroad.

(8) The Medical Stores Department shall submit a report to the Agency regarding the clearing and forwarding activities conducted in order to enable the Agency to submit a quarterly report to the Minister.

(9) Where the Medical Stores Department fails to efficiently perform clearing and forwarding activities

of health commodities, the Minister may restore such activities to the Agency.

Price adjustment by Medical Stores Department

139.-(1) The Medical Stores Department may, during the implementation of closed framework agreements, where-

- (a) there is a need; or
- (b) upon receipt of a request from a supplier of health commodities,

make price adjustment by comparing prices requested against the international price indicator guidelines and verify the justification for such price adjustment.

(2) The Medical Stores Department shall determine the general factors or percentage for price adjustment which shall be approved by the Authority.

(3) For purposes of this regulation “closed framework agreement” means an agreement which has specific terms and conditions and has agreed price for each item.

General criteria on procurement of catalogue and non-catalogue items

140. The Medical Stores Department may procure catalogue and non-catalogue items from any prequalified tenderer or open competitive method if the items meet the required standards and are available at competitive prices.

Tender security for procurement of health commodities

141.-(1) Notwithstanding the provisions of regulation 27(1), the Medical Stores Department shall require all tenderers submitting tenders for health commodities to submit a tender security or a bid securing declaration.

(2) Tender documents shall specify the terms and conditions for the tender security or bid securing declaration.

(3) The tender security or bid securing declaration shall conform to the format of the tender security or tender security declaration included in the tender documents.

Procurement direct
from
manufacturers or
dealers of health
commodities

142.-(1) The Medical Stores Department shall specify in its annual procurement plan the products which shall be procured directly from manufacturers, authorised dealers, wholesalers or any other source, giving considering to value for money.

(2) Before procuring health commodities under subregulation (1), the Medical Stores Department shall-

- (a) send an invitation for quotations attached with terms and conditions to manufacturers, authorised dealers, wholesalers or any other relevant source;
- (b) where there is more than one manufacturer, authorised dealer or wholesalers, ensure value for money in procurement of health commodities by inviting quotations attached with terms and conditions from at least three manufacturers, authorised dealers or wholesalers;
- (c) after receiving the quotation attached with the signed terms and conditions document-
 - (i) conduct an evaluation of the technical specifications and price;
 - (ii) negotiate the price, if necessary, with the view to ensuring quality and value for money of the health commodities; and
 - (iii) ensure the evaluation report is approved by the accounting officer or the tender board; and
- (d) prepare a procurement contract for health commodities from the manufacturer, authorised dealer or wholesaler in accordance with the terms and conditions agreed upon by both parties.

(3) Pursuant to subregulation (2)(c), where there are differences in the terms and conditions between the Medical Stores Department and the manufacturer or dealer, the Medical Stores Department shall seek legal advice from the Office of the Attorney General.

(d) Procurement by Commercially Operating Entities for Commercial Use

Procurement of special spare parts and industrial raw materials for commercial use

143.-(1) Procurement of special spare parts and industrial raw materials, whose market prices may fluctuate at any time depending on market conditions, carried out by commercially operating entities for commercial use, may involve awarding more than one award in small quantities so as to ensure their availability over a specific period.

(2) Commercially operating entities may prepare a list of pre-qualified suppliers for the purpose of issuing regular invitations for procurement of special spare parts or industrial raw materials for commercial use.

(3) The suppliers referred to under subregulation (2) may be invited to submit quotations aligning with the market prices at the time of or before the shipment of the required special spare parts or industrial raw materials.

(4) Commercially operating entities may procure special spare parts or industrial raw materials for commercial use through framework agreements.

(5) For the purposes of this regulation, “industrial raw materials” means goods for production or stock of goods for production which an entity or firm requires for the manufacture of its products.

Use of bid securing declaration in procurement for commercial use

144. Notwithstanding the provisions of regulation 27(1)(a) relating to the limitation on the use of a bid securing declaration in procurement, a bid securing declaration in procurement for commercial use conducted by commercially operating entities shall be used subject to the upper margin of the value of exclusive preference as prescribed in Part B of the Fourth and Fifth Schedules.

Threshold of procurement for commercial use

145.-(1) Notwithstanding any provisions of these Regulations relating to the threshold of approval for procurement of goods, works or services by a

procuring entity, the accounting officer shall approve the procurement of goods, works or services for commercial use by commercially operating entities, which falls below the threshold specified in the Fifteenth Schedule.

(2) The procurement of goods, works or services for commercial use starting from the threshold specified in the Fifteenth Schedule shall be approved by the tender board.



PART V
METHODS OF PROCUREMENT AND THEIR CONDITIONS FOR
USE

(a) Rules Applicable to the Selection of Procurement Method

Pre-qualification

146. Before inviting open tenders, a procuring entity may consider pre-qualifying tenderers in accordance with these Regulations with a view to identify tenderers who possess the necessary resources and competence for completion of the eventual contract.

Procurement direct
from manufacturer,
dealer, wholesaler
or service provider

147.-(1) A procuring entity shall, in its annual procurement plan, specify the goods or services which shall be procured directly from the manufacturer, dealer, wholesaler or service provider.

(2) Where goods or services are to be procured in accordance with subregulation (1), the procuring entity shall, prior to procurement, ensure that-

- (a) the goods or services to be procured meet the standards and specifications approved by the relevant authority, unless otherwise not specified;
- (b) the need of after-sales services and the entire product usage period have been considered; and
- (c) the goods or services shall be procured directly based on the established terms and conditions.

(3) Subject to subregulation (2)(c), where the terms and conditions provided by the manufacturer, dealer, wholesaler or service provider differ from those provided by the procuring entity, the procuring entity shall seek legal guidance from the Office of the Attorney General.

(4) Where there is more than one manufacturer, dealer, wholesaler or service provider, the procuring entity shall-

- (a) ensure value for money by inviting quotations from each manufacturer, dealer, wholesaler or service provider; and
- (b) evaluate all received quotations and, where necessary, engage in negotiations with the manufacturer, dealer, wholesaler or service provider to ensure compliance with the goods or service requirements.

(5) For the purpose of this regulation-

- (a) “service provider” means a manufacturer providing after-sales services or an authorised dealer of the manufacturer providing after-sales services or a sole service provider specialising in a specific service; and
- (b) “dealer” means a person authorised to sell products of the manufacturer or to provide services.

Method of procurement

148.-(1) A procuring entity shall, before using alternative procurement methods, consider international and national competitive tendering methods for the procurement of goods, works and non-consultancy services as prescribed in these Regulations.

(2) Subject to the prior approval in writing of the accounting officer or tender board as the case may be, other methods of procurement may be used where it is established that such methods may have due regard for transparency, value for money and efficiency in the implementation of the project.

(3) Where a procuring entity uses a method of procurement pursuant to subregulation (2), the entity shall include in records maintained under regulation 14, details of the reasons and circumstances used to justify the use of the method.

(4) A procuring entity may select an appropriate alternative method of procurement if-

- (a) the competitive tendering method is not considered to be efficient and offering value for money; and

(b) the nature and estimated value of the goods, works or services permit.

(b) Open Tender Procedures

International competitive tendering

149.-(1) In international competitive tendering, a procuring entity shall, invite tenderers regardless of their nationality, to submit priced tenders for goods, works or non-consultancy services or purchase of public assets.

(2) The international competitive tendering shall be used if-

(a) payment, in whole or in part, is made in a foreign currency; or
(b) it is desired to attract tenders from the widest range of tenderers regardless of the estimated value of the goods or works to be procured.

(3) The procuring entity shall advertise the tender through international competitive tendering in accordance with the provisions of regulation 18 and shall provide adequate time for prospective tenderers to obtain application documents of pre-qualification or tenders documents and to prepare and submit their tenders.

(4) Domestic or national preferences shall apply in the evaluation of tenders if specified in the tender documents.

National competitive tendering

150.-(1) In national competitive tendering, the procuring entity shall invite registered tenders within the United Republic to submit priced tenders for the supply of goods, services, works or purchase of public assets.

(2) The national competitive tendering method may be used if-

(a) payment is made wholly in Tanzanian shillings;
(b) goods, works or non-consultancy services are available locally at a price lower than international market price;

- (c) the estimated cost of goods, works or non-consultancy services does not exceed the threshold of the national competitive tendering method as prescribed in Sixth Schedule;
- (d) works or non-consultancy services are scattered geographically or spread over time;
- (e) works are labour intensive; and
- (f) the administrative financial burden involved outweigh the advantages of international competitive tendering.

(3) The tender advertisement shall be issued in accordance with regulation 18 and for a sufficient period to enable prospective tenders to obtain the pre-qualification or tendering documents and to prepare and submit their tenders.

(4) Domestic or national preferences shall apply in the evaluation of tenders under national competitive tendering where foreign firms participate.

National and international restricted tendering with fixed budget

151.-(1) Where the procurement is allocated a fixed budget, the methods of national and international competitive tendering and restricted may be used.

(2) The invitation to tender shall specify the allocated budget and require tenderer to submit the tender in accordance with the budget.

(3) The schedule of requirements shall be designed to ensure that the allocated budget is sufficient for the implementation of the contract.

(4) Tenders shall be evaluated and any tender exceeding the allocated budget shall be rejected.

Restricted tendering

152.-(1) A procuring entity may limit the issue of tender documents to a limited number of specified tenders if-

- (a) suppliers, contractors or service providers have been pre-qualified in accordance with regulation 114;

- (b) the required goods, works or services are of a specialised nature or can be obtained from a limited number of reliable contractors, service providers or sources;
- (c) there is an urgent need for the goods, works or services such that there would be insufficient time for a procuring entity to engage in open national or international tendering and that the circumstances giving rise to the urgency could not have been foreseen early by a procuring entity and have not been caused by dilatory conduct on its part; or
- (d) there is a need to achieve social objectives by calling for participation of local communities, special groups and local firms.

(2) Restricted tendering may be used by a procuring entity for setting aside contracts for the purpose of building capacity of local firms or special groups.

(3) The justifications for using restricted tendering method under subregulations (1) and (2) shall be prescribed in the records of procurement proceedings made under these Regulations.

(4) Unless where the tenderers have already been pre-qualified, the procuring entity issuing a restricted tender shall invite multiple tenderers from the list of pre-qualified tenderers to ensure competitive prices.

(5) In cases where only a limited number of tenderers are expected to tender, the list shall include all such tenderers.

(6) Except for advertisement and issuance of tenders, the procedures for competitive tendering prescribed in these Regulations shall apply.

(c) Competitive Methods Involving Negotiations

Conditions for use of two-stage tendering, request for proposals or competitive negotiations

153.-(1) A procuring entity may engage in procurement by means of two-stage tendering in accordance with regulation 154, or invite tenders in accordance with regulations 155, 156 and 157 where-

- (a) the procuring entity cannot prepare detailed technical specifications for goods or works or in the case of services, to refine aspects of the description of the subject matter of the procurement in order to obtain the most satisfactory solution to its procurement needs-
 - (i) it seeks tenders, proposals, or offers as various means to meet its requirements; or
 - (ii) it is necessary for the procuring entity to negotiate with tenders due to the technical character of the goods or works, or the nature of the services;
- (b) the procuring entity seeks to enter into a contract for the purpose of research, experiment, study or development, except where the contract includes the production of items in quantities sufficient to establish their commercial viability or to recover research and development costs; or
- (c) the tendering process have been engaged in but no tenders were submitted, or all tenders were rejected by a procuring entity pursuant to regulation 16, and in the judgment of the procuring entity, engaging in new tendering proceedings would be unlikely to result in a procurement contract;

(2) The procuring entity may initiate competitive discussions particularly for complex procurements if-

- (a) it cannot specify the technical methods that could meet its needs or objectives or define the legal or financial framework of the project; or

(b) it is established that using an open or restricted tendering process would not permit the award of a contract.

(3) The procuring entity may conduct procurement through an invitation to tender combined with consecutive negotiations if-

(a) it needs to consider the financial aspects of proposals separately and only after completion of examination and evaluation of the quality and technical aspects of the proposals, and

(b) it establishes that consecutive negotiations with tenderers are needed in order to ensure that the financial terms and conditions of the procurement contract are acceptable to the procuring entity.

(4) The procuring entity may engage in procurement by means of competitive negotiations if-

(a) there is an urgent need for the goods, works or services, and engaging in tendering proceedings would be impractical, and the circumstances giving rise to the urgency were neither foreseeable by the procuring entity nor the result of negligence on its part; SM &

(b) owing to a catastrophic event, there is an urgent need for the goods, works or services, making it impractical to use other methods of procurement because of the time involved in using the methods;

(c) the procuring entity seeks to undertake procurement of goods, works or services for national defence or national security.

Two-stage tendering

154.-(1) The provisions of these Regulations for open tendering shall apply to two-stage-tendering proceedings, except where those provisions are derogated from, in this regulation.

(2) The tender documents shall call upon tenderers to present, in the first stage of two-stage

tendering proceedings, initial tenders containing their proposals without a tender price.

(3) The tender documents may solicit proposals relating to the technical, quality or performance characteristics of the subject matter of the procurement, contractual terms and conditions of procurement and, where relevant, the professional and technical competence and qualifications of the tenderers.

(4) A procuring entity may, in the first stage, engage in discussions with tenderers whose initial tenders have been accepted pursuant to the provisions of these Regulations concerning any aspect of their initial tenders.

(5) Without prejudice to subregulation (4), when a procuring entity engages in discussions with any tenderers, it shall extend an equal opportunity to participate in discussions to all tenderers.

(6) In the second stage of two-stage tendering proceedings, a procuring entity shall invite all tenderers whose initial tenders were accepted in the first stage to present final tenders with prices in response to a revised set of terms and conditions of the procurement.

(7) In revising the relevant terms and conditions of the procurement, the procuring entity shall not modify the subject matter of the procurement but may refine aspects of the description of the subject matter of the procurement by-

(a) deleting or modifying any aspect of the technical, quality or performance characteristics of the subject matter of the procurement initially provided and adding any new characteristics that conform to the requirements of these Regulations; or

(b) deleting or modifying any criterion for examining or evaluating tenders initially provided and adding any new criterion that conforms to the requirements of these Regulations, only to the extent that the deletion, modification or addition is required as a result of changes made in the

technical, quality or performance characteristics of the subject matter of the procurement.

(8) Any deletion, modification or addition made under subregulation (7) shall be communicated to the tenderers through an invitation to submit final tenders.

(9) A tenderer who does not wish to submit a final tender may withdraw from the tendering proceedings without forfeiting any tender security which the tenderer was required to submit.

(10) Final tenders shall be evaluated with a view to determine the successful tender.

Request for proposal with simultaneous negotiations

155.-(1) Request for proposals shall be sent to at least three tenderers.

(2) The procuring entity shall, through the electronic public procurement system, publish a notice requesting the submission of tenders.

(3) The procuring entity shall specify the criteria for proposal evaluation, by determining the grading level for each criterion and how they shall be applied in evaluating the proposals.

(4) The criteria referred to in subregulation (3) shall relate to-

- (a) the management and technical capability of the tenderer;
- (b) the effectiveness of the proposal submitted by the tenderer in response to the needs of procuring entity;
- (c) the price submitted by the tenderer for implementing the proposal and the costs of operation, maintenance and repair of the proposed goods or works.

(5) The invitation to proposal issued by the procuring entity shall include at least the following information:

- (a) the name and address of the procuring entity;
- (b) a description of the subject matter of procurement, including technical

specifications and other criteria that the proposal should address, as well as, the location where works shall be carried out, in case of procurement of works and the location for provision of services, in case of services;

- (c) financial criteria specified for proposal evaluation, where possible, the points to be awarded for each criterion and the manner it shall be used in the recommendation of proposal; and
- (d) required form and any instruction, including the relevant schedule to be used in the tender.

(6) Any modification or clarification of the request for proposals, including modification of the criteria for evaluating proposals referred to in subregulation (4), shall be communicated to all tenderers participating in the request-for-proposals proceedings.

(7) The procuring entity shall treat proposals in such a manner as to avoid the disclosure of their contents to competing tenderers.

(8) The procuring entity may engage in negotiations with tenderers with respect to their proposals and may seek or permit revisions of such proposals, provided that the following conditions are satisfied:

- (a) any negotiations between the procuring entity and a tenderer shall be confidential;
- (b) subject to regulation 14, one party to the negotiations shall not reveal to any other person any technical, price or other market information relating to the negotiations without the consent of the other party;
- (c) the opportunity to participate in negotiations is extended to all tenderers whose proposals have been accepted.

(9) Following completion of negotiations, the procuring entity shall request all tenderers remaining in

the proceedings to submit, by a specified date, final offer with respect to all aspects of their proposals.

(10) The procuring entity shall employ the following procedures in the evaluation of proposals:

- (a) the only criteria referred to in subregulation (4) as set forth in the request for proposals shall be considered;
- (b) the effectiveness of a proposal in meeting the needs of the procuring entity shall be evaluated separately from the price; and
- (c) the price of a proposal shall be considered by the procuring entity only after completion of the technical evaluation.

(11) Any award by the procuring entity shall be made to the tenderer whose proposal best meets the needs of the procuring entity as determined in accordance with the criteria for evaluating the proposals set forth in the request for proposals, as well as with the relative weight and manner of application of those criteria indicated in the request for proposals.

Conducting simultaneous negotiations

156.-(1) Where the procuring entity uses a selection procedure with simultaneous negotiations, it shall issue the request for proposals to prequalified, pre-selected or shortlisted tenderers that best meet the qualification criteria specified in the prequalification documents.

(2) A procuring entity shall pre-select tenderers that acquired the best rating, up to the maximum number indicated in the prequalification or pre-selection documents but shall not be less than three, wherever possible.

(3) A procuring entity shall evaluate all proposals received in accordance with the established minimum requirements and shall reject all proposals which fail to meet the minimum requirements on the ground of being non-responsive

(4) Where a maximum limit on the number of tenderers that can be invited to participate in the negotiation has been established and the number of

responsive proposals exceeds that limit, the procuring entity shall select the maximum number of responsive proposals in accordance with the criteria and procedure specified in the request for proposals.

(5) A procuring entity shall invite each tenderer that presented a responsive proposal, within any applicable maximum number of tenders, to participate in the simultaneous negotiations.

(6) A procuring entity shall ensure that the number of tenderers invited to participate in the simultaneous negotiations, which shall be at least three, is sufficient to ensure effective competition.

(7) The negotiations shall be conducted by the same representatives of the procuring entity on a concurrent basis.

(8) In the course of the negotiations, a procuring entity shall not modify the subject matter of the procurement, any qualification or evaluation criterion or any minimum requirements established pursuant to regulations 7 and 116(3) any element of the description of the subject matter of the procurement or any term or condition of the procurement contract that is not subject to the negotiations as specified in the request for proposals.

(9) The procuring entity may seek or permit revisions of such proposals, provided that the opportunity to participate in negotiations is extended to all such tenderers.

(10) Following completion of negotiations, the procuring entity shall request all tenderers remaining in the proceedings to submit final offer with respect to all aspects of their proposals.

(11) The request referred to in subregulation (10) shall be in writing and shall specify the manner and deadline for presenting final offers.

(12) In the evaluation of proposals, the price of a proposal shall be considered after completion of the technical evaluation.

(13) No negotiations shall take place between the procuring entity and tenderers with respect to their final offer.

(14) The successful offer shall be the offer that best meets the needs of the procuring entity as determined in accordance with the criteria and procedure for evaluating the proposals set out in the request for proposals.

Request for proposals with consecutive negotiations

157.-(1) Except where it is otherwise provided in this regulation, regulation 162(1) and (2) shall, with minimum variations, apply to procurement conducted by means of request for proposals with consecutive negotiations.

(2) Proposals with technical, quality and performance characteristics which meet or exceed the relevant minimum requirements shall be considered to be responsive and the procuring entity shall rank each responsive proposal in accordance with the criteria and procedure for evaluating proposals set out in the request for proposals, and shall-

(a) promptly communicate to each tenderer submitting a responsive proposal the score of the technical, quality and performance characteristics of its respective proposal and its ranking;

(b) invite the tenderer that has attained the best ranking, in accordance with such criteria and procedure, for negotiations on the financial aspects of its proposal; and

(c) inform other tenderers who presented responsive proposals that their proposals may be considered for negotiation if negotiations with the highest ranked tenderer do not result in a procurement contract.

(3) Where it is apparent to the procuring entity that the negotiations with the invited tenderer may not result in a procurement contract, the procuring entity may terminate the negotiations and shall, thereafter,

communicate to the tenderer its decision to terminate the negotiations.

(4) In the course of negotiations, the procuring entity shall not modify the subject matter of the procurement, qualification, or evaluation criterion, including any established minimum requirements, an element of the description of the subject matter of the procurement or term or condition of the procurement contract other than financial aspects of proposals which are subject to the negotiations as specified in the request for proposals.

(5) The procuring entity shall not re-open negotiations with any tenderer to whom it has terminated negotiations under these Regulations.

Competitive negotiations

158.-(1) For a competitive negotiation procedure, selection shall be made for all tenderers who respond to invitation and the procuring entity shall enter into negotiations with potential tenderers to develop one or more suitable solutions for its requirements and on which chosen tenderers shall be invited to tender.

(2) The number of potential tenderers invited to participate in a negotiation shall not be less than three, provided that a sufficient number of suitable potential tenderers are available.

(3) During the competitive negotiation procedure the procuring entity-

- (a) may discuss all aspects of the contract with the tenderers;
- (b) shall ensure equality of treatment and shall not provide information in a discriminatory manner; and
- (c) shall not reveal to the other tenderers solutions proposed or confidential information communicated by a tenderer without the tenderer's agreement.

(4) The procuring entity shall pursue the negotiation until it identifies the solution suitable for meeting its needs and requirements.

(5) A negotiation may consist of three stages-

- (a) summary solutions;
- (b) detailed solutions; and
- (c) refined solutions upon its completion.

(6) Following completion of negotiation, the procuring entity shall request all tenderers remaining in the proceedings to present, by a specified date, final offer with respect to their refined proposals to be evaluated on the basis of the award criteria laid down in the tender notice or in the tender document.

(7) In any event, the procuring entity shall make sure that the number of participants invited to tender is sufficient to ensure genuine competition.

(8) Negotiations shall not take place between the procuring entity and tenderers in respect of the final offers submitted by the tenderers.

(9) The successful tender shall be the tender that best meets the needs of the procuring entity.

(10) The Authority shall issue guidelines for conducting competitive negotiations.

Single source procurement for goods or non-consultancy services

159.-(1) Subject to approval by accounting officer or the tender board as the case may be, a procuring entity may engage in a single-source procurement in accordance with subregulation (3) under the following circumstances:

- (a) goods or non-consultancy services are available only from a particular tenderer who has exclusive rights in respect of the goods or non-consultancy services, and no alternative exists;
- (b) there is an urgent need for the goods or non-consultancy services, and engaging in tendering proceedings or any other method of procurement is impractical, provided that the circumstances giving rise to the urgency were neither foreseeable by the procuring entity nor the result of negligence on the part of a procuring entity;
- (c) a procuring entity, having procured goods, equipment, technology, non-consultancy

services or spare parts from a supplier, following national or international competitive tendering satisfactory to these Regulations, determines that additional goods, equipment, technology, non-consultancy services or spare parts of the same type as those purchased under an existing contract are required;

- (d) a procuring entity seeks to enter into a contract with a tenderer for the purpose of research, experiment, study or development, except where the contract includes the product of goods in quantities to establish their commercial viability or to recover research and development costs;
- (e) procurement involving national defence or security and where it is determined that a single-source procurement is the most appropriate method of procurement;
- (f) where critical items need to be purchased from a specified supplier to ensure that the output of a process plant shall be maintained by the contractor responsible for the process design;
- (g) where standardisation of equipment is essential for economic and technical reasons and it has been proved to the accounting officer or tender board's satisfaction that compatibility of the existing equipment with another make of equipment cannot be established and that there is no advantage of having an alternative tenderer;
- (h) where standardisation of spare parts is required so that they may be compatible with existing equipment or spare parts related to specific and specialised equipment or machinery; or

(i) where in an on-going project, additional items need to be purchased for the completion of implementation.

(2) For purposes of these Regulations, standardisation is considered to be appropriate if the original equipment is suitable for the purposes of the project being financed and has been acquired at reasonable prices through national or international competitive tendering satisfactory to the accounting officer or tender board and that the number of the new items to be added is less than the existing value and cannot be obtained from other sources.

(3) In the circumstances prescribed under subregulation (1), a procuring entity may procure the goods or non-consultancy services, by soliciting proposal or price quotation from a single tenderer.

Procedure of
single source
tender

160.-(1)A procuring entity may, subject to approval by the accounting officer or tender board, engage in single-source procurement when procurement from a particular supplier or service provider is necessary and in such a case, the letter of invitation to the selected tenderer shall contain-

- (a) the full name and address of the procuring entity;
- (b) instructions for submission of a quotation;
- (c) a full description of the goods or non-consultancy services to be procured, including the required technical or quality characteristics, specifications, designs, plans and drawings, as appropriate;
- (d) the quantities of any goods or the desired results of any non-consultancy services to be supplied or provided and the required time and place of delivery, any requirements for minimum performance, warranty and maintenance for such goods or management and reporting requirements of a service provider;

- (e) whether any alternatives to the required specifications or characteristics of the goods or non-consultancy services, or to other contractual conditions, are to be permitted;
- (f) the period of validity of the quotation;
- (g) the form of contract or local purchase order, to include all terms of payment;
- (h) a statement of the currency in which the tenderer or service provider shall be paid; and
- (i) statement that the procuring entity is not bound to accept the quotation.

(2) The procuring entity shall scrutinise the quotation received and, where necessary, negotiate with the tenderer with a view to ensuring that the requirement for the goods or non-consultancy services are complied with, and the price quoted is not excessive and is in line with reasonable expectations.

(3) The procuring entity shall not make reductions in the quality of the goods or non-consultancy services in order to achieve cost savings.

(4) The justification for use of single source procurement further to regulation 159 shall be prescribed in the record of procurement proceedings made pursuant to regulation 14.

Single source
procurement for
works

161.-(1) A procuring entity may obtain quotation from a single contractor, negotiate and enter into a direct contract if-

- (a) there is an urgent need for the works such that there would be insufficient time for a procuring entity to engage in tendering or any other method of procurement, provided that the circumstances giving rise to the urgency could not have been foreseen and have not been caused by negligence on part of the procuring entity;
- (b) there is only one particular contractor which a procuring entity can reasonably expect to undertake the required works;

- (c) there are advantages to a procuring entity in using a particular contractor who has undertaken or is undertaking similar works or who may have already been mobilised with plant, equipment and staff in the vicinity or any other resources as may be appropriate; or
- (d) works which are under execution are to be extended, and the corresponding contract is awarded following national or international competitive tendering.

(2) The letter of invitation to the selected contractor shall contain-

- (a) the full name and address of the procuring entity;
- (b) instructions for submission of a quotation;
- (c) a full description of the works to be procured, including the required technical or quality characteristics, specifications, designs, plans and drawings;
- (d) bills of quantities, the location and the required time for their completion;
- (e) any alternatives to the required specifications or characteristics of the works, or to other contractual terms, if such alternatives are to be permitted;
- (f) period of validity of the quotation;
- (g) the form of contract or local purchase order, including all conditions and terms of payment;
- (h) a statement of the currency in which the contractor shall be paid; and
- (i) a statement that the procuring entity is not bound to accept the quotation.

(3) A procuring entity shall scrutinise any quotation received and, where necessary, negotiate with the contractor with a view to ensuring that the requirement for the works is properly addressed and the price quoted is not excessive and is in line with reasonable expectations.

(4) A procuring entity shall not make undesirable reductions in the quality and scope of the works in order to achieve cost savings.

(5) The justification for direct contracting pursuant to subregulation (1) shall be set out in the record of procurement proceedings made in accordance with regulation 14.

(d) Procurement Method Which Does Not Involve Negotiations

Request for
proposals without
negotiation

162.-(1) A procuring entity may engage in procurement by means of request for proposals without negotiation where the procuring entity needs to consider the financial aspects for each proposal and only after completion of examination and evaluation of the quality and technical aspects of the proposals.

(2) Except where it is expressly provided otherwise under these Regulations, a procuring entity shall invite proposals through the request-for-proposals-without-negotiation proceedings to be published in accordance with these Regulations.

(3) The invitation shall contain-

- (a) the name and address of the procuring entity;
- (b) a detailed description of the subject matter of the procurement, and the desired or required time and location for the provision of such subject matter;
- (c) terms and conditions of the procurement contract, to the extent that they are already known to the procuring entity, and the form of the contract, if any, to be signed by the parties;
- (d) criteria and procedures to be used for ascertaining the qualifications of tenderers and any documentary evidence or other information that shall be presented by tenderers to demonstrate their qualifications;

(e) criteria and procedures for opening, examining and evaluating the proposals, including the minimum requirements with respect to technical, quality and performance characteristics that proposals must meet in order to be considered responsive, and a statement that proposals that fail to meet those requirements will be rejected as non-responsive;

(f) a declaration whether the participation of tenderers in the procurement proceedings is limited and on which ground;

(g) means of obtaining proposals;

(h) the language to be used in the tender documents; and

(i) the manner, place and deadline for presenting proposals.

(4) The procuring entity shall issue the request for proposals-

(a) in the case of an invitation to participate in the request for proposals without negotiation proceedings has been published, to each tenderer responding to the invitation in accordance with the procedures and requirements specified in the proposal;

(b) in the case of pre-qualification, to each tenderer pre-qualified in accordance with these regulations; and

(c) in the case of direct solicitation, to each tenderer selected by the procuring entity.

(5) The request for proposals shall include, in addition to the information referred to in subregulation (3)(a) to (e) and (k), the following information:

(a) instructions for preparation and presentation of proposals;

(b) in the case tenderers are permitted to present proposals for only a portion of the subject matter of the procurement, a

description of the portion or portions for which proposals may be submitted;

(c) the type of currency and the manner in which the proposal price is to be formulated and expressed, including a statement as to whether the price is to cover elements other than the cost of the subject matter of the procurement itself, such as reimbursement for transportation, lodging, insurance, use of equipment, duties or taxes;

(d) the type of currency that shall be used for the purpose of evaluating proposals and the exchange rate that shall be used for the conversion of proposal prices into that type of currency or a statement that the rate published by a specified financial institution and prevailing on a specified date shall be used;

(e) the means by which, tenderers may seek clarification of the request for proposals, and a statement as to whether the procuring entity intends to convene a pre-tender meeting at this stage;

(f) the address of the secretary of the board of the procuring entity who is authorised to communicate directly with, and to receive communications directly from, tenderers in connection with the procurement proceedings without the intervention of an intermediary;

(g) notice of the right to complain on, or appeal from, decisions or actions done by the procuring entity that are allegedly not in compliance with the provisions of the Act, together with information on the duration of the applicable cool off period, a statement to that effect and the reasons;

(h) any formalities required, where the successful proposal is accepted, for a procurement contract to enter into force,

including, where applicable, the execution of a written procurement contract and approval by accounting officer or tender board, and the estimated period of time following the dispatch of the notice of acceptance that shall be required to obtain the approval; and

(i) any other requirement which may be imposed by the procuring entity in conformity with the Act and these Regulations relating to the preparation and presentation of proposals and to the procurement proceedings.

(6) The procuring entity shall, before considering the financial aspects of the proposals, examine and evaluate the technical, quality and performance characteristics of proposals in accordance with the criteria and procedures specified in the request for proposals.

(7) The results of the examination and evaluation of the technical, quality and performance characteristics of the proposals shall be included in the record of the procurement proceedings.

(8) Proposals with technical, quality and performance characteristics which fail to meet the relevant minimum requirements shall be considered to be non-responsive and shall be rejected on that ground.

(9) A notice of rejection and the reasons for the rejection shall promptly be communicated to each respective tenderer whose proposal was rejected.

(10) The proposals with technical, quality and performance characteristics which meet or exceed the relevant minimum requirements shall be considered to be responsive and the procuring entity shall promptly communicate to each tenderer the score of the technical, quality and performance characteristics of its respective proposal and the opening date of the financial aspects of the proposals.

(11) The score of the technical, quality and performance characteristics of each responsive proposal

and the corresponding financial aspect of that proposal shall be submitted to the tenderers through electronic public procurement system.

(12) The procuring entity shall, subject to subregulation (2), compare the financial aspects of the responsive proposals and identify the successful proposal in accordance with the criteria and the procedure set out in the request for proposals.

(13) The successful proposal shall be the proposal with the best combined evaluation in terms of the price and the criteria specified in the request for proposals or first ranked proposal in the list of qualified tenderers.

Shopping

163.-(1) The accounting officer or the tender board may approve and invite competition through a request for international or national quotations if-

- (a) the goods, works or non-consulting services to be procured are so diversified that they would not provide any commercial interest to the supplier, contractor, or service provider to submit a tender; or
- (b) the goods are readily available and suitable for immediate use or standard products with specifications.

(2) The procuring entity shall not split its procurement into separate contracts for the purpose of applying subregulation (1).

(3) The procuring entity shall use a list of tenderers from prepared list in accordance with regulation 114(3).

(4) The list of tenderers referred to in subregulation (3) shall be submitted to the accounting officer or tender board for approval, and the procuring entity shall simultaneously send the request for quotations to all approved tenderers.

(5) The period for international and national shopping prescribed in the Tenth Schedule to these Regulations shall be applied for the preparation of quotations.

Procedures for
shopping

164.-(1) Quotations shall be obtained from at least three suppliers and may include qualified agents of foreign suppliers in Tanzania.

(2) The letter of invitation for quotations and any attachments shall contain-

- (a) the full name and address of the procuring entity;
- (b) a full description of the goods, works or services to be procured, including the required technical or quality characteristics, specifications, designs, plans and drawings, as appropriate;
- (c) the quantities of any goods to be supplied and the required time and place of delivery, any requirements for such goods;
- (d) in the case of works, bills of quantities, the location and the required time for their completion;
- (e) in the case of services, a list of targets to be achieved by a service provider, list of specific tasks or duties to be performed, a schedule of deliverables or outputs against which the achievements of the services shall be measured, the duration of the services and method of measuring the performance of services delivered;
- (f) any alternatives to the required specifications or characteristics of the goods, works, services or to other contractual conditions, if such alternatives are to be permitted;
- (g) information of any elements other than the charges for the goods or services themselves, such as any applicable transportation and insurance charges, customs duties and taxes, that are to be included in the price;
- (h) the criteria for evaluation of quotations or tenders including any weighting factors that

may be applied to technical, price or other factors;

- (i) the period, generally forty five days, during which the quotations are to remain valid;
- (j) the form of contract or local purchase order, to include all conditions and terms of payment, a statement of the currency in which the successful supplier shall be paid, if different from the quoted price;
- (k) a statement that the procuring entity does not bind itself to accept any quotation and may reject all quotations;
- (l) a statement of the tenderers' right to review pursuant to Part XI of the Act;
- (m) the manner in which the quotations shall be submitted; and
- (n) the place, date and deadline for the submission and opening of quotations.

(3) All prospective tenderers shall be provided with the same information, and shall be assured of equal opportunities to obtain additional information on a timely basis.

(4) Each tenderer is permitted to give only one price quotation and is not permitted to change its quotation and no negotiations shall take place between the tender evaluation committee and tenderer with respect to a tender, proposal, offer or quotation submitted by the tenderer.

(5) The procurement contract shall be awarded to the tenderer who has submitted the lowest-priced quotation that meets the needs of the procuring entity.

(6) Notwithstanding subregulation (5), the procuring entity shall have the right to reject abnormally low quotation subject to regulation 16.

Minor value procurement

165. A procuring entity may procure goods, services or minor works directly from a tenderer if-

- (a) the value does not exceed the threshold for minor value procurement prescribed in the Sixth Schedule;

- (b) the price quoted is compatible to the value of goods, services or works;
- (c) no advantage to a procuring entity is likely to be obtained by seeking further quotations or by using other methods of procurement; and
- (d) the contract for the provision of such goods, services or works may be a local purchase order.

Micro value procurement

166.-(1) Micro procurement may be conducted by the procuring entity to procure of goods, works, or non-consultancy services where the value does not exceed the threshold specified in Sixth Schedule.

(2) Micro procurement shall involve direct procurement from legally recognised sources, including shop or drug store, without requiring tender document.

(3) A procuring entity may use petty cash, imprest or purchase cards to effect payments under micro procurement.

(4) An original invoice or receipt for the procurement of goods, works or non-consultancy services, including the amount paid, must be issued, indicating the procured goods, works, or non-consultancy services, the amount paid, the name of the procuring entity, and the name of the purchasing officer.

(5) The Procurement Management Unit, upon receiving and verifying the validity of the request, shall advise the accounting officer to authorise the use of the micro procurement method.

(6) Upon approval of the micro procurement method, the user department shall proceed with subject matter of procurement.

(7) In accordance with subregulation (1), micro procurement of goods shall-

- (a) be conducted directly from supermarkets, drug stores, or registered shops; and
- (b) ensure that all goods procured are received and recorded in the micro procurement register.

(8) Subject to subregulation (1), micro procurement of works or non-consultancy services shall-

- (a) be conducted directly from public institutions established to provide such services or registered professionals with a history of performing works or providing such services; and
- (b) be recorded in the micro procurement register, detailing the works performed or non-consultancy services provided, the value involved, and the date of procurement.

(9) The procuring entity shall use framework agreements for frequently required goods, works, or services as appropriate.

Force account
GN. NO.
817 of 2024
reg. 2

167.-(1) A procuring entity may carry out works using force account provided it meets the provisions of section 76 of the Act.

(2) The procuring entity shall not undertake works using force account if the estimated value of the works exceeds five hundred million shillings.

(3) Notwithstanding subsection (2), where there is public benefit and the cost of undertaking works using force account is estimated to exceed five hundred million shillings, the accounting officer shall be required to grant approval for the use of such method after-

- (a) assessing the necessity of undertaking such works by force account;
- (b) ensuring the availability of qualified public servants to supervise the such works in accordance with guidelines issued by the Authority;
- (c) ensuring the presence of adequately qualified technicians based on the type of works in the respective project; and
- (d) conducting an assessment of the cost and time required for implementing the project by force account compared to other methods of undertaking works.

(4) Where the procuring entity undertakes works by force account in accordance with subregulation (1), it shall comply with the following procedures:

- (a) identify and include all works to be executed by force account in the entity's annual procurement plan;
- (b) through the user department, prepare a detailed proposal specifying:
 - (i) the nature and scope of the works;
 - (ii) justification for using force account;
 - (iii) a list of raw materials and the quantities required for purchase; and
 - (iv) a cost analysis of the materials to be purchased, considering market prices.

(5) The user department shall submit the proposal prepared under subregulation (4)(b) to the Procurement Management Unit for review and to the accounting officer or tender board for approval as appropriate.

(6) The procuring entity shall ensure that the procurement of goods or services used as raw materials complies with the requirements of the Act and these Regulations.

(7) A procuring entity intending to execute a construction project under this regulation shall appoint a project manager with qualifications recognised by relevant professional boards.

(8) The project manager appointed under subregulation (7) must be a public servant with qualifications from the procuring entity or another public institution located in the area where the procuring entity is situated or where the project is being implemented.

(9) The project manager, among other responsibilities, shall ensure that works materials used in the project under this regulation meet the required quality and standards.

(10) During the implementation of works by force account, the procuring entity shall adhere to the guidelines issued by the Authority.

GN. No. 261 (Contd)

Obligation of
accounting officer
and Authority in
use of force
account
GN. NO.
817 of 2024
reg. 3

167A.-(1) The accounting officer shall ensure that he submits to the Authority:

- (a) a report on the commencement of works by force account within seven days after commencing works; and
- (b) implementation reports of completed construction works for each phase within fourteen days from the date of completion of the respective construction works.

(2) Where works have been undertaken as reported to the Authority under subregulation (1), the Authority shall conduct a special value-for-money audit to verify the necessity of using force account for the respective construction works, the value for money of the goods and services used and the time taken for construction.

(3) Subject to subregulation (2), where upon audit the Authority establishes that the procedures for implementing the conditions for use of force account have been violated by the procuring entity, the Authority shall recommend to the Paymaster General or any other competent authority appropriate measures to be taken against the accounting officer of the respective procuring entity.

Community
participation in
procurement

168.-(1) Where, in the interest of project sustainability or to achieve certain specific social objectives of the project, it is desirable in selected project components to-

- (a) call for the participation of local communities;
- (b) increase the utilisation of local know-how and locally manufactured products; or
- (c) employ labour intensive and other appropriate technologies,

the procurement procedures, specifications and contract packaging shall be adopted to reflect such interest or objectives.

(2) The beneficiary community shall be responsible for the procurement activities under the project component.

(3) The Authority shall issue guidelines for community participation in procurement proceedings.

Procurement of seasonal commodities

169.-(1) The procurement of seasonal commodities such as grain, animal feed, cooking oil, fuel, fertiliser and metals, the market prices of which fluctuate depending upon the demand and supply at any particular time, may involve multiple awards for partial quantities to assure security of supply and multiple purchases over a period of time to take advantage of favourable market conditions and to keep inventories low.

(2) A procuring entity may prepare a list of pre-qualified suppliers to whom periodic invitations for the supply of commodities may be issued.

(3) The suppliers referred to under subregulation (2) may be invited to quote prices linked to the market price at the time of or prior to, the shipments of such commodities with a view to shortening tender validities.

(4) Notwithstanding subregulation (2), where such commodities are included in the list of common use items under framework arrangements by the Agency, such arrangements shall apply.

(5) Tender documents shall specify the type of currency to be used in the tender and payments, taking into account the current market prices.

(6) Where a tender security is valid for the specified period, is submitted by suppliers who meet the pre-qualifications, standard contract terms aligned with market conditions may be applied.

Procurement of food stuffs for schools, training institutions, hospitals and prisons

170.-(1) An institution responsible for food safety shall prescribe standards of food types for schools, training institutions, hospitals and prisons in consultation with the-

(a) ministries responsible for education and local government in respect of schools and training institutions;

(b) ministries responsible for health and regional administration and local government in respect of hospitals; and

(c) ministry responsible for home affairs in respect of prisons.

(2) Schools, training institutions, hospitals and prisons department shall comply with a standards set pursuant to subregulation (1) during procurement of food stuffs.

(3) Schools, training institutions, hospitals and prisons department shall prepare and submit to the Agency, estimates of quantities of food and costs required per annum.

(4) Upon receiving the estimated quantities and costs, the Agency shall identify and include such requirements to the list of common use items.

(5) Schools, training institutions, hospitals and prisons department shall-

(a) conduct mini competition among suppliers identified by the Agency and pay directly; and

(b) complying with procedures for receipt of goods and record keeping in accordance with these Regulations.

(6) In case of shortages or hiking prices in the market, the Agency shall follow appropriate procedures to involve the agency responsible for food reserve on possible additional supply.

(7) For the purposes of this regulation, “food stuff” means any type of grain, cooking oil, sugar, and any similar items, the market price of which fluctuate seasonally.

Inspection agents
GN. NO.
42 of 2025
reg. 14

171.-(1) Where agents are appointed by the Government to undertake pre-shipment inspection and certification of imports, the responsible minister may exempt goods that have been procured through

competitive tendering or otherwise in accordance with these Regulations from price verification, and where the exemption is not granted, any fee payable to inspection agents shall not be included in the price tendered or considered in the evaluation of a tender.

(2) Unless specifically exempted by the responsible minister, any goods procured by a procuring entity from a source outside the United Republic shall be subject to inspection for quality and quantity prescribed by regulations 313A and 324.

(e) Procedures for Selection of Tenderers in the Procurement of Goods, Works, and Non-Consultancy Services

Procedures for selection of tenderer

172.-(1) The selection procedures to be adopted in the procurement of goods, works, or non-consultancy services shall be determined by the procuring entity prior to the invitation to tender.

(2) The following selection procedures shall apply in the procurement of goods, works, or non-consultancy services:

- (a) selection based on meeting criteria and low cost;
- (b) selection based on meeting criteria and highest cost; or
- (c) selection based on quality and cost.

Selection based on meeting criteria and least cost

173.-(1) In the procurement of goods, works or non-consultancy services, the selection in accordance with meeting criteria and least cost shall start with the evaluation of tenders based on their pass or fail status for each evaluation criterion followed by the selection of tenders which meet all technical requirements before evaluating the submitted price.

(2) The ranking of qualified tenders shall start with the lowest to highest price ranked and the first ranked tenderer in the list shall be considered as the successful lowest evaluated tenderer.

(3) The successful lowest evaluated tenderer may be invited for negotiations in accordance with regulation 298 or for contract signing.

Selection based on meeting criteria and highest cost

174.-(1) The selection process based on meeting criteria and highest cost may be applied in the selection of tenderers for tenders related to disposal of assets and revenue collection.

(2) The procedure shall start with evaluating tenders based on pass or fail status for each criterion of evaluation, followed by the determination of tenders which meet all technical criteria before commencing the evaluation of the submitted price.

(3) The ranking of qualified tenders shall start from the highest to the lowest price, and the first ranked tenderer in the list shall be considered as the successful highest evaluated tenderer.

(4) The successful highest evaluated tenderer may be invited for negotiations in accordance with regulation 298 or for contract signing.

Selection based on quality and cost consideration

175.-(1) Selection based on quality and cost can be applied in the selection of tenderers for products such as the supply and installation of equipment and machinery, information, communication and technology systems, as well as for design and works.

(2) The procedure shall start with evaluation of the technical proposal, using weight assigned to technical criteria and sub-criteria as specified in the tender documents to determine the overall technical score.

(3) The most suitable tender for contract implementation shall be the one evaluated as the best among those meeting the criteria, achieving the highest combined score of both technical and financial evaluation.

Use of procurement through auction

176.-(1) Procurement through auction shall be used for procurement of goods where specifications are clearly defined, where price or quantity is the sole

determining factor, particularly when there is a large number of prospective tenderers.

(2) Procurement through auction shall not be used when an evaluation process is required.

(3) The procedures and other applicable conditions for conducting procurement through an auction shall adhere to the guidelines issued by the Authority.

Preparation for auction

177.-(1) Procurement by auction shall be used for procurement of goods where-

- (a) the scope of the procurement by auction and the criteria for evaluation of selection and award of contract are clearly defined and advertised;
- (b) the value of the goods to be procured is high enough to make it commercially viable for a competitive supplier, but not so high as to reduce competition;
- (c) the procuring entity verifies that all operational conditions are met before starting procurement by auction and ensures that conditions required for safeguarding anonymity are in place; and
- (d) the procurement by auction is carefully monitored for market manipulation.

(2) Where there are elements of corruption, fraud, collusion, solicitation, hindrance, predatory pricing or any other matter that may affect principle of value for money in the procurement process, procurement by auction may be cancelled.

Instruction to tender

178.-(1) The requirements for participating in procurement by auction shall include-

- (a) all conditions such as the timing and event of the auction, rules for participation, tender decrement and the procedure for submitting tenders;
- (b) information which may be made available to tenderers during the procurement by

auction and where appropriate, when such information shall be made available to tenderers; and

(c) any other relevant information concerning the procurement by auction process.

Advertisement of procurement by auction

179.-(1) The procuring entity shall issue a notification of procurement by auction in accordance with the provisions of regulation 18.

(2) The notification shall include the specifications, terms and conditions of the proposed contract and a sample contract.

(3) The notification shall specify the date and time for the commencement and closing of the auction.

Operation of procurement by auction

180.-(1) The procuring entity shall conduct the procurement by auction accordance with the information specified in the invitation, and the received tenders shall be arranged in order without revealing the identity of the tenderers and shall be processed through the electronic public procurement system.

(2) The electronic public procurement system shall automatically display the new rank of each tenderer as they are arranged, together with prices, in such a way that tenderers are able to view their ranking at any moment.

(3) Under no circumstances shall the identity of the tenderers be disclosed or identified by another participant during any stage of the procurement.

(4) The procuring entity shall not provide any additional information or clarification relating to the procurement by auction that may distort competition and where such information or clarification is required, it shall be provided to all tenderers.

(5) The procuring entity shall close the auction in accordance with the specified conditions, and the closure shall be:

(a) on the date and time as previously published; or

(b) where no tenders are received within the published timeframe.

(6) The procurement by auction shall not be closed before the auction's deadline, in which case tenderers shall be notified immediately about the auction closure, including any decision to extend the auction's deadline.

Correspondence,
amendments and
clarifications

181.-(1) Any clarifications and amendments to the tender documents for the procurement by auction before the auction shall be posted on the electronic public procurement system and, as far as possible, shall be emailed to all tenderers who have expressed interest in participating.

(2) Modifications to procedures, implementation, specifications or any conditions shall be recorded.

(3) Tender documents shall not be available to participants in advance of the advertising of the opportunity.

(4) Where a procuring entity has commenced auction, it shall not permit meetings, provide clarifications or any communication related to the auction.

Access to
procurement by
auction process

182.-(1) Access shall be open, equal and unrestricted to all eligible tenderers who have registered as tenderers in accordance with these Regulations.

(2) Where the tenderers are to be pre-qualified before the auction, the pre-qualification process shall be conducted through electronic public procurement system in accordance with the Act, these Regulations and guidelines issued by the Authority.

(3) Procurement by auction shall not be conducted if pre-qualification has reduced the number of tenderers to a level that materially affects competition, and under no circumstances shall there be less than three tenderers.

(4) Where pre-qualification is conducted, an invitation to tender shall be issued to qualified tenderers

to notify them of the date and time of the auction in the manner specified in these Regulations.

Contract award

183.-(1) The award of a contract in a procurement by auction shall be based on the ranking of prices, and the contract shall be awarded to the tenderer with the lowest price.

(2) The contract award from the procurement by auction shall be timely published through the electronic public procurement system.

(3) There shall be no any negotiations during or after the closure of the procurement by auction.

PART VI

PROCUREMENT OF USED RAILWAY LOCOMOTIVES AND COACHES, AIRCRAFT AND SHIPS

National interest

184.-(1) A procuring entity that intends to procure any used item shall, before it applies for approval to undertake such procurement, ensure that the intended procurement is in the best interest of the United Republic.

(2) Where used railway locomotives and coaches, aircraft and ships may be obtained through leasing, a procuring entity shall consider if the leasing or renting of such used railway locomotives and coaches, aircraft and ships serves the best interest of the United Republic than purchasing the used railway locomotives and coaches, aircraft and ships.

(3) Without prejudice to subregulation (1), a procuring entity that intends to purchase a used railway locomotives and coaches, aircraft and ships shall undertake a thorough research and investigation with a view to ascertaining the market trend for the item, or quotation for similar item, or contact known item suppliers or brokers and to establish fair market value.

Criteria for deciding on

185. A procuring entity shall consider the following criteria in making the determination for

procurement of used railway locomotives and coaches, aircraft and ships

procuring used railway locomotives and coaches, aircraft and ships:

- (a) manufacturer or brand, type, use and life expectancy of used railway locomotives and coaches, aircraft and ships against new railway locomotives and coaches, aircraft and ships;
- (b) the purchase price of new railway locomotives and coaches, aircraft and ships against used by comparing at least three quotations of used railway locomotives and coaches, aircraft and ships;
- (c) risks presented by used railway locomotives and coaches, aircraft and ships against new item, including the possible contamination from prior usage, modification of item that may pose safety hazards or other similar hazards;
- (d) the relative price and general condition of a used railway locomotives and coaches, aircraft and ships;
- (e) the warranty offered for used railway locomotives and coaches, aircraft and ships against new item;
- (f) the availability of service, maintenance plans and parts of a used railway locomotives and coaches, aircraft and ships against new item;
- (g) payment conditions; and
- (h) the freight and insurance charges, where applicable.

Opportunity for competition

186. Where a supplier offers, at special prices, a used railway locomotives and coaches, aircraft and ships under new warranty conditions, the offer shall not be accepted without first offering a competition opportunity to other potential suppliers to quote on similar item.

Quality of used railway locomotives and coaches, aircraft and ships

187. For the purpose of ensuring the used railway locomotives and coaches, aircraft and ships intended to be procured is of the required quality, the procuring entity shall-

- (a) require the supplier of the railway locomotives and coaches, aircraft and ships to prove, beyond reasonable doubt, the age of the railway locomotives and coaches, aircraft and ships by presenting the Certificate of Original Purchase;
- (b) demonstrate that the type of used railway locomotives and coaches, aircraft and ships is of the type whose technology is still in use in the market;
- (c) require the supplier of used railway locomotives and coaches, aircraft and ships to submit the full history of the item including records of routine and major maintenance undertaken to the railway locomotives and coaches, aircraft and ships;
- (d) ensure that the used railway locomotives and coaches, aircraft and ships to be procured was well maintained and should not have suffered any material damage other than normal wear and tear;
- (e) ensure the availability of spare parts from the manufacturer of the railway locomotives and coaches, aircraft and ships for a period that shall be determined by the procuring entity;
- (f) require the supplier to submit a certificate of worthiness of the used railway locomotives and coaches, aircraft and ships from recognised national and international bodies; and
- (g) ensure that used railway locomotives and coaches, aircraft and ships pass through pre-shipment and destination inspection are conducted by a team of experts, preferably

independent assessors before receiving them.

Credibility of suppliers of used railway locomotives and coaches, aircraft and ships

188.-(1) A procurement of a used railway locomotives and coaches, aircraft and ships shall be made from a supplier who has a sound business record.

(2) A procuring entity may seek references from recognised national and international bodies on the legal, commercial and technical capacity of the supplier prior to engaging the supplier in the procurement of the used railway locomotives and coaches, aircraft and ships.

Approval by Minister

189. Subject to the provisions of section 80(2) of the Act, approval of the Minister for procuring used railway locomotives and coaches, aircraft and ships shall be sought using a special form issued by the Authority.

Special technical advisory committee

190.-(1) The Minister shall form a special technical advisory committee of not less than three members and not more than seven members who have knowledge and experience relevant to the procurement of used railway locomotives and coaches, aircraft and ships to advise on the application submitted to him before granting an approval.

(2) The procedures and terms of reference of the committee shall be prescribed by the Minister.

(3) The committee shall scrutinise and verify the contents of the application and shall consider all the proof required pursuant to regulations 188 and 190.

(4) After the verification process under subregulation (3) is completed, and in any case, within fourteen days, the committee shall prepare and submit to the Minister, a report on the intended procurement which shall contain recommendations or advice to the Minister on whether or not to grant the approval.

(5) Within fourteen days of receiving the report of the committee, the Minister may in writing-

- (a) approve the procurement application; or
- (b) reject to approve the application.

PART VII
TENDERING PROCEEDINGS

Invitation to tender
and advertising

191.-(1) A procuring entity that intends to commence competitive tendering proceedings shall prepare a tender notice inviting tenderers to submit priced offers for the goods, works, services or disposal of assets by tender.

(2) The Procurement Management Unit shall submit to the accounting officer or tender board the invitation and the tender document for comments and approval, and shall, prior to publication of the invitation and issue of the tender document, incorporate any agreed amendments.

(3) Invitations issued without the approval of the accounting officer or the tender board shall not be considered valid and in such cases, the procuring entity shall be required to issue new invitations for tenders.

(4) The procuring entity shall advertise the approved invitation to tender in accordance with the provisions of these Regulations.

Content of
invitation to tender

192. The invitation to tender shall contain the following information:

- (a) name and address of the procuring entity;
- (b) the nature, quantity and place of delivery of the goods to be supplied or nature, quantity and location of the works to be effected or the nature of the services and the location where they are to be provided;
- (c) the required time for the supply of the goods or for the completion of the works or for the provision of the services;
- (d) a declaration, which shall not later be altered, which states that tenderers may participate in the procurement proceedings regardless of nationality or that participation is limited on the basis of nationality;

- (e) the means or conditions of obtaining the tender documents;
- (f) the language in which the tender documents are available;
- (g) means for the submission of tenders;
- (h) the date and deadline for the submission and opening of the tenders; and
- (i) source of financing.

Issuance of tender documents

193.-(1) The procuring entity shall, immediately after the publication of the tender notice, issue tender documents to all tenderers who have responded to the tender notice in accordance with the procedures and requirement specified in the invitation to tender.

(2) Where pre-qualification proceedings are engaged in, the procuring entity shall issue a set of the tender documents to each tenderer who is pre-qualified.

Contents of tender documents

194.-(1) The tender documents shall contain the following information:

- (a) the criteria and procedures relating to evaluation of the qualifications of tenderers and further demonstration of qualification;
- (b) the requirements as to documentary evidence or other information that has to be submitted by a prospective tenderer to demonstrate his qualifications;
- (c) the nature and required technical and quality characteristics, of the goods, works or services to be procured, including technical specifications, plans, drawings and designs as appropriate;
- (d) the criteria to be used by a procuring entity in determining a successful tender, including any margin of preference and any criteria other than price to be used pursuant to regulations 213 and 220 and the relative weight of such criteria;

- (e) the terms and conditions of the procurement contract, if they are known to the procuring entity, and the contract form, if any, to be signed by the parties;
- (f) in case the alternatives to the characteristic of the goods, works, services, contractual terms and conditions or other requirements set out in the tender documents are permitted, a statement to that effect, and a description of the manner in which alternative tenders are to be evaluated and compared;
- (g) in case the tenderers are permitted to submit tenders for only a portion of the goods, works or services to be procured, a description of the portion or portions for which such tenders may be submitted;
- (h) the manner in which the tender price is to be formulated, including a statement as to whether the price is to cover elements other than the cost of the goods, works or services such as an applicable transportation and insurance charges, customs duties and taxes;
- (i) the type of currency in which the tender price is to be expressed;
- (j) the language in which tender is to be prepared;
- (k) any requirements with respect to the issuer and the nature, form, amount and other principal terms and conditions of any tender security and security for the performance of procurement contract to be provided by tenderers who enter into the procurement contract;
- (l) a statement that, if the tenderers fails to modify or withdraw its tender prior to the deadline for the submission of tenders, the tender security shall be forfeited;

- (m) the manner, place and deadline for the submission of tenders;
- (n) the means by which tenderers may seek clarification of the tender documents, and a statement whether the procuring entity intends to convene a tenderers' meeting at this stage;
- (o) period of time during which tenders shall be effective;
- (p) date and time for opening of tenders;
- (q) procedures to be followed for opening and evaluation of tenders;
- (r) the type of currency that shall be used for the purpose of evaluating and comparing tenders and in the case of foreign currency an exchange rate that shall be used for the conversion of tenders into that currency or a statement that the rate published by a specified financial institution prevailing on a specified date shall be used;
- (s) name, title and address of an officer or employee of a procuring entity who is authorised to communicate directly with and to receive communications directly from tenderers in connection with the procurement proceedings;
- (t) any commitments to be made by a tenderer outside of the procurement contract, such as commitments relating to counter trade or to the transfer of technology;
- (u) statement of the right for review of an unlawful act, decision of, or procedure followed by, the procuring entity in relation to the procurement proceedings;
- (v) a statement that a procuring entity reserves the right to reject all tenders pursuant to regulation 15;
- (w) any formalities required where a tender is accepted for a procurement contract to enter into force, including, where applicable, the

execution of a procurement contract, approval and the estimated period of time following the dispatch of the notice of acceptance that requires the approval; and

(x) any other requirements imposed by a procuring entity in conformity with the Act and these Regulations relating to the preparation and submission of tenders and to other aspects of the procurement proceedings.

(2) Tender documents shall be prescribed to permit and encourage competition and such documents shall set out clearly and precisely all information necessary for a prospective tenderer to prepare a tender.

(3) A procuring entity shall use the standard tender documents issued by the Authority to address specific issues of a project in accordance with guidelines issued by the Authority.

(4) Any changes to the standard tender documents shall be introduced through tender data sheets or through special conditions of contract.

(5) Where the relevant standard tender documents are not issued, the procuring entity shall use standard tender documents acceptable to the Authority.

Approval of tender documents

195.-(1) An approval of the tender documents by the accounting officer or tender board shall be required before the tender is advertised.

(2) The Procurement Management Unit shall, prior to submission of the documents to the accounting officer or tender board for approval, ensure that-

- (a) there is a checklist consisting of all essential requirements to be met by prospective tenderer;
- (b) issues covered by the general conditions and special conditions of contract or tender data sheet have not been unintentionally duplicated in or qualified by the specifications;

- (c) no departure from standard practice in regard to percentages and terms of payments have been incorporated without proper approval; and
- (d) the correct forms are included.

Period for tender preparation

196.-(1) The time allowed for preparation of tenders shall depend on the magnitude and complexity of the intended procurement and, in no case, shall it be shorter than the time prescribed in the Eleventh Schedule.

(2) The tender period shall be approved by the accounting officer or tender board and shall be prescribed in the invitation to tender.

(3) The prescribed and advertised tender period shall not be altered except with the approval of the accounting officer or tender board where the alteration is intended to-

- (a) foster fair competition amongst tenderers;
- (b) ensure fairness in the treatment of potential tenderers; and
- (c) enhancing value for money for the procuring entity.

(4) Any extension of the tender period shall be done reasonably in advance of the closing date and promptly communicated to all who have collected the tender documents.

Price adjustment formula

197.-(1) In the event of inflation, a price adjustment formula shall be used to obtain a reasonable price.

(2) The price adjustment formula shall only be used if such formula is specified in the tender documents and shall accommodate both rises and falls in price levels.

(3) The price adjustment formula or amount obtained by the use of an adjustment formula shall not be taken into account during the evaluation and comparison of tenders.

Pre-tender meeting

198.-(1) Where it is necessary, a procuring entity shall conduct a pre-tender meeting to provide specific project information, to explain any unusual aspects of the project and to address any question of a potential tenderer.

(2) A pre-tender meeting shall be conducted in accordance with the procedures stipulated in the tender document.

(3) Where a procuring entity convenes a pre-tender meeting or any meeting of tenderers, it shall prepare minutes of the meeting containing the requests submitted at the meeting for clarification of the tender documents, and its responses to the requests, without identifying the source of the requests.

(4) The procuring entity shall, within three working days from the date of a pre-tender meeting, upload minutes of the meeting in the electronic public procurement system.

Submission of tenders

199.-(1) A procuring entity shall prescribe the specific date and time for the submission of tenders.

(2) A potential tenderer shall, in the prescribed time and manner, submit the tender to the procuring entity.

(3) Tender shall be sealed by a digital signature during submission.

(4) Where requirements for tender security or other securities are prescribed in the tender documents, a tenderer shall, before the deadline for submitting the tenders, deliver such securities in the prescribed amount, form and manner.

(5) Tenders received within the time limit prescribed in the invitation to tender shall be eligible for consideration.

Tender validity period

200.-(1) The tender validity period shall be specified in the tender document.

(2) Modifications shall not be made to the tender price or conditions during the tender validity period.

(3) Any tender that is submitted with a shorter period than the period specified in the tender documents shall be rejected by a procuring entity as being substantially non- responsive.

(4) The period fixed by a procuring entity shall be sufficient to permit evaluation and comparison of tenders, to obtain all necessary clearances and approvals, and issue notification of the award of contracts and contract signing but shall not exceed one hundred and twenty days from the final date fixed for submission of tenders.

(5) Subject to subregulation (4), a procuring entity shall, in fixing time, comply with guidelines issued by the Authority.

(6) A procuring entity may, prior to the expiry of the original tender validity period, request tenderers to extend the period for a further term not exceeding the original validity period, if there are justifiable grounds for the procuring entity failing to complete the tendering process within the specified time.

(7) A tenderer may refuse the request for extension of time under subregulation (6) without forfeiting its tender security and the effectiveness of its tender shall be terminated upon the expiry of the unextended period of effectiveness.

(8) The request by procuring entity to extend time of validity of a tender and the tenderer's response to accept or reject such request shall be submitted in writing.

Extension of
tender
effectiveness
period

201.-(1) Tenderers who agree to an extension of the period of effectiveness of their tenders shall extend the period of effectiveness of their tender securities provided by them, or provide new tender securities to cover the extended period of effectiveness of their tenders.

(2) A tenderer whose tender security is not extended or, who has not provided a new tender security shall be considered to have refused the request to extend the period of effectiveness of its tender.

(3) The provisions of these Regulations regarding discharge and forfeiture of tender security shall apply during the extended period of tender validity.

(4) The successful tenderer shall remain bound by his tender for a further period of thirty days upon receipt of notification of his selection.

Modification or withdrawal of tenders

202.-(1) Unless otherwise stipulated in the tender documents, a tenderer may modify or withdraw the tender prior to the deadline for the submission of tenders without forfeiture of its tender security.

(2) The modification or withdrawal of the tender shall be effective if executed prior to the deadline for submission of tenders.

Sample or inspection of goods

203.-(1) Where a sample of goods is required by a procuring entity and such requirement is specified in the tender documents, the sample of goods shall be-

- (a) submitted as part of the tender, in the quantities, sizes and other details requested in the invitation to tender;
- (b) received on, or before, the deadline for the submission of tenders; and
- (c) evaluated to determine compliance with all criteria listed in the invitation.

(2) A procuring entity shall retain the sample of the successful tenderer.

(3) A procuring entity shall reject the tender if the sample-

- (a) does not conform to all criteria prescribed in the tender documents; and
- (b) is not submitted within the specified time.

(4) A tenderer shall, where the use of proprietary article as a sample is unavoidable, be required to expressly state that the proprietary article is displayed only as an example of the type or quality of the goods being tendered for and that competition shall not thereby be limited to that article only.

(5) Samples made up from materials supplied by a procuring entity shall not be returned to a tenderer

nor shall a procuring entity be liable for the cost of making them.

(6) All samples produced from materials belonging to an unsuccessful tenderer which are not claimed by the tenderer within a period of thirty days from the date of award of contract shall be the property of the procuring entity and shall be disposed in such a manner as may be directed by the accounting officer.

(7) Arrangements for the inspection of the samples shall be included in the invitation notice or tender documents, where appropriate.

Receipt of tenders

204. The Procurement Management Unit shall on behalf of the procuring entity, receive and keep the tenders.

Tender opening

205.-1 The Procurement Management Unit shall coordinate opening of the tenders in accordance with these Regulations.

(2) The time for the tender opening shall be the same as the time set in the invitation to tender.

(3) All tenders submitted within the period of submission shall be opened in accordance with the provisions these Regulations.

(4) At a public tender opening the following information shall be publicised:

- (a) the tenderers' names;
- (b) the tender prices and the total amount of each tender;
- (c) notifications of tender modifications and withdrawals;
- (d) any alternative tenders, if they have been requested or permitted;
- (e) the presence of the requisite tender security or bid securing declaration; and
- (f) such other details as specified in the tender document.

(5) In case of a two-stage tender opening procedure, the announcement shall include a statement that the tender price statement has not been opened.

Records of tender opening

206.-(1) The Procurement Management Unit shall keep records of tender opening.

(2) The signed minutes of the tender opening shall, on request, be provided to tenderers who submitted tenders.

(3) All received tenders along with the tender opening records shall be submitted to the respective evaluation committee for evaluation.

Restriction for disclosure to tenderers

207. Information relating to the examination, tabulation, clarification, evaluation and comparison of tenders and recommendations concerning the intention to award a contract shall not, before the announcement of the award of contract to the successful tenderer, be disclosed or communicated to tenderers or any person or persons not officially concerned with such process.

Influence by tenderer

208. Any attempt by a tenderer to influence the procuring entity in the process of examination, clarification, evaluation and comparison of tenders, and in decisions concerning the award of the contract, shall result in the rejection of his tender.

Evaluation committee for goods, works and non-consultancy services

209.-(1) An accounting officer shall form a tender evaluation committee comprising of three or five members.

(2) In exceptional circumstances, the accounting officer may form an evaluation committee of more than five members depending on the value and complexity of the procurement provided there are justifiable reasons for such increase and an odd number of members is maintained.

(3) The tender evaluation committee shall evaluate opened tenders on a common basis in order to determine the cost or price to a procurement entity in each tender and permit a comparison to be made between the tenders on the basis of the evaluated costs or prices.

(4) Prior to the detailed evaluation of tenders, the tender evaluation committee shall carry out a

preliminary examination of the tenders to determine whether-

- (a) each tender is substantially responsive to the requirements of the tender documents;
- (b) the required securities have been provided;
- (c) the documents have been properly signed; and

(d) the tenders are otherwise generally in order.

(5) For the purpose of this regulation, a tender shall be considered to be substantially responsive if it conforms to all the terms, conditions and specifications of the tender document without material deviation or reservations.

Examination,
evaluation and
comparison of
tenders

210.-(1) The tender evaluation shall be consistent with the terms and conditions prescribed in the tender documents and such evaluation shall be carried out using the criteria explicitly stated in the tender documents.

(2) Tenders shall be compared in order to determine the lowest evaluated price for procurement of goods, works or services or the highest evaluated price for revenue collection.

Checking of
substantial
responsiveness to
commercial terms
and conditions

211.-(1) All tenders shall be checked for substantial responsiveness to the commercial terms and conditions of the tender documents.

(2) The following deviations from substantial commercial terms and conditions shall justify rejection of a tender:

- (a) failure to sign the tender form and price schedules by the authorised person;
- (b) failure to satisfy eligibility requirements;
- (c) failure to submit a tender security as specified in the tender documents;
- (d) failure to satisfy the tender validity period;
- (e) inability to meet the critical delivery schedule or work schedule clearly specified in the tender documents, where such

schedule is a crucial condition with which tenderers must comply;

- (f) failure to comply with minimum experience criteria as specified in the tender documents;
- (g) conditional tenders such as conditions in a tender which limit the tenderer's responsibility to accept an award;
- (h) inability to accept the price adjustment formula of the tender documents;
- (i) stipulation of price adjustment when fixed price tenders were invited;
- (j) subcontracting in a substantially different amount or manner than that permitted; or
- (k) failure to submit major supporting documents to determine substantial responsiveness of a tender as stipulated in the tender documents.

Checking of substantial responsiveness to technical requirements

212. All tenders shall be checked for substantial responsiveness to the technical requirements of the tender documents and non-conformity to technical requirements, which amounts to justifiable grounds for rejection of a tenders shall include the following:

- (a) failure to tender for the required scope of work as instructed in the tender documents and where such failure has been indicated as unacceptable;
- (b) failure to quote for a major item in the package;
- (c) failure to meet major technical requirements, such as offering completely different types of equipment or materials from the types specified, plant capacity well below the minimum specified, equipment not able to perform the basic functions for which it is intended; or
- (d) presentation of absolutely unrealistic and inadequate implementation plans and

schedules regarding performance, technical or service factors.

Determination of tender responsiveness

213.-(1) The procuring entity's determination of a tender's responsiveness shall be based on the contents of the tender itself without recourse to extrinsic evidence.

(2) Where a tender is not responsive to the tender document, it shall be rejected by the procuring entity, and may not subsequently be made responsive by correction or withdrawal of that deviation.

Request for clarification of tender

214.-(1) A procuring entity may request a tenderer to clarify his tender in order to assist in the examination, evaluation and comparison of tenders but no advantage shall be sought, offered or permitted to change any matter of substance in the tender, including changes in price or changes aimed at making an unresponsive tender responsive.

(2) Notwithstanding regulation 209(5)-

(a) a procuring entity shall correct purely arithmetical errors that are discovered during the examination of tenders and the procuring entity shall give prompt notice of any such correction to a tenderer that submitted the tender;

(b) a procuring entity may regard a tender as responsive even if it contains minor deviations that do not materially alter or depart from the characteristics, terms, conditions and other requirements set forth in the tender documents or it contains errors or oversights that are capable of being corrected without touching on the substance of the tender; and

(c) any such deviations in the tender documents shall be quantified to the extent possible, and appropriately taken into account during evaluation and comparison of tenders.

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Expression of factors

215.-(1) Any factors other than price that may be used in determining the lowest or highest evaluated tender shall, as far as is practicable, be expressed in monetary terms.

(2) Penalties for non-material deviation from the tender requirements shall be expressed as a monetary addition to the tender price which may include the cost of making good deficiencies in compliance with the tender specifications.

Tender below or above pre-determined value

216.-(1) A tender above the pre-determined tender value estimated by a procuring entity is automatically disqualified and shall not be accepted.

(2) A tender abnormally low than pre-determined tender value estimated by a procuring entity shall be rejected in accordance with these Regulations.

Power to reject tender

217. A procuring entity shall reject a tender where-

- (a) the tenderer is not qualified or eligible;
- (b) the tenderer does not accept a correction of an arithmetical error made pursuant to regulation 214;
- (c) the tender is not responsive; or
- (d) the tender is not accompanied by an appropriate tender security, if required.

Evaluation and comparison of tenders

218. A procuring entity shall evaluate and compare all tenders that are accepted in order to ascertain the successful tender, in accordance with the procedures and criteria prescribed in the tender documents.

Successful tender

219. The successful tender shall be-

- (a) the tender with the lowest evaluated tender price in case of goods, works or services, or the highest evaluated tender price in case of revenue collection, but not necessarily the lowest or highest submitted price, subject to any margin of preference applied; or

(b) where the procuring entity has stipulated in the tender documents, the lowest or highest evaluated tender ascertained on the basis of criteria specified in the tender documents, which criteria shall, to the extent practicable, be objective and quantifiable, and given a relative weight in the evaluation procedure or expressed in monetary terms.

Determination of lowest evaluated tender

220. In determining the lowest evaluated tender, the procuring entity may consider the following:

(a) the tender price, subject to any margin of preference applied;

(b) the cost of operating, maintaining and repairing the goods or works, the time for delivery of the goods, completion of works or provision of the services, the functional characteristics of the goods or works, the terms of payment and guarantees in respect of the goods, works or services.

Determination of highest evaluated tender

221. In determining the highest evaluated tender for revenue collection, the preferred evaluation method shall be the evaluation based on price only unless other factors, such as end-user or export restrictions, or a need to attach conditions to a sale are taken into consideration, and stated clearly in the tender documents.

Conversion of currency

222. Where tender prices are expressed in two or more currencies, the tender prices of all tenders shall be converted to the same currency, and according to the rates specified in the tender documents, for the purpose of evaluating and comparing tenders.

Exchange rates to be used in evaluation

223. The exchange rates to be used in the tender evaluation shall be the selling rates published by an official source and applicable to similar transactions-

(a) on a date selected in advance and specified in the tender documents provided that such

date is between the date of opening of tenders and the original date for expiry of the period of tender validity; or

(b) on the date of decision to award the contract or on the original date prescribed in the tender documents for the expiry of the period of tender validity, whichever is earlier.

Use of
International
Commercial Terms
in evaluation and
comparison of
tenders

224. The evaluation and comparison of tenders for the supply of goods shall be on the International Commercial Terms prices as specified in the tender document for imported goods and for the goods offered from within the United Republic, together with prices for any required installation, training, commissioning and other similar services.

Demonstration of
qualification

225.-(1) A procuring entity may, whether or not it has engaged in pre-qualification proceedings, require successful tenderers to re-demonstrate its qualifications.

(2) The criteria and procedures to be used for such post-qualification shall be prescribed in the tender documents in accordance with section 53 of the Act.

(3) Where post-qualification proceedings have been engaged in, the criteria shall be the same as those used in the pre-qualification proceedings.

(4) Where a successful tenderer is requested to re-demonstrate its qualifications but fails to do so, the procuring entity shall reject that tender and select a successful tender in accordance with this regulation from among the remaining tenders subject to the right of the procuring entity to reject all remaining tenders.

Obligation of
contractor in
works and turnkey
contracts
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226. Under works and turnkey contracts, a contractor shall be responsible for all duties, taxes and levies, and a tenderer shall take these factors into account in preparing his tender to enable evaluation and comparison of tenders strictly on monetary terms.

Report on evaluation and comparison of tenders

227.-(1) The evaluation committee shall prepare a detailed report on the evaluation and comparison of tenders, setting out the specific reasons upon which the determination of the lowest evaluated price tender or highest evaluated price tender is based.

(2) The evaluation report shall be submitted to the Procurement Management Unit to verify if it is in accordance with the tender document, and if the Procurement Management Unit is-

- (a) satisfied with the report, it shall submit the same to the accounting officer or tender board for approval; or
- (b) not satisfied with the report, it shall return it with reasons to the evaluation committee for re-evaluation.

(3) The Procurement Management Unit shall, in addition to the submission of the report under subregulation (2)(a), prepare and submit to the accounting officer or tender board a summary of the evaluation and recommendation, if any, in a manner prescribed by the Authority.

Evaluation with margin of preference for goods

228.-(1) For purposes of evaluation of tenders with margin of preference for goods manufactured, grown, mined or extracted in the United Republic, responsive tenders shall be classified as-

- (a) Group A, which shall consist of tenders for goods which are manufactured, grown, mined or extracted within the United Republic;
- (b) Group B, which shall consist of all other tenders for goods manufactured locally whose labour, raw materials and components originating within the United Republic account for less than thirty per cent of the ex-works price; and
- (c) Group C, which shall consist of tenders for goods to be directly imported from overseas.

(2) Without prejudice to subregulation (1), a tenderer shall be classified as Group A if the tenderer satisfies the procuring entity that-

- (a) the labour, raw materials and components originating from within the United Republic will account for more than thirty per cent of the ex-works price of the goods offered; and
- (b) the production facility in which the goods will be manufactured, assembled or processed has been engaged in manufacturing, assembling or processing of such goods at least since the time of submission of the tender.

(3) The ex-works price quoted by Group A and Group B tenderers shall include all duties and taxes paid or payable on the raw or basic materials or components which have been purchased in the domestic market or imported.

(4) The price quoted in Group C tenderers shall be on CIF or CIP port of entry, border point or other destination, exclusive of customs duties and other import taxes.

(5) A procuring entity shall first evaluate and compare all responsive tenders so as to determine the lowest evaluated tender within each group.

(6) The lowest evaluated tenders in each group shall then be compared with each other and if, as a result of this comparison, a tender from Group A or Group B is the lowest, it shall be selected for the contract award.

(7) Where, as a result of the comparison made under subregulation (5), the lowest evaluated tender is from Group C, all Group C tenders shall be further compared with the lowest evaluated tender from Group A.

(8) For purposes of comparison, an amount equal to-

- (a) the amount of the duties and other related import charges which a non-exempt importer

would have to pay for the importation of the goods offered in such Group C tender; or

(b) fifteen per cent of the CIF or CIP tender price of such goods if the said duties and charges exceed fifteen per cent of such price,

shall be added to the evaluated tender price of the imported goods offered in each Group C tender.

(9) Where the Group A tender in such further comparison is the lowest, it shall be selected for the contract award, and if such tender is not selected, the lowest evaluated tender from Group C, as determined from the comparison made under subregulations (7) and (8) shall be selected.

Goods forming part of contract package

229.(1) In the case of tenders for the supply and installation of goods, turnkey contracts or any other form of procurement contract in which a number of discrete items of equipment is grouped into one contract package, a margin of preference shall not be applied to the whole package, but to goods manufactured in the United Republic, as prescribed in regulation 228.

(2) The price for goods offered from abroad shall be quoted CIF or CIP, and the price for goods offered from within the United Republic shall be quoted ex-works, free of sales and similar taxes, all other components, such as design, works, installation and supervision, shall be quoted separately.

(3) In the comparison of tenders, only the CIF or CIP price for goods offered from outside the United Republic shall be increased, for the purposes of comparison only by the applicable duty and other taxes payable by a non-exempt importer or fifteen percent, whichever is less.

(4) If duties vary from item to item within a package, the appropriate tariff for each goods or piece of equipment shall apply but no preference shall be applied for any associated services or works included in the package.

Evaluation for
preference in
works or non-
consultancy
services
GN. NO.
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230.-(1) Where a procuring entity has allowed a margin of domestic preference, domestic contractors or service providers, shall be requested to provide, as part of the data for qualification, details of ownership and such other information as shall be required to determine whether a contractor, service provider, a group of contractors or a group of service providers is qualified for domestic preference.

(2) The tender documents shall clearly indicate that a margin of domestic preference shall be granted and the method that shall be followed in the evaluation and comparison of tenders to give effect to such preference.

(3) After tenders are received and reviewed by a procuring entity, responsive tenders shall be classified as-

- (a) Group A, which shall consist of tenders offered by domestic contractors or service providers eligible for the preference;
- (b) Group B, which shall consist of tenders offered by joint venture between domestic and foreign contractors or service providers eligible for the preference;
- (c) Group C, which shall consist of tenders offered by foreign contractors or service providers.

(4) The procuring entity shall first evaluate and compare all responsive tenders with a view to determine the lowest evaluated tender within each group.

(5) The lowest evaluated tenders in each group shall then be compared with each other, and if, as a result of this comparison, a tender from Group A, Group B or Group C is the lowest, it shall be selected for the contract award.

Post-qualification
and denial of
award in case of
limited resources

231.-(1) Where appropriate, post-qualification may be undertaken to determine whether the tenderer with the lowest or highest evaluated tender has the legal capacity, capability and resources to carry out the contract.

(2) The criteria for post-qualification shall be set out in the tender documents and shall include-

- (a) experience and past performance on similar contracts;
- (b) knowledge of local working conditions;
- (c) capabilities with respect to personnel;
- (d) construction or manufacturing equipment where applicable;
- (e) financial capability to perform the contract;
- (f) tenderers' current commitments;
- (g) legal capacity to make binding decisions on its rights, duties and obligations;
- (h) compliance with health and safety, tax and employment laws where applicable;
- (i) litigation record; or
- (j) any other relevant criteria.

(3) A procuring entity may seek independent references of a tenderer and the results of reference checks may be used in determining award of contract.

(4) In case of a foreign company, a procuring entity shall seek independent reference of legal existence of a tenderer from Tanzania diplomatic missions abroad or from any other reliable source.

(5) The criteria for post-qualification shall be limited to that which is necessary for performance of the intended contract and shall not be unduly restrictive.

(6) Where the lowest or highest evaluated tenderer does not meet the post-qualification criteria:

- (a) the tender shall be rejected; and
- (b) a post-qualification shall be conducted to the next ranked lowest or highest evaluated tenderer.

(7) The Procurement Management Unit shall, subject to threshold of approval, obtain approval from the accounting officer or tender board prior to rejecting any tender or undertaking an additional post-qualification on any other tenderer.

(8) Where a tenderer has been pre-qualified, a full post-qualification may not be necessary, but the pre-qualification information submitted shall be verified and

an award may be denied to the lowest evaluated tenderer if he is judged to no longer meet the pre-qualification requirements and criteria.

(9) The procuring entity shall during post-qualification under subregulation (8) consider:

- (a) any material change in circumstances since submission of the pre-qualification information; and
- (b) any information which has become available since the pre-qualification submission, which, in the procuring entity's judgement, materially affects the capacity of the tenderer to perform the contract.

(10) A procuring entity may seek to limit the number or total value of awards made to any tenderer in cases where the tenderer's resources are known to be, or are likely to be insufficient for the additional commitments that would result from the proposed contract.

(11) In the circumstances prescribed under subregulation (10), the procuring entity may reject the award to a tenderer that is considered not to have the capability or resources to perform the contract effectively.

Negotiations with tenderer

232.-(1) Negotiations may be undertaken with the lowest evaluated tenderer relating to-

- (a) a minor alteration to the technical details of the statement of requirements;
- (b) reduction of quantities for budgetary reasons, where the reduction is in excess of any provided for in the tender documents;
- (c) a minor amendment to the special conditions of contract;
- (d) finalising payment arrangements;
- (e) mobilisation arrangements;
- (f) agreeing final delivery or work schedule to accommodate any changes required by the procuring entity;

- (g) reduction of prices in case of procurement of goods, works or non-consultancy services;
- (h) methodology or staffing; or
- (i) clarifying details that were not apparent or could not be finalised at the time of tendering.

(2) Negotiations shall not be conducted to substantially change-

- (a) the specifications or details of the requirement, including tasks or responsibilities of the tenderer;
- (b) the terms and conditions of contract stated in the tender document; or
- (c) anything which formed a crucial or deciding factor in the evaluation of tender.

(3) Where a competitive procurement method is used, but only a single tender is received, negotiations may relate to other areas of the tender including the price offered.

(4) Negotiations with a tenderer shall not be permitted until after the accounting officer or tender board has approved the recommendations of the evaluation committee-

- (a) in case of a tenderer-
 - (i) with the lowest evaluated price in case of goods, works or services; or
 - (ii) with the highest evaluated price in case of revenue collection and disposal of asset,

and the need to hold negotiations; or
- (b) that a single or sole tenderer shall be considered for contract award, subject to negotiations in the case of single, sole source procurement of goods or services, or direct procurement of works.

(5) Negotiations shall only be held with the lowest evaluated tenderer for goods, services or works, or the highest evaluated tenderer for revenue collection for national and international competitive tendering.

Negotiation team
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233.-(1) A Procurement Management Unit shall recommend duration of negotiation, chairperson and members of the negotiation team based on appropriate seniority and experience depending on the value and magnitude of the procurement.

(2) The number of members of the negotiation team shall consist of minimum of three and a maximum of five members depending on the value and magnitude of the procurement and may include members of the original evaluation committee or different officers.

(3) The accounting officer shall approve the selection of the chairperson and members of the team along with the duration of the negotiations.

(4) Without prejudice to subregulation (2), the Paymaster General may, upon the request of the accounting officer and if satisfied that it is in the public interest, approve an increase in the number of members of the negotiation team.

(5) The negotiation team shall comprise of members with diverse skills and experience, including-

- (a) knowledge of end-user requirements;
- (b) knowledge of law, contracts, or negotiations;
- (c) procurement skills;
- (d) financial management skills; or
- (e) technical skills relevant to the subject of the procurement or disposal of asset.

(6) Where the required skill or experience is not available within the procuring entity or where there is a conflict of interest, a member of negotiation team may not necessarily be from the procuring entity.

(7) The chairperson of the negotiation team shall be responsible for-

- (a) all arrangements for negotiation meeting;
- (b) chairing negotiations;
- (c) the conduct of negotiation in accordance with all legal requirements;
- (d) ensuring all members are aware of their responsibilities, including the need for confidentiality;

- (e) ensuring all members have a common understanding of the process of negotiations and objectives to be achieved;
- (f) ensuring members understand their own role in the negotiations and the standard approach of the team;
- (g) managing communications between the negotiation team and the tenderer or any other body;
- (h) ensuring that the negotiation team has access to necessary information; and
- (i) preparing the final report on the negotiations or ensuring that it is prepared.

(8) The negotiation team shall prepare a negotiations plan which shall specify the issues to be negotiated as specified in the evaluation report and the objectives to be achieved and whenever possible, quantify the objectives and set maximum and minimum negotiating parameters.

(9) The accounting officer may, if there are valid reasons, extend the duration of the negotiations after expiry of the original negotiation period, provided that the extended duration does not exceed the original negotiation period.

(10) Where consensus is not reached within the extended negotiation period, the negotiations shall be deemed to have failed and the negotiation team shall recommend rejection of the tenderer and, if appropriate, recommend inviting the second-ranked successful tenderer for negotiations.

Approving
negotiation plan

234.-(1) The accounting officer or the tender board, depending on the threshold, shall approve the negotiation plan before the commencement of any negotiation.

(2) Prior to confirming any agreements reached, the Procurement Management Unit shall seek approval from the accounting officer or the tender board.

Minutes and recommendations of negotiation team

235.-(1) The negotiation team shall produce minutes of the meeting signed by both parties that it is a true and accurate record of the negotiations held and submit the minutes to the Procurement Management Unit.

(2) The Procurement Management Unit shall submit the recommendations of the negotiation team to the accounting officer or tender board to-

- (a) proceed with contract award to the recommended tenderer, incorporating the agreements reached during negotiations;
- (b) revise the negotiation objectives and hold further negotiations; or
- (c) terminate the negotiation and reject the tenderer.

(3) Where the negotiation team recommends rejection of the tenderer, it may also, where appropriate, recommend inviting the next ranked tenderer for negotiations.

Results of approved negotiations

236. The results of any approved negotiations shall be specified in a letter of tender acceptance and attached to the contract.

Negotiations with next-ranked tenderer

237. Where negotiations have commenced with the next-ranked tenderer on the list of evaluated tenderers, the procuring entity shall not re-open negotiations with the initial successful tenderer, who shall be notified in writing of the reasons for the termination of the negotiations.

Approval of award contract

238.-(1) The accounting officer or the tender board shall, in accordance with section 90 of the Act, approve the recommendations made by the evaluation committee within three working days from the receipt of those recommendations.

(2) Upon decision of awarding tender in accordance with subregulation (1), the accounting officer shall satisfy himself that, proper procedures have been followed and within three days, issue a notice of

intention to award the contract to all tenderers who participated in the tender in question giving them five working days within which to submit a complaint, if any.

(3) The notice referred to in subregulation (2) shall contain-

- (a) the name of the successful tenderer;
- (b) the total contract cost and the completion or delivery time; and
- (c) the reasons for the unsuccessful tenderer's failure according to the evaluation report.

(4) Where a complaint is lodged pursuant to subregulation (2), the accounting officer shall proceed to determine the matter in accordance with section 120(6) of the Act.

(5) Where no complaint is lodged pursuant to subregulation (2), the accounting officer shall issue a notice of award to the successful tenderer.

(6) The notice referred to in subregulations (2) and (3) shall be issued as specified in the tender documents and signed by the accounting officer.

(7) A tenderer who has been issued a notice under subregulation (2) but has not submitted a complaint to the accounting officer within the specified period shall be deemed to have waived his right to appeal.

Award of contract

239.-(1) The accounting officer shall send a copy of the contract award to the Authority, the Controller and Auditor General, the Attorney General's Office, the Department of Government Asset Management, the Internal Auditor General and the Tanzania Revenue Authority.

(2) The award shall be made within the period of tender validity to the lowest or the highest evaluated tenderer, as the case may be, and meets the required financial and managerial capability, legal capacity, experience and resources to carry out the contract effectively.

(3) The approved tenderer shall not be required, as a condition of award, to undertake responsibilities or

work not stipulated in the tender documents, or otherwise to modify the tender as originally submitted.

Acceptance of tender and entry into force of procurement contract

240.-(1) Without prejudice to the provisions relating to vetting of the contract, where a tender is accepted by the accounting officer, the procuring entity and the person whose tender is accepted shall enter into a formal contract for supply of goods, provision of services or undertaking of works within fourteen working days after fulfilling all conditions prior to the signing of contract.

(2) The contract shall be in a prescribed form and shall contain the terms and conditions specified in the tender documents.

(3) A procurement contract shall enter into force when the written acceptance of the tender has been delivered to the successful tenderer and the contract is signed by both parties.

(4) Where the successful tenderer fails to sign the contract as required, or to provide any required security for performance of the contract, the procuring entity shall, on the recommendations of the Procurement Management Unit or the tender board, select a competitive tender from among the remaining tenders, subject to the right of the procuring entity to reject all remaining tenders.

Submission of procurement report

241. The accounting officer shall, within seven days from the date of awarding the contract, prepare a summary in accordance with the guidelines for report procurement information issued by the Authority, which shall indicate the following:

- (a) name of the person or institution awarded the contract;
- (b) tender cost and date of award;
- (c) details of the contract, including the stages of the procurement process such as the invitation to tender, issuance of tendering documents, any preliminary clarification of

tenders if applicable, and tender opening and evaluation; and

(d) complaints received during the procurement stages, if any.

Publication of results of tender award

242. The results of the contract award shall be published in accordance with the procedures prescribed in regulation 18.

Lump-sum contracts in procurement of goods, works and non-consultancy services

243.-(1) Lump sum contracts are contracts where a fixed price is set for the procurement of goods, works or non-consultancy services, and the supplier, contractor or service provider is ready to sell the goods, provide services or carry out works according to the terms of a lump sum fixed-price tender.

(2) Lump sum contracts may be used where the scope and schedule of requirements are detailed enough to allow the supplier, contractor or service provider to accurately prepare the tender costs.

(3) Lump-sum contracts may be accompanied by a priced schedule when such schedules have been used, for the purposes of evaluation of progress payments and for the pricing of variations as provided in the general conditions of the contract.

Schedule of rates contracts

244.-(1) Schedule of rates contracts are used in the procurement of works or non-consultancy services where tenderers submit rates for the estimated quantities as set out in the bill of quantities or schedule of requirements, which forms part of the tender documents.

(2) Payments under a schedule of rates contract are determined by measurement of the actual quantities of work completed and at the rates as tendered.

Contracts with special features

245.-(1) Contracts with special features are contracts which include cost-reimbursement contracts, where the contractor is paid for the actual costs incurred and fee.

(2) The fee referred to in subregulation (1) may be a total fixed fee, a percentage of the costs or a fluctuating fee.

(3) Where cost-reimbursement contracts are used, the contract shall be prepared on the basis of “actual costs plus fixed fee” rather than “actual costs plus percentage”.

Performance based contracts

246.-(1) A procuring entity may enter into a performance-based contract, which includes, to the extent practicable, requirements in terms of results required rather than the methods of performance of the work, and the measurable performance standard.

(2) Subject to subregulation (1), the contractor shall be responsible to perform the control functions traditionally performed by the procuring entity assume management responsibilities typically performed by the procuring entity, and contains measurable inspection and acceptance criteria corresponding to the performance standards contained in the contract.

(3) The pricing for the contract shall depend on the contract length and circumstance in each case and shall be in the form of:

- (a) firm prices during the project’s duration, where the procuring entity shall negotiate firm prices, unless the inflation contingencies being considered suggest that a fixed price with variation of price would offer better value for money;
- (b) a fixed price with variation of price during the project’s duration, where the procuring entity will normally seek a fixed price with variation of price, although this does not rule out a firm price if this is agreed between both parties and the inflation contingencies are realistic; or
- (c) target cost incentive arrangements whenever risks of a particular procurement are perceived to be too great to offer either of the contracts in paragraph (a) or (b), in which

case the procuring entity shall look to risks and rewards equitably, and such arrangements shall normally be bound by a maximum price and will be considered, in addition to such other sharing arrangements, as

- (i) undertakings by the service provider to reduce costs in accordance with the efficiency plan, the savings being shared in the agreed manner between the service provider and the procuring entity; or
- (ii) payments to the service provider related to measurable improved performance.

Selection of subcontractor and supplier in works contracts

247.-(1) The procuring entity shall decide the manner in which the works or services shall be executed or provided where a provisional or prime cost sum has been provided for in the schedule or contract.

(2) When work is to be carried out as a selected subcontract and the value is such that competitive tenders would be obtained, tenders shall be approved by the accounting officer or tender board which approved the award of the main contractor regardless of the value involved and regardless of whether it is the supplier, service provider, contractor or the procuring entity which calls for tenders.

(3) Tenders for provisional or prime cost sum not exceeding the value prescribed in guidelines issued by the Authority, shall be invited by the procuring entity.

(4) Tenders shall be invited in the name of the contractor or service provider who may be consulted with regard to any special arrangements he may wish to have incorporated in tendering documents for the subcontract.

(5) The tender for subcontract shall be approved by the accounting officer or tender board, as the case may be, whether it is the supplier, service provider, contractor or the procuring entity which calls tenders.

(6) The tender selected by the procuring entity shall first be referred to the head supplier, contractor or service provider for his perusal before instructions to accept it as a subcontract are issued.

(7) Tenders for provisional sums shall not be invited prior to the main contract being let.

(8) The procuring entity shall not invite tenders for works unless drawings and specifications are complete and firm estimates of cost have been prepared.

PART VIII PROCEDURES FOR SELECTION OF CONSULTANTS

(a) Methods of Procuring Consultancy Services

International competitive selection

248.-(1) In international competitive selection, a procuring entity shall invite consultants regardless of their nationality, either through direct applications or by issuing a notice inviting expressions of interest for providing consultancy services, which shall be advertised in accordance with the provisions of regulation 18.

(2) The international competitive selection method shall be used where-

- (a) payment may be made in whole or in part in foreign currency;
- (b) it is desired to attract expression of interest from the widest range of consultants regardless of the estimated value of the services to be procured.

National competitive selection

249.-(1) In national competitive selection, the procuring entity shall invite consultants registered within the United Republic of Tanzania, regardless of their nationality, to submit direct applications or a notice of expression of interest to provide consulting services, through the electronic public procurement system.

(2) The national competitive selection may be used if-

- (a) payment may be made wholly in Tanzanian shillings;
- (b) the services can be obtained locally at prices below or equal to the international market price;
- (c) the estimated cost of the services does not exceed the threshold for national competitive selection specified in the Seventh Schedule; or
- (d) the advantages of international competitive selection are clearly outweighed by the financial burden of administrative cost involved.

Restricted competitive selection

250.-(1) A procuring entity may restrict the issue of request for proposal to a limited number of specified consultants if-

- (a) such consultants are pre-qualified pursuant to regulation 278;
- (b) the services required are within the competence of a limited number of specialised consultants; or
- (c) there is an urgent need for the services such that there would be insufficient time for a procuring entity to engage in open national or international tendering, and that the circumstances giving rise to the urgency could not have been foreseen by a procuring entity and have not been caused by negligence on its part.

(2) The justification for restricting selection under subregulation (1) shall be prescribed in the record of selection proceedings made pursuant to these Regulations.

(3) Except where consultants are pre-qualified, a procuring entity using a restricted competitive selection shall seek proposals from a broad list of potential consultants to ensure competitive prices.

(4) In all respects other than advertisement and issue of the request for proposal for consultancy

services, the procedures for competitive selection as set out in these Regulations shall apply.

Single source selection

251.-(1) The use of single-source selection method shall be examined in the context of the overall interests of a procuring entity and the project, and a tender board's responsibility to ensure economy and efficiency and provide opportunity to all consultants to the extent possible.

(2) Single-source selection may be appropriate only if it presents a clear advantage over competition in which case single source selection may be justified-

- (a) for continuation of previous work carried out by the consultant;
- (b) where a rapid selection is essential such as in an emergency operation; or
- (c) where only one firm is qualified or has experience of exceptional worth for the assignment.

(3) When continuity for downstream work is essential, the initial request for proposals shall outline this prospect and, if practical, the factors used for the selection of the consultant shall take into account the likelihood of continuity for downstream work.

(4) Where continuity in the technical approach, experience acquired, and continued professional liability of the same consultant may make continuation with the initial consultant preferable to a new competition subject to satisfactory performance in the initial assignment and for such downstream assignments, the procuring entity shall request the initially selected consultant to prepare technical and financial proposals on the basis of terms of reference furnished by the procuring entity which shall then be negotiated.

(5) Where the initial assignment is not awarded on a competitive basis or is awarded under tied financing or if the downstream assignment is substantially larger in value, a competitive process acceptable to the accounting officer or tender board shall normally be followed, in which case, the consultant carrying out the

initial work is not excluded from consideration where he expresses interest and the accounting officer or tender board shall consider exceptions to this rule only under special circumstances and only when a new competitive process is not practicable.

Minor
procurement
selection

252. The procuring entity may procure consultancy services through the minor procurement selection method directly from a consultant if-

- (a) the value does not exceed the threshold for minor procurement prescribed in the Seventh Schedule;
- (b) there is no advantage for the procuring entity in seeking further quotations or using other procurement methods; and
- (c) the contract for the provision of the such consultancy services may be a local purchase order.

(b) Selection Methods, Procedures and Conditions for Application

Selection methods
and procedures

253.-(1) The selection method, procedure and evaluation criteria to be adopted, for all complex assignments, shall be determined by the procuring entity in consultation with the relevant regulatory body prior to the invitation of consultants to submit proposals.

(2) The criteria referred to in subregulation (1) shall be considered by the accounting officer or tender board which shall verify their suitability and make possible comments concerning them, and be included in the request for proposals.

(3) The following principal selection methods shall be applied according to the characteristics of the services required:

- (a) selection based solely on technical quality;
- (b) selection based on technical quality with price consideration;

- (c) selection based on the compatibility of technical proposal and least cost consideration; and
- (d) selection based on technical quality and fixed budget.

(4) The adoption of any principal selection methods specified in subregulation (3) shall depend on the complexity of the assignment, the impact of the assignment on the resulting end product and the probability that the proposals shall lead to comparable outputs.

(5) Selection methods shall be as prescribed in the guidelines issued by the Authority.

Selection based solely on technical quality

254.(1) In the selection procedure based solely on technical quality, the firm which has submitted the best technically acceptable proposal shall be the first to be invited for negotiations in accordance with regulation 298.

(2) The financial proposals shall be opened and discussed, and if no agreement is reached, the negotiation process shall continue with the next ranked consultants until an agreement is achieved with one of the qualified consultants.

(3) The financial proposal of a consultant who was not invited for negotiations shall not be opened, and such consultant shall be notified of the fact.

(4) Quality based selection is appropriate for the following types of assignments-

- (a) complex or highly specialised assignments for which it is difficult to define precise terms of reference and the required input from the consultants, and for which the procuring entity expects the consultants to demonstrate innovation in their proposals;
- (b) assignments that have a high downstream impact and in which the objective is to have the best experts such as feasibility and structural engineering design of such major infrastructure as large dams, policy studies of

national significance, management studies of large Government agencies;

(c) assignments that can be carried out in substantially different ways, such as management advice and sector and policy studies in which the value of the services depends on the quality of the analysis; and

(d) architectural services.

(5) Subject to subregulation (4)(d), novel and complex architectural services may be obtained through architectural competition in accordance with architectural procedures prescribed by the relevant professional regulatory body subject to the approval by the Authority.

(6) A firm shall be eligible to participate in architectural competition pursuant to subregulation (5) if it is registered or capable of being registered with the relevant professional body.

(7) In quality based selection, the request for proposals may require submission of a technical proposal only or both technical and financial proposals at the same time, but separately and the request for proposals shall not provide the estimated budget.

(8) Where technical proposals alone are invited, after evaluating the technical proposals, the procuring entity shall ask the consultant with the highest ranked technical proposal to submit a detailed financial proposal so that the procuring entity and the consultant shall then negotiate the financial proposal and the contract.

(9) Where a consultant has submitted technical proposals together with the financial proposals, the procuring entity shall ensure that the financial proposal of the consultant who was not invited for negotiations is not opened, and such consultant shall be notified of the fact after the negotiations are completed.

Selection based on combined technical quality

255.-(1) The selection procedure based on the technical quality with price consideration shall start with the evaluation of technical proposals.

and price
consideration

(2) The financial proposals shall be opened after the technical proposals are considered satisfactory and given a score.

(3) After the necessary correction of arithmetic errors are made, a score of one-hundred percent shall be given to the lowest financial proposal and the score given to each of the other financial proposals shall be proportionately reduced.

(4) The technical and financial proposals shall be weighted as specified in the request for proposal and the combined value of the two proposals shall be calculated for each consultant.

(5) Negotiations shall be conducted with the consultant which has the highest combined score and in accordance with regulation 298, until an agreement is reached with one of the consultants whose technical proposals are considered satisfactory.

Selection based on
compatibility of
technical proposals
and least cost
consideration

256.-(1) The selection based on compatibility of technical proposals and least cost consideration may be used in the selection of consultants for assignments of a standard or routine nature where well established practices and standards exist, and in which the contract amount is small.

(2) The procedure shall start with the evaluation of the technical proposal and consultant whose technical proposals are qualified shall be those who scored equal or above the minimum specified threshold.

(3) Financial proposal of a consultant that scored equal or above the minimum specified threshold shall be opened and a proposal of a consultant which does not meet the technical criteria shall not be opened, and the tenderer shall be notified of the fact.

(4) The necessary arithmetic corrections shall then be made for the purposes of comparison and the consultant whose financial offer is considered the lowest shall be invited for negotiations in accordance with regulation 298.

(5) Where an agreement is not reached, the consultant whose financial offer is ranked second lowest

shall in turn be invited to negotiate and so on until an agreement is reached with one of the best ranked consultants.

Selection based on technical quality and fixed budget

257.-(1) The selection based on technical quality and fixed budget method may be used when the assignment is simple and can be precisely defined and when the budget is fixed.

(2) The request for proposals shall indicate the available budget and request the consultants to provide their technical and financial proposals separately within the budget.

(3) Terms of reference shall be prepared to make sure that the budget is sufficient for the consultants to perform the expected tasks.

(4) Evaluation of all technical proposals shall be carried out first and the financial proposals of the consultants scoring above the minimum threshold shall be opened.

(5) Financial proposals exceeding the approved budget shall be rejected, and proposals within the budget shall proceed to the stage under subregulation (6).

(6) The consultant who has submitted the highest ranked technical proposal that is within the budget shall be selected and invited for contract negotiation in accordance with regulation 298.

Selection based on consultant qualifications

258.-(1) Selection based on consultant qualification may be used for simple assignments for which the need for preparing and evaluating competitive proposals is not justified.

(2) In selection based on consultant qualification, the procuring entity shall-

- (a) prepare the terms of reference;
- (b) request expressions of interest and information on the consultants' experience and competence relevant to the assignment;
- (c) establish a short list of qualified tenderers; and

(d) select the consultant with the most appropriate qualifications.

(3) The selected consultant shall be requested to submit a combined technical and financial proposal and shall be invited to negotiate the contract.

(c) Selection of Particular Types of Consultants

Selection of public institutions as consultants

259. Consulting firms which are partially or totally controlled or sponsored by the Government or public authorities may be eligible for public financed projects if-

- (a) their qualification and experience are suitable for the assignment in question;
- (b) their structure and legal status are such that they can enter into a legally binding agreement with the public authorities responsible for project implementation; and
- (c) privileges as well as other advantages such as tax exemptions and other facilities and special payment provisions are evaluated and neutralised in the cost comparison to ensure fair competition.

Selection of United Nations agencies as consultants

260.-(1) United Nations agencies may be hired as consultants, where they are qualified to provide technical assistance and advice in their area of expertise.

(2) The United Nations agencies shall not receive any preferential treatment in a competitive selection process, except that a procuring entity may accept the privileges and immunities granted to United Nations agencies and their staff under existing international conventions and may agree with United Nations agencies on special payment arrangements required according to the agency's charter, provided these are acceptable to the accounting officer or tender board.

(3) Privileges as well as other advantages such as tax exemptions and other facilities and special payment provisions shall be evaluated and neutralised in the cost comparison to ensure fair competition.

Selection of non-governmental organisations

261.-(1) Non-governmental organisations may be included in the shortlist of consultants if they express interest and if the respective accounting officer or the tender board is satisfied that the organisations meet the necessary qualifications and eligibility to participate.

(2) For assignments that emphasize participation and considerable local knowledge, the short list may comprise entirely non-governmental organisations and if so, the quality and cost based selection procedure shall be followed, and the evaluation criteria shall reflect the unique qualifications of non-governmental organisations, such as voluntarism, non- profit status, local knowledge, scale of operation and reputation.

(3) Privileges and other advantages such as tax exemptions and other facilities, and special payment provisions shall be evaluated and neutralised in the cost comparison to ensure fair competition.

Selection of procurement agents

262.-(1) Where a procuring entity lacks the appropriate experience and satisfies itself that, it would be efficient and effective for the procuring entity, it may employ as its agent, a consultant which specialises in handling procurement.

(2) Procurement agent shall be paid on terms and conditions agreed depending on the nature and volume of the procurement handled.

(3) Procurement agents shall be selected using technical quality and cost based selection procedures with cost being given a weight of up to fifty percent.

(4) The standard contract form applicable for procurement agents, with payments based on a percentage of the total procurements and staff-month rates, shall be used.

Selection of inspection agents

263.-(1) A procuring entity may employ inspection agents to inspect and certify goods prior to shipment or arrival in Tanzania in which case inspection by such agents shall cover the quality and quantity of the goods concerned and reasonable prices.

(2) Inspection agents shall be selected using technical quality and cost based selection procedures giving cost a weight of up to fifty percent and using a contract format with payments based on a percentage of the value of goods inspected and certified.

Auditors

264.-(1) An auditor shall carry out auditing tasks under well-defined terms of reference and professional standards.

(2) Auditors shall be selected according to technical quality and cost based selection, whereas cost shall be a substantial selection factor that is, forty to fifty points or by the “least-cost selection” pursuant to regulation 256.

(d) Basic Steps for Selection of Consultants

Selection of consultants

265. A procuring entity may choose from a range of selection methods specified in these Regulations in order to provide a wide range of services, promote streamlining and harmonisation, and reduce administrative complexities and transaction costs.

Selection process

266. The selection process shall comprise of-

- (a) preparation of the terms of reference;
- (b) preparation of cost estimate and the budget;
- (c) advertising the request for expression of interest or pre-qualification of the consultancy services;
- (d) preparation of the short list of pre-qualified consultants;
- (e) determination of the selection procedures and criteria for selection;
- (f) preparation and issuance of proposal;
- (g) receipt of proposal;
- (h) evaluation of technical proposal;
- (i) evaluation of financial proposal;
- (j) final evaluation of quality and cost;
- (k) post qualifications where necessary;
- (l) negotiations;

- (m) award of the contract to the selected consultant; and
- (n) signing the contract.

Terms of reference

267.-(1) The procuring entity shall be responsible for preparing the terms of reference for the assignment with a view to ensuring compatibility between the scope of the services described in the terms of reference and the availability of budget.

- (2) The terms of reference shall contain-
 - (a) a precise statement of the objectives and goals sought;
 - (b) a clear description of the nature and scope of the services required, their context and the time interval in which they are provided;
 - (c) a description of the duties and responsibilities of the consultant;
 - (d) a description of the duties and responsibilities of the procuring entity;
 - (e) information on any counterpart staff and its role;
 - (f) information on training and the transfer of technology, where necessary;
 - (g) a summary of the data, a list of all available studies and information on the assignment, facilities and services which the procuring entity shall provide to the consultant; and
 - (h) a statement of the criteria to be used in the selection procedure.

(3) The terms of subcontract between the coordinating consultant and the sub-consultant shall be part of the submission to the procuring entity.

Procuring entity's contributions

268.-(1) The contributions which the procuring entity is in a position to make to the consultant's assignment shall be defined in the terms of reference, indicated in the requests for proposals and finalised in the contract.

(2) The type of the contributions shall be reviewed during negotiations and shall not be included in the cost of the services.

(3) Except for a budgetary allocation to cover the entire or part of the local expenditure, the contributions shall include-

- (a) office space with electricity, water, telephone, equipment, vehicles and maintenance;
- (b) housing;
- (c) support staff such as secretary, messenger, driver, administrative and technical service; and
- (d) information, documentation and all studies relating to the assignment.

(4) The value and type of the procuring entity's contributions shall be finally concluded during the negotiations.

Counterpart staff

269.-(1) A qualified counterpart staff employed by the procuring entity or its executing agency may be involved in the assignment with a view to build in-house capacity.

(2) The number of counterparts shall be determined on an individual basis depending on the importance of the assignment, and the requirements of the executing agency or the procuring entity.

(3) The counterpart staff shall-

- (a) make day-to-day contact with the consultant's experts in order to benefit from a transfer of skills and thus receive on-the-job training; and
- (b) liaise between the organs of the procuring entity and the consultant and assist the latter with data collection, providing it with all available information documentation and studies on the assignment.

(4) Prior to any final decision regarding the level of qualifications, number and responsibilities of each

counterpart staff, discussions shall be held during the negotiations to determine the-

- (a) number and responsibilities of the counterpart staff co-operating with the consultant's team;
- (b) extent to which counterpart staff is released from normal duties;
- (c) extent to which counterpart staff can fit into the consultants' proposed work schedule;
- (d) arrangements made to cover field and travel expenses of the counterpart staff; and
- (e) arrangements for replacement of unsuitable counterpart staff.

Association
between
consultants

270.(1) Consultants may associate with each other to complement their respective areas of expertise, or for other reasons in which case such association may be for the long term independent of any particular assignment or for a specific assignment and may take the form of a joint venture or of a sub-consultancy.

(2) Where the consultants have entered into a joint venture, all members of the joint venture shall be jointly and severally liable for the entire assignment.

(3) A joint venture of firms may pre-qualify by combining the capabilities and experience of each firm.

(4) A firm shall not associate with more than one partner in the same pre-qualification proceedings.

(5) A firm which is individually pre-qualified may form a joint venture in order to submit a technical proposal.

(6) Firms which are pre-qualified as partners in a joint venture shall not submit individual technical proposals.

(7) Where the short list is finalised and request for proposals is issued, any association in the form of joint venture or sub-consultancy among short listed firms shall be permissible only with the prior approval of the accounting officer or tender board.

Cost estimate and budget

271.-(1) The cost estimate shall be made on the basis of the cost of the consulting assignment on the assessment of the resources needed to carry out the assignment, staff time, logistical support and physical inputs.

(2) The cost estimate and budget shall be based on the terms of reference, in which case the budget shall be as detailed and accurate as possible, and shall be divided into foreign and local currency where applicable.

(3) The principal cost categories and characteristics on which the cost estimate may be based on the following:

- (a) the consultants' staff, time spent at headquarters and in the field;
- (b) other professional and support staff;
- (c) direct costs such as travel, transport and subsistence allowance;
- (d) the cost of physical inputs and materials such as equipment, vehicles and office supplies;
- (e) other expenditure such as offices, communications, services; and
- (f) costs for special services, if any.

(4) Where the project is financed by external sources which do not finance local taxes, any taxes and customs duties component of the cost estimate shall be identified and handled by the procuring entity.

Advertisement for request of expression of interest

272.-(1) The procuring entity shall include, in the general procurement notice, a list of expected consulting assignments which shall be updated as the procuring entity considers necessary for all outstanding procurement.

(2) The Procurement Management Unit shall prepare the invitation for expression of interest and, depending on the threshold of approval, submit to the accounting officer or tender board for comments and approval.

(3) The invitation for expression of interest shall be advertised by the procuring entity in the electronic public procurement system.

(4) In the advertisement, the procuring entity shall request the applicants to submit adequate information for the procuring entity to make decision on the firm's suitability and the advertisement shall not be complex as to discourage consultants from expressing interest.

(5) A minimum period prescribed in the Eleventh Schedule shall apply for submission of expressions of interest.

(6) A consultant who wishes to provide the requested services may express his desire in writing to be short-listed to the procuring entity concerned.

(7) Notwithstanding subregulation (6), an expression of interest to participate in the provision of services shall not oblige the procuring entity to include the applicant in the short list.

(8) In evaluating the expression of interest, a procuring entity shall accord first consideration to firms that possess the required qualifications.

Preparation of
shortlist of
consultants

273.-(1) The short-list shall be made up of consultants who possess the required capabilities and experience to provide the specific services.

(2) A new shortlist shall be prepared for every new request for proposals and shall comprise of not less than five firms at least three of which shall be national firms.

(3) Notwithstanding subregulation (2), in procurement for commercial use, commercially operating entities may proceed with available consultants where shortlisted qualified consultants are less than five.

(4) Where there are no qualified firms from Tanzania and for the purposes of establishing the short list, the nationality of a firm shall be the country in which the firm is registered or incorporated.

(5) An accounting officer or tender board may require the Procurement Management Unit to expand or reduce a short list and where an accounting officer or tender board has approved a short list, a Procurement

Management Unit shall not add or delete names without an approval of the accounting officer or tender board.

(6) Prior to the issue of the request for proposal documents, the consultants shall be requested to confirm their desire to participate in the competition.

(7) Subject to subregulation (2), the Procurement Management Unit shall, with the accounting officer or tender board's consent, replace firms that have communicated to the procuring entity in writing that they shall not participate or firms which did not confirm their participation pursuant to subregulation (5), by other firms where available.

Final shortlist of firms

274. Firms that expressed interest, as well as any other firm that specifically so requests, shall be provided with the final short list of firms.

Criteria to be used where there is no expression of interest

275. Where a procuring entity has not invited tenderers for expression of interest, it may use the following sources when drawing up the short list of consultants:

- (a) procuring entity's own experience of consulting firms and individual consultants;
- (b) soliciting interest directly from qualified firms based on its own knowledge; or
- (c) established standard list of consultants who have performed similar services in other procuring entities or donor funded project, where available.

Element of shortlist

276.-(1) A shortlist may entirely comprise of national consultants if-

- (a) a sufficient number of qualified national firms is available for having a short list of firms with competitive costs;
- (b) a competition that includes foreign consultants is not justified; or
- (c) foreign consultants have not expressed interest.

(2) A shortlist which is not approved by the accounting officer or tender board shall not be used for the selection of a consultant for a public financed project.

Accounting officer
or tender board not
to object
consultant

277. Notwithstanding the provisions of regulations 273 to 276, where an eligible consultant has satisfactorily carried out feasibility studies for a project, and is technically qualified to undertake detailed project or engineering design, preparation of tender documents or, supervision of implementation, the accounting officer or tender board shall not object the consultant if the consultant is appointed to carry out such subsequent functions.

Pre-qualification

278. (1) The shortlist shall, in the case of major and complex services, be prepared by either inviting consultants renowned for their experience and skills or by means of an announcement to consultants to express their interest in the assignment.

(2) The announcement shall contain a brief outline of the assignment and only request consultants to submit a detailed statement of capability and experience relevant to the assignment in the format to be provided by the procuring entity in line with standard pre-qualification documents issued by the Authority.

(3) The criteria used in pre-qualification shall not be applied during the evaluation of the technical proposals.

(4) Pre-qualification shall be mandatory in all situations where a procuring entity intends to engage in restricted architectural competition in accordance with architectural competition procedures prescribed by the relevant regulatory board and subject to the approval of the Authority.

(5) A procuring entity shall evaluate the responses and information obtained and prepare a shortlist by including the best qualified firms to be approved by accounting officer and the tender board depending on the threshold of approval.

(6) The minimum period as prescribed in the Eleventh Schedule shall apply for submission of pre-qualification applications.

Preparation and issuance of request for proposals

279.-(1) The Procurement Management Unit shall, before inviting proposals, furnish to the accounting officer or tender board depending on the threshold of approval for review, the shortlist and the proposed request for proposal and make modifications to the shortlist and the documents as the accounting officer or tender board shall reasonably direct.

(2) Any further modification shall require the accounting officer or tender board's approval before the request for proposal is issued to the short-listed consultants.

(3) The procuring entity shall invite proposals from not less than three qualified and experienced consultants, and shall, through a suitable selection procedure, select the consultant most qualified for the assignment.

(4) Procuring entities shall use standard request for proposals documents issued by the Authority.

(5) The request for proposals shall contain-

- (a) a letter of invitation;
- (b) instructions to consultants, including a data sheet and evaluation criteria;
- (c) terms of reference;
- (d) proposed contract;
- (e) technical and financial proposal standard forms; and
- (f) anti-bribery pledge.

(6) The procuring entity shall send the request for proposals to consultants on the short list.

Letter of invitation

280. The letter of invitation shall state the intention of the procuring entity to enter into a contract for the provision of consultancy services, the source of funds, the details of the procuring entity and the date, time and the manner of submission of proposals.

Instructions to
consultants

281.-(1) Instructions to consultants shall-

- (a) contain all necessary information to help consultants to prepare responsive proposals, and shall-
 - (i) manifest the transparency in the selection procedure by providing information on the evaluation process; and
 - (ii) indicating the evaluation criteria and factors, and their respective weights and the minimum passing quality score;
- (b) indicate the expected input of key professional staff time and the consultants and shall be free to prepare their own estimates of staff time necessary to carry out the assignment;
- (c) specify the proposal validity period which shall not be less than sixty days and not exceeding one hundred and twenty days.

(2) The instructions to consultants shall include the following aspects of the assignment:

- (a) a brief description of the assignment;
- (b) the names and contact information of officials to whom clarifications shall be addressed and with whom the consultants' representative shall meet, if necessary;
- (c) details of the selection procedure to be followed, including-
 - (i) a listing of the technical evaluation criteria and weights given to each criterion;
 - (ii) the details of the financial evaluation;
 - (iii) the relative weights for quality and cost in the case of quality and cost-based selection;

- (iv) the minimum pass score for quality;
- (v) the details on the public opening of financial proposals; and
- (vi) available budget in the case of fixed budget selection;
- (d) an estimate of the level of key staff inputs, in staff-months, required of the consultants, and indication of minimum experience, academic achievement and so forth, expected of key staff or the total budget, if a given figure cannot be exceeded;
- (e) details and status of any external and internal financing;
- (f) information on negotiations, and financial and other information that shall be required of the selected firm during negotiation of the contract;
- (g) the deadline for the submission of proposals;
- (h) currency in which the costs of services shall be expressed, compared, and paid;
- (i) reference to any written laws in Tanzania that may be particularly relevant to the proposed consultants' contract;
- (j) a statement that the firm and any of its affiliates shall be disqualified from providing downstream goods, works or services under the project if, in the procuring entity judgement, such activities constitute a conflict of interest with the services provided under the assignment;
- (k) the method in which the proposal shall be submitted, including the requirement for the technical and financial proposal in a manner that shall ensure that the technical evaluation is not influenced by price;
- (l) the short list of consultants being invited to submit proposals, and whether or not

associations between short-listed consultants are acceptable pursuant to regulation 270;

(m) the anticipated date on which the selected consultant shall be expected to commence the assignment;

(n) any requirements of the procuring entity with respect to the issuer and the nature, form, amount and other principal terms and conditions for the performance security for the procurement contract to be provided by the consultants who enters into the contract;

(o) a statement indicating-

- (i) whether or not the consultants' contract and personnel shall be tax-free; and
- (ii) the estimated tax burden or where this information can be obtained, and a statement requiring that the consultant shall include in its financial proposal a separate amount clearly identified, to cover taxes;

(p) if not included in the terms of reference or in the draft contract, details of the services, facilities, equipment and staff to be provided by the procuring entity;

(q) phasing of assignment, if appropriate, and possibility of follow-up assignments;

(r) procedure to handle clarifications about the information given in the request for proposals; and

(s) any conditions for subcontracting part of the assignment.

Contract

282.-(1) A procuring entity shall use the appropriate standard form of contract issued by the Authority with minimum and necessary alterations to address specific project issues.

(2) The alterations in the standard contract shall be introduced through the special conditions of contract

(3) Where forms are not available for a specific service, a procuring entity shall use other contract forms acceptable to the Authority.

Roles of consultant

283.-(1) Where a consultant pre-qualifies or receives the request for proposals document, the consultant shall study the documents carefully to decide if he can meet the technical, financial and contractual conditions, and if so, proceed to prepare its offer.

(2) The consultant shall critically review the documents to determine whether there is any ambiguity, omission or internal contradiction, or any feature of the terms of reference or other conditions which are unclear or appear discriminatory or restrictive.

(3) The consultant shall, where he determines any ambiguity or omission, request the procuring entity in writing and within the time period specified in the request for proposals documents, to clarify the ambiguity or contradiction.

(4) The criteria and methodology for selection of the successful consultant shall be outlined in the request for proposals documents, generally known as "Information to Consultants" and where the documents are not clear, clarification shall be sought from the procuring entity.

Curriculum vitae of staff

284. It shall be essential to ensure accuracy in the curriculum vitae of key staff submitted with the proposal and such curriculum vitae shall be signed and dated by the consultant and the individual staff, and where copies of academic transcripts are required, they shall be certified by a Commissioner for Oaths.

Deviation from basic requirements

285. Where a consultant intends to propose deviations to a basic requirement, or propose an alternative solution, the consultant shall quote the price for the fully compliant proposal and then separately

indicate the adjustment in price that can be offered if the deviation or alternative solution is accepted.

Prohibition of
change of price or
substance of
proposal

286. Where the proposals are received and opened, consultants shall not be required or permitted to change the price or substance of their proposals.

Receipt and
opening of
proposals

287.-(1) The procuring entity shall allow enough time prior to submission deadline for the consultants to prepare their proposals depending on the assignment, time which shall not be less than that prescribed in the Eleventh Schedule depending on the nature of the assignment.

(2) During the period prescribed under subregulation (1), a consultant may request clarifications about the information provided in the request for proposals and the procuring entity shall provide the clarification in writing in accordance with these Regulations and copy them to all consultants on the short list who intend to submit proposals.

(3) Amendments to the technical or financial proposal shall not be accepted after the submission deadline.

(4) The technical and financial proposals shall be submitted in a manner specified in the request for proposal to safeguard the integrity of the process.

(5) Technical proposals shall be opened immediately after the closure of the time for submission of proposals.

(6) The financial proposals shall remain sealed until completion of technical evaluation.

(7) Any proposal shall not be received after the closing time for submission of proposals.

Report of proposal
opening

288.-(1) The Procurement Management Unit shall keep records of the proposal opening.

(2) The report of the proposal opening shall, on request, be provided to consultants who submitted proposals.

Evaluation committee for consultancy services

289.-(1) An accounting officer shall form an evaluation committee of three or five members to evaluate the submitted technical proposals.

(2) In exceptional circumstances, the accounting officer may form an evaluation committee of more than five members depending on the value and complexity of the procurement if there are justifiable reasons for such increase, and an odd number of members is maintained.

(3) The evaluation of the proposals shall comprise of the quality and the cost stages.

(4) Evaluation committee shall not have access to the financial proposals until the technical evaluation is concluded, including any reviews and approvals by the accounting officer or tender board or, where necessary approval by the donor.

(5) The evaluation shall be carried out in full conformity with the provisions of the request for proposals.

(6) The evaluation process shall commence after the opening of proposals.

Evaluation of technical proposal

290.-(1) Evaluation of technical proposal shall be carried out on the basis of the principal criteria to which merit points are accorded so that each proposal is scored out of a hundred and the firms shall be ranked by order of merit on the basis of the highest score.

(2) A procuring entity shall evaluate each technical proposal taking into account several criteria which had previously been prescribed in the proposal document.

(3) The evaluation committee shall use numerical ratings for each of the following criteria which may further be divided into sub criteria:

(a) experience of the consultant in the same procurement field as that of the assignment and on similar projects;

(b) professional reputation of the consultant and previous performance and experience;

- (c) knowledge of the project environment in the country and in the region and their implications for the project;
- (d) inclusion of local firms and experts in the assignment;
- (e) understanding of the terms of reference;
- (f) quality of the proposal, plan and methodology proposed;
- (g) qualification of experts and experience in the field of the assignment; and
- (h) ability to deal with national personnel and agencies, and language proficiency.

(4) The relative importance of the sub-criteria specified under subregulation (3) rated out of one hundred shall vary with the type of services to be performed and as a guide, the relative merit points are provided in Part (a) of the Sixteenth Schedule.

(5) The Authority may issue guidelines on how to fix weights depending on different types of assignments.

(6) Where there is a participation of only local persons or firms, the weight given to participation of local firms shall be fixed to zero.

(7) The technical criteria for pre-qualification shall be limited to factors and in accordance to numerical ratings prescribed in Part (b) of the Sixteenth Schedule.

(8) The factors prescribed in Part (c) of the Sixteenth Schedule shall be indicated in the request for proposals and used in the evaluation of proposals to which other numerical ratings may be attributed to attain the score of one hundred points.

(9) The updated curriculum vitae of the proposed key personnel shall be signed by the holder and an authorised official of the consultant and shall be rated in the following three sub criteria:

- (a) general qualifications: general education and training, length of experience, positions held, time with the consulting firm as staff, experience in developing countries, and so forth;

- (b) adequacy for the assignment: education, training and experience in the specific sector, field, subject, and so forth, relevant to the particular assignment; and
- (c) experience in the country, knowledge of the local language, culture, administrative system and government organisation.

(10) The evaluation committee shall evaluate each proposal on the basis of criteria stipulated in the request for proposal.

(11) The numerical ratings set out in the request for proposals for each factor shall be attributed for each proposal received and tabulated on a summary weighted and summed up and such method shall provide consistent assessment of the various proposals received and that the proper weight is given to each proposal.

(12) At the end of the process, the evaluation committee shall prepare an evaluation report of the technical quality of the proposals which shall substantiate the results of the evaluation and describe the relative strengths and weaknesses of the proposal and all records relating to the evaluation, such as each evaluator's individual mark sheet, shall be retained until completion of the project and its audit.

(13) The evaluation committee shall submit the evaluation report on the technical proposals to the Procurement Management Unit.

Approval of
accounting officer
or tender board on
technical proposals

291.-(1) The Procurement Management shall review a report of technical evaluation and provide recommendation, and if-

- (a) satisfied with such report, it shall forward it to the accounting officer or tender board for approval; or
- (b) not satisfied with the report, it shall return it to the evaluation committee with reasons for re-evaluation.

(2) The accounting officer or tender board shall review technical evaluation and recommendations given by Procurement Management Unit and may-

- (a) approve the recommendations; or
- (b) refuse to approve the recommendations from Procurement Management Unit and give reasons for re-evaluation of the proposal, re-advertisement of the proposal or any other action.

Notification of results of technical evaluation

292.-(1) After the evaluation of technical quality is completed, the procuring entity shall notify consultants whose proposals have not met the minimum qualifying mark or were considered non-responsive to the request for proposals and terms of reference, indicating that their financial proposals were not opened after completion of the selection process.

(2) A procuring entity shall notify the consultants who have secured the minimum qualifying mark, and indicate the date and prescribed time for opening the financial proposals.

Procedure at opening of financial proposal

293.-(1) The opening of financial proposals shall not take place before five working days after the date of notifying consultants who have secured the minimum qualifying mark and shall be held at the time prescribed for opening.

(2) Before the opening of the financial proposals, the Procurement Management Unit shall publish the results of the technical evaluation.

(3) The Procurement Management Unit shall coordinate the opening of financial proposals of the successful consultancy firms, record the proposed prices and keep information of the opening.

(4) The report of the opening may, on request, be provided to consultants who submitted proposals.

Evaluation of financial proposal

294.-(1) An evaluation committee shall first review the financial proposals for consistency with the technical proposals and if there are any inconsistencies they shall make the necessary adjustment.

(2) An evaluation committee shall review the financial proposals and where there are any arithmetical

errors, such errors shall not be corrected and the procuring entity shall give prompt notice of any such correction to the consultants who submitted the proposal.

(3) For the purpose of comparing financial proposals, the costs shall be converted to a common currency selected by the procuring entity as stated in the request for proposals.

(4) The evaluation committee shall make the conversion by using the selling exchange rates for those currencies quoted by an official source such as the Bank of Tanzania.

(5) The request for proposals shall specify-

- (a) the source of the exchange rate to be used; and
- (b) the date of exchange rate, which shall be the date of opening of the proposal.

(6) For the purpose of evaluation, “cost” includes other reimbursable expenses, such as travel, translation, report printing, or secretarial expenses.

(7) In a situation where margin of preference is included, the financial proposals of the successful consultancy firms in the technical evaluation shall be opened and reviewed and the proposals which are responsive shall be classified into the following groups:

- (a) Group A: financial proposals offered by national consultants as well as association between national consultants, eligible for the preference;
- (b) Group B: financial proposals submitted by associations between national and foreign consultants, eligible for the preference; and
- (c) Group C: financial proposals offered by foreign consultants.

(8) For the purpose of evaluation and comparison of financial proposals under subregulation (7)-

- (a) an amount equal to the specified margin of preference for group A shall be added to financial proposals received from consultants in Group C; and

(b) an amount equal to the difference between the margin of preference for Group A and Group B shall be added to financial proposals received from consultants in Group B.

Combined
technical and
financial proposal
evaluation

295.-(1) The proposal with the lowest cost shall be awarded a financial score of one hundred, and other proposal shall be awarded financial scores based on a proportional ratio relative to their prices, or an alternative methodology may be used in allocating scores for the cost.

(2) In accordance with subregulation (1), the methodology to be used shall be described in the proposal documents.

(3) The total score shall be obtained by summing the technical and financial scores, and the weight for financial scores shall take into account the complexity of the assignment and the importance of quality.

(4) Notwithstanding subregulation (2), the weight for cost shall be in the range of ten to twenty points, but in no case shall exceed thirty points out of a total score of one hundred.

(5) The proposed weightings for technical and financial proposals shall be specified in the request for proposals and the consultancy firm obtaining the highest total score shall be recommended for contract award and invited for negotiations.

Post qualifications
for consultant

296.-(1) Where appropriate, post-qualification may be undertaken to determine whether the consultant with the best evaluated proposal has the capability, legal capacity and resources to implement the contract.

(2) The post-qualification shall verify, validate and ascertain all statements made and documents submitted by the first ranked consultant whether they meet the criteria stated in the request for proposal.

(3) The criteria for post-qualification shall be set out in the request for proposal and shall include-

(a) legal requirements: to verify, validate and ascertain licenses, certificates, permits, and

agreements submitted by the consultant and the fact that the consultant is not included in any blacklist;

(b) technical requirements: to determine compliance of the consulting services offered with the requirements specified in the request for proposal including, where applicable verification and validation of the consultant's stated competence and experience on similar contracts, and the competence and experience of the consultant's key personnel to be assigned to the consulting services;

(c) financial requirements: to verify, validate and ascertain the audited financial statements of the consultant and the financial proposal;

(d) knowledge of local working conditions;

(e) capabilities with respect to equipment and construction or manufacturing facilities;

(f) current commitments;

(g) litigation record; or

(h) any other relevant criteria.

(4) Where the first ranked consultant does not meet the post qualification criteria-

(a) the proposal shall be rejected; and

(b) where applicable, post-qualification shall be conducted to the next ranked consultant.

Submission to
accounting officer
or tender board

297.-(1) On completion of the combined quality and cost evaluation as well as post qualification of the first ranked consultant, the evaluation committee shall prepare and submit to the Procurement Management Unit a final evaluation report.

(2) The Procurement Management Unit shall review, give recommendations and submit the evaluation report to the accounting officer or tender board together with all copies of the proposals attached to it.

(3) The accounting officer or tender board shall review the evaluation report and recommendations for the award of contract to the consultant and may-

(a) approve the recommendations for contract award; or

(b) refuse to approve the recommendations for contract award and provide reasons for re-evaluation of the tender, re-advertisement of the tender, or take such other actions.

(4) After approval of the award recommendations, the accounting officer shall inform the consultant.

Contract negotiations

298.-(1) Subject to any provisions of these Regulations relating to contract negotiations, after accounting officer or tender board has approved the award recommendations, the procuring entity shall promptly invite the selected consultant to negotiate, in order to finalise the terms of the contract based on the model contract on one hand and the consultant's proposal on the other hand.

(2) In the invitation for negotiation, the consultant shall be informed of any challenges found in the review of the proposal which may be discussed during the negotiation.

(3) Negotiations shall include discussions on-

- (a) the terms of reference;
- (b) comments made by the consultant on the scope of services;
- (c) contract cost;
- (d) methodology;
- (e) staffing;
- (f) counterpart staff and training;
- (g) procuring entity's inputs, and special conditions of the contract;
- (h) consultant's proposed work programme; and
- (i) clarification of details that were not apparent or could not be finalised at the time of evaluation.

(4) The final terms of reference and the agreed methodology shall be incorporated in description of services which shall form part of the contract provided

that the discussions shall not substantially alter the original terms of reference or the terms of the contract.

(5) The selected consultancy firm shall not be allowed to substitute key staff during the period of validity of tender unless-

(a) both parties agree that undue delay in the selection process makes such substitution unavoidable; or

(b) such changes are critical to meet the objectives of the assignment.

(6) The selected consultancy firm may be disqualified and the process continued with the next ranked consultancy firm where it is established that key staff were offered in the proposal without confirming their availability.

(7) The key staff proposed for substitution shall have qualifications equal to or better than the key staff initially proposed.

(8) Financial negotiations shall include clarification of the consultants' liability to pay tax or duties and how liability to pay tax or duties has been or would be reflected in the contract.

(9) Proposed unit rates for staff-months and reimbursable shall not be negotiated unless there are exceptional reasons.

(10) If the negotiations fail to result in an acceptable contract, the procuring entity shall, after obtaining approval of the accounting officer or tender board, terminate the negotiations and invite the next ranked consultancy firm for negotiations.

(11) The consultant shall be informed of the reasons for termination of the negotiation and where negotiations are commenced with the next ranked consultancy firm, the procuring entity shall not reopen the earlier negotiations.

(12) Upon receipt of recommendations of the negotiation team, the accounting officer or tender board may-

(a) approve the recommendations;

- (b) direct further negotiations to be conducted on specific points;
- (c) reject the recommendations with reasons; or
- (d) terminate the negotiations in their entirety.

Approval of award
of contract

299.-(1) The approval of the contract award shall be subject to the provisions of these Regulations.

(2) Where a successful consultant fails to sign a written contract as required, or to provide any required security for the performance of the contract, the procuring entity shall, on the recommendation of the Procurement Management Unit, select the second ranked consultant, subject to the right of the procuring entity to reject all proposals.

(3) The approved consultant shall not be required, as a condition of award, to undertake responsibilities not stipulated in the request of proposal, or otherwise to modify the proposal as originally submitted.

(4) For the purpose of publishing and distributing the information concerning the award of the contract, procuring entities shall ensure that award notices are published.

(e) Selection of Individual Consultants

Selection of individual consultants

300.-(1) Individual consultants shall be employed on assignments for which-

- (a) teams of personnel are not required;
- (b) no additional outside professional support is required; and
- (c) the experience and qualifications of the individual are the paramount requirement.

(2) Individual consultants shall be selected on the basis of their qualifications for the assignment and may be selected on the basis of references or through comparison of qualifications among those expressing interest in the assignment or approached directly by the procuring entity.

(3) Individual consultants employed by a procuring entity shall meet all relevant qualifications and shall be fully capable of carrying out the assignment.

(4) Capability shall be judged on the basis of professional competence, experience and knowledge of the working conditions.

(5) The permanent staff or associates of a consulting firm may be available as individual consultants and in such cases, the provisions relating to conflict of interest prescribed in these Regulations shall apply to the parent firm.

(6) In the selection and use of individual consultants, consultancy services whose value is less than the value prescribed in the Seventh Schedule shall be reserved for individual national consultants.

Types of services

301. The procuring entity may require the following types of services from individual consultants:

- (a) preparation of terms of reference;
- (b) evaluation of tenders for works contracts, delivery of goods, and provision of services;
- (c) preparation of brief where architectural services are to be procured;
- (d) revision and updating of feasibility studies;
- (e) preliminary project or engineering design;

- (f) technical assistance on development, economic or sectoral, organisational and administrative plans;
- (g) application of the recommendations formulated in a study;
- (h) training;
- (i) assistance of the procuring entity with project implementation, and in particular for the monitoring and supervision of project implementation, as well as for investigations and technical advice;
- (j) preparation of project completion reports; and
- (k) all other necessary assistance decided upon by the procuring entity.

Selection process

302.-(1) The selection process for individual consultants shall comprise the following stages:

- (a) preparation of the terms of reference and contract format;
- (b) advertisement of the consultancy job;
- (c) preparation of the estimated budget;
- (d) preparation of shortlist of the consultants;
- (e) evaluation of qualification and experience;
- (f) negotiation of fees and contract terms;
- (g) signing of contract; and
- (h) supervision and evaluation of services.

(2) For short-term assignments of a few weeks to one or two months, the procuring entity may, after approval by the accounting officer or tender board, recruit a qualified individual consultant directly on the basis of information available to it.

(3) The procuring entity shall consider the consultant's curriculum vitae and reference and if they are satisfactory and the latter is available, the fees and the contract terms may be negotiated.

(4) Subject to the provisions of subregulation (1), for longer term assignments, the procuring entity shall prepare a shortlist of three to seven consultants selected from the widest possible geographical base and

including at least two national consultants using the procuring entity's own sources of information.

(5) The individual consultant may also be recruited through governmental or international academic organisations or consulting firms.

(6) Where the shortlist is established, the procuring entity shall, on the basis of the curriculum vitae and other relevant information available to it, evaluate the qualifications and experience of each consultant, particularly in the field of the assignment concerned and classify them by order of merit.

(7) The criteria to be used in the evaluation shall be those prescribed in Part (d) of the Sixteenth Schedule.

(8) A procuring entity shall contact the first individual consultant on the ranking and if he is available, fees and contract terms shall be negotiated.

(9) The negotiations, which shall begin with interviews shall continue until one of the short listed individual consultants is definitely retained for the assignment.

(f) Types of Consultancy Contracts and their Conditions for Use

Lump sum or fixed price contract

303.-(1) The fixed price contracts, otherwise referred to in this Part as "lump sum contracts" shall be used mainly for assignments in which the content and the duration of the services and the required output of the consultants are clearly defined.

(2) The lump sum contracts may be used for various activities including planning and feasibility studies, environment studies, detailed design of standard or common structures and preparation of data processing systems.

(3) Payments shall be linked to deliverables, such as reports, drawings, bill of quantities, tender documents and software programs.

Time-based contracts

304.-(1) Time based contracts shall be used 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.

(2) The contracts under subregulation (1) may be used for complex studies, supervision of construction, advisory services and training assignments and payments shall be based on agreed hourly, daily, weekly, or monthly rates for staff whose names are included in the contract and on reimbursable items using actual expenses or agreed unit prices and the rates for staff including salary, social costs, overhead, fee or profit, and, where appropriate, special allowances.

(3) Such contracts shall include a maximum amount of total payments to be made to the consultants and the ceiling amount should include a contingency allowance for unforeseen work and duration, and provision for price adjustments, where appropriate.

(4) The procuring entity shall closely monitor and administer time based contracts to ensure that the assignment is progressing satisfactorily, and payments claimed by the consultants are appropriate.

Retainer or success fee contract

305.-(1) The procuring entity may use retainer and success fee contracts for procurement of consultancy services where such services are required for preparation of companies for sale or merger of firms, notably in privatisation operations.

(2) The remuneration of the consultant may include a retainer and a success fee subject to the terms of the contract.

Percentage contract

306.-(1) The percentage based contracts may be used where it is appropriate to relate the fee paid directly to the estimated or actual cost of the contract.

(2) The percentage based contract shall clearly define the total cost from which the percentage is to be calculated and the consultant or service provider shall be required to indicate his cost as a percentage of the total cost of the assignment.

(3) The use of such a contract is recommended only if it is based on a fixed target cost and covers precisely defined services.

Indefinite delivery contract or price agreement

307.-(1) The indefinite delivery contracts-

- (a) shall be used where a procuring entity needs to have on call specialised services to provide advice on a particular activity, the extent and timing of which cannot be defined in advance; and
- (b) may be used to retain advisors for implementation of complex projects expert adjudicators for dispute resolution panels, institutional reforms, procurement advice, technical troubleshooting, and so forth, normally for a period of a year or more.

(2) The procuring entity and the consultants shall agree on the unit rates to be paid for the experts, and payments shall be made on the basis of the time actually used.

Running contracts

308.-(1) A running contract shall be used for contracts in which continuity of expert service is desirable, such as financial auditing, procurement agency contracts and inspection agency.

(2) The procuring entity and the consultants shall agree on the unit rates to be paid for the experts, and payments shall be made on the basis of the time actually used.

(3) The use of running contacts shall be subject to approval of the Authority.

PART IX CONTRACT MANAGEMENT

(a) General Provisions

Management of procurement contracts

309. The accounting officer shall be responsible for the implementation and management of contracts for

goods, services, or works undertaken by the procuring entity and shall-

- (a) monitor the costs and ensure timely delivery of goods and services, in the correct quantities and to the quality specified in each contract;
- (b) monitor the progress and timely completion of works in accordance with the terms of each contract;
- (c) take or initiate corrective or disciplinary actions for any breaches of contract terms; and
- (d) ensure that contractual obligations are fully discharged.

Appointment of contract manager

310.-(1) The accounting officer shall, for each contract, appoint a contract manager who shall be responsible for ensuring the implementation of the signed contract.

(2) The user department shall recommend to the accounting officer a member of the user department or any other person with appropriate level of expertise and experience, depending on the value and complexity of the contract to be appointed to be part of the team, contract manager, project manager or consultant.

(3) The contract manager may be external to the procuring entity, where the required skills and experience are not available within the procuring entity.

Contract manager obligations

311. The contract manager shall be responsible for-

- (a) in contracts for non-consultancy services or works, supervising the service provider or contractor's performance against the statement of requirements or schedule of work outlined in the contract, and submitting daily, weekly or monthly performance reports to user department;
- (b) in contracts for consultancy services, supervising the consultant's performance

against the terms of reference specified in the contract, and submitting daily, weekly or monthly performance reports to user department;

- (c) in supervision of the supplier, contractor or consultant's performance, ensuring that delivery or performance obligations are complied with and appropriate measures are taken by the procuring entity in the event of breach of contract terms;
- (d) ensuring that the supplier, contractor or consultant submits all required documents;
- (e) ensuring that the procuring entity makes payment and fulfills other obligations on time and in accordance with the contract;
- (f) ensuring effective management of costs, quality, and adherence to timelines;
- (g) ensuring compliance with the Act, these Regulations, guidelines and best practices;
- (h) preparing any amendments to the contract and seeking approval for required amendments;
- (i) submitting any necessary contract amendments to the user department for submission to the Procurement Management Unit for preparation of addendum to the contract;
- (j) overseeing procedures for handover or receipt of goods, works or services;
- (k) ensuring all contractual obligations are fulfilled before contract closure;
- (l) submitting any recommendations for contract termination to user department for submission to the Procurement Management Unit;
- (m) ensuring that all contract management records are submitted to the user department for record keeping and archiving; and
- (n) evaluating the performance of the supplier, contractor or service provider and submitting

a performance report to the user department for appropriate action.

Submission of performance reports

312. The user department shall, upon receipt of the performance report from the contract manager, submit the report to the accounting officer for appropriate action, and a copy to the Procurement Management Unit.

General contract management issues

313. In ensuring effective management of procurement contracts-

- (a) the Procurement Management Unit shall submit signed contracts to the user department responsible for overseeing the implementation of the contract;
- (b) the user department shall, upon receipt of the signed contract, provide a copy of the contract to the contract manager for management of the contract; and
- (c) the contract manager shall, upon receipt of the contract, prepare a contract management plan using the format prescribed by the Authority and submit to the user department for appropriate action.

Inspection and acceptance committee
GN. NO.
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reg. 18

313A.-(1) An accounting officer shall, in respect of each tender, appoint an inspection and acceptance committee for goods, works or services which shall comprise three members, one from the user department and the others with expertise in procurement matters or the subject matter of the project.

(2) In exceptional circumstances, the accounting officer may appoint an inspection and acceptance committee with more than three members depending on the value and complexity of the procurement, provided valid reasons are given and an odd number of members is maintained.

(3) The inspection and acceptance committee shall-

Payments to suppliers, contractors or service providers

- (a) inspect and receive goods, works or services at the site specified in the contract or any other site upon approval by the procuring entity;
- (b) inspect the goods, works or services in order to ascertain timely delivery or completion, accuracy, completeness and quality as per the contract;
- (c) reject incomplete goods, works or services or which have not met the contract requirements;
- (d) inspect all relevant documents; and
- (e) prepare an inspection report and submit it to the accounting officer for appropriate action.

(4) If a member of the inspection and acceptance committee refuses to accept the delivered goods, works or services by making a written dissenting opinion, the committee shall submit a report to that effect to the accounting officer for appropriate action.

314.-1 Suppliers, contractors or service providers shall ensure that they fulfill all contractual obligations before any payments are made by the procuring entity.

(2) The contract manager shall ensure that all contractual obligations are met prior to payments.

(3) Notwithstanding subregulation (2), in case of advance payments, payments may be made to suppliers, contractors or service providers before fulfillment of obligations specified in the contract after submitting advance payment guarantee.

(4) Where a payment request contains errors or discrepancies or is supported by incorrect, incomplete or missing documentation as required by the terms of a contract, the payment request shall be rejected and returned to the supplier, contractor or service provider, with reasons for the rejection specified.

(5) A supplier, contractor or service provider whose payment request is rejected shall be required to

resubmit or rectify the payment request, which shall then be treated as a new request.

Advance payments

315.-(1) A supplier, contractor or service provider shall submit a request for advance payment to the procuring entity using the prescribed form provided in the tender documents, if required and specified in the procurement contract.

(2) The agreed amount of advance payment shall be specified in the contract documents and under no circumstances, shall it exceed thirty percent of the contract value.

(3) Any advance payments exceeding thirty percent shall be made only after obtaining approval of the Authority.

(4) Before advance payment is made, the procuring entity shall ensure that-

(a) the supplier, contractor or service provider submits to the procuring entity an advance payment guarantee issued by a reputable bank;

(b) the validity of the guarantee is confirmed by the issuing bank; and

(c) the bank guarantee remains valid until the supplier, contractor or service provider has fulfilled part of the work, rendered services or delivered goods, commensurate with the value of the provided guarantee.

(5) The advance payments shall be used to cover initial contract costs and shall not exceed the amount required for preliminary preparations or acquisition of initial resources as specified in the contract documents.

(6) In works and service contracts, advance payment shall be fully recovered once eighty percent of the contract costs have been approved for payment.

(7) The supplier, contractor or service provider shall not use advance payments for purposes other than those specified in the contract documents.

(8) Where the procuring entity determines that advance payments have been used for purposes other

than those specified in the contract documents, it shall have justifiable grounds to claim reimbursement from the guarantor.

Amendments after
contract signing

316.-(1) Subject to section 95 of the Act, proposals for contract variations, including additions or deductions which are not incidental to the contract and which alter the scope or intention of the contract, shall be referred to the accounting officer or the tender board for approval before instructions are issued to the contractor.

(2) Amendments to the contract for additional quantities of similar goods shall use the same or lower prices as those specified in the original contract.

(3) The procuring entity shall not have power to authorise any additions beyond the scope of the contract without obtaining written approval from the relevant budget approving authority or the Paymaster General for additional financial authority required to meet the cost of such work.

(4) For the purposes of this regulation, “changes in the scope of the contract” includes all changes in the quantity or quality of goods to be supplied, services to be provided or works to be performed by a tenderer with whom a contract has been entered into and such changes shall generally be changes of a policy nature such as an increase in the area of a building or finishing to a higher standard than originally specified.

(5) Changes of a policy nature in the scope of the contract shall not be made after a financial authority is granted except where it is considered that the scope of the contact be extended because of a change of circumstances.

(6) Without prejudice to subregulation (5), the approval of the financial authority shall be obtained before the increase in the scope of the contract is committed and ordered.

(7) All changes requested by a procuring entity, in the case of works projects carried out under the supervision of the ministry responsible for works on

behalf of another ministry or department, shall be regarded as changes of a policy nature and the term “changes in the scope of contract” shall be regarded as covering the difference between the price to be paid for the prime cost items or provisional sum items and the allowance included for such items in the contract price.

Approval for extension of time

317.-(1) Approval for an extension of time may be granted by the accounting officer, and the reasons for granting such approval shall be fully documented in the contract implementation records.

(2) The approval shall specify the section of the general terms of the contract under which it is issued, the duration of the extension and the special circumstances which have been taken into account.

(3) In case of any special circumstances, an extension of time shall be submitted in accordance with the terms of the contract.

(4) Approval for extension of time shall be treated strictly and fairly if the procuring entity is to have reasonable prospects of enforcing liquidated damages and if the tenderer resorts to arbitration.

(5) The document for the extension of the contract time shall be signed by all parties before the expiry of the original contract period.

(6) For purposes of avoiding invalidation of the procuring entity's right to impose liquidated damages and claims for contract time extension, the tenderer shall not be requested to carry out further work under the contract where a completion certificate is issued.

(7) A procuring entity shall ensure that any extra work required after the contract is complete and accepted is carried out independently from the original contract.

Liquidated damages

318.-(1) The procuring entity shall impose liquidated damages for undelivered goods or materials, undelivered services or delayed works.

(2) The rates of liquidated damages per day shall be-

- (a) for procurement of goods or materials, 0.10 to 0.20 percent of the contract value per day of delay, up to a sum equivalent to the amount of the performance guarantee;
- (b) for procurement of works, 0.10 to 0.15 percent of the contract value per day of delay, up to a sum equivalent to the amount of the performance guarantee; and
- (c) for consultancy services, 0.10 to 0.20 percent of the contract value per day of delay, up to a sum equivalent to the amount of the performance guarantee.

(3) The rates of liquidated damages shall be specified in the tender invitation or tender documents and in the contract, and the maximum amount of liquidated damages shall be equal to the amount of the performance guarantee established in the contract.

Reasons and procedures for terminating contract

319.-(1) Subject to section 97 of the Act, a procuring entity intending to terminate a procurement contract shall, in writing, seek legal advice from the Attorney General, stipulating the following:

- (a) the issues and grounds for termination of the contract;
- (b) measures taken by the procuring entity to avoid the need for termination;
- (c) the benefits and drawbacks of termination of the contract;
- (d) the costs the procuring entity shall incur as a result of contract termination, if any; and
- (e) legal opinion from within the procuring entity.

(2) Upon receiving legal advice from the Attorney General, and if such advice is in support of the proposed termination of contract, the procuring entity shall proceed to terminate the contract in accordance with the procedures outlined in the contract.

(3) Either party intending to terminate the contract shall provide notice to the other party as specified in the contract.

Termination of
contract

320. Upon termination of a contract, the accounting officer shall notify the Authority and the Attorney General within fourteen days from the date of termination, for information and necessary actions.

Contract closure

321.-(1) The contract manager shall close out a procurement contract after completion of contract implementation.

(2) The contract closure shall involve the following:

- (a) ensuring that all goods, services and works have been completed and accepted;
- (b) ensuring that all rights, including copyrights, and other intellectual and industrial property rights that were secured during the implementation of the contract are devolved to the ownership of the procuring entity;
- (c) ensuring the return to the procuring entity of its assets which were made available to the contractor in the course of execution of the contract and ensuring that they not damaged;
- (d) ensuring that all the documentation like maps, blueprints, diagrams, specifications, plans, statistical data, calculations, operational and maintenance manuals and any other documents relevant during the implementation of the contract have been submitted to the procuring entity;
- (e) ensuring completion certificate or acceptance certificate for goods supplied is issued;
- (f) ensuring that a performance report of the service provider is prepared;
- (g) ensuring that all issues which arise during the contract execution have been addressed and that there are no outstanding claims;
- (h) ensuring that all payments have been effected and the performance guarantee has been returned to the supplier, contractor or service provider; and

(i) ensuring that a final project and financial report is prepared.

(3) The contract manager shall submit the final project and financial report to the accounting officer after contract closure.

(b) Management of Goods Contracts

Deleted

322. [Deleted by GN. NO. 42 of 2025, reg. 19].

Management of
goods contracts

323.-(1) The procuring entity shall receive a report on the goods received in accordance with the terms of the contract terms and timely approve payment to the supplier.

(2) Where receipt of goods is delayed, or is likely to be delayed beyond the time for delivery prescribed in the contract, the procuring entity shall seek reports and explanations from the suppliers or their agents and may institute liquidated damages as may be provided for in the contract.

Inspection and
acceptance of
goods
GN. NO.
42 of 2025
reg. 20

324.-(1) Goods delivered shall be inspected, sampled and tested by the procuring entity and shall not be accepted if they are below the standards specified in the contract.

(2) Where a supplier delivers the correct goods but deficient in number, or free from deficiency in number but not altogether correct, only the correct goods shall be accepted and the procuring entity shall notify the supplier of the deficiencies or defects and require the supplier to rectify according to the terms of the contract.

(3) The supplier shall remove the rejected goods from the site of the procuring entity within seven working days from the date of rejection of goods.

(4) Where the supplier fails to remove the goods within the time specified under subregulation (3), the procuring entity may, if it deems appropriate or upon justifiable grounds presented by the supplier, extend the time for a period not exceeding fourteen days.

(5) Where the supplier fails to remove the goods within the time specified under regulations (3) and (4), such goods shall be deemed abandoned and dealt with in accordance with the Public Finance Act and its regulations.

Inspection and acceptance period

325. Inspection and acceptance of goods shall be completed within the time frame specified in the contract.

Technical or scientific testing

326. In case of a technical or scientific test or experiment, an expert or qualified person in respect of the goods may be invited for consultation, or the goods may be sent to that qualified person for testing.

Correct and complete goods

327. Where goods are determined to be correct and complete, the goods shall be accepted, and the supplier shall -

- (a) be regarded as having effected delivery of the goods on the day the goods are inspected and accepted; and
- (b) be issued a signed acceptance certificate for the goods, and a copy of the certificate shall be retained by the procuring entity to facilitate payment processes.

(c) Contract Management for Works and Non-Consultancy Services

Works or non-consultancy services supervisor

328. The contract manager appointed under regulation 310 shall-

- (a) in case of works, manage the works of the inspection committee; and
- (b) in case of non-consultancy services, monitor the service providers,

and prepare and submit to the accounting officer a performance report on a monthly basis or within the period prescribed by the accounting officer.

Management of
works or non-
consultancy
services contracts
GN. NO.
42 of 2025
reg. 21

329.-(1) A procuring entity shall, in case of contracts for non-consultancy services or works, monitor the performance of the service provider or contractor against the statement of requirements or schedule or works specified in the contract by means of daily, weekly or monthly reports from the procuring entity's supervisor responsible for the non-consultancy services or works.

(2) The procuring entity shall authorise payments by measurement and certification of work completed, at the intervals or stages specified in the contract, provided that a percentage of each payment may be withheld as retention money if so stated in the contract.

(3) Where the performance of a service provider or contractor is not in conformity with the requirements prescribed in the contract, the procuring entity shall notify the service provider or contractor on any irregularities, and may refuse to authorise further payments until the requirements are met.

(4) Where an agreement to remedy the irregularities in the performance of a service provider or contractor cannot be reached, the procuring entity shall notify the service provider or contractor of the breach of the terms of the contract and may, in addition, invoke the procedure for instituting disputes prescribed in the contract.

(5) The procuring entity may, in the event that a service provider or contractor fails to provide services at the required standard or remedy faults to the satisfaction of the procuring entity-

- (a) withhold payment of any moneys retained; or
- (b) call any performance security if such has been furnished by the service provider or contractor.

(6) Funds that have been committed for any contingency included in the total contract value may be used:

- (a) to cover variations in cost according to any formula stated in the contract; or

(b) for additional non-consultancy services or works that are considered to be necessary by the procuring entity.

(7) Where the procuring entity is satisfied as to the non-consultancy services provided or works completed, and after any period specified in the contract has elapsed, it shall authorise the final payment to the service provider or contractor on his application, and release any performance guarantee, provided the service provider or contractor has rectified all the defects identified.



(d) Management of Consultancy Services Contracts

Management of
consultancy
contracts

330.-(1) In managing consultancy contracts, the procuring entity shall monitor the performance of the consultant against the terms of reference outlined in the contract by means of daily, weekly, or monthly reports from the procuring entity's supervisor responsible for the services.

(2) Where the consultant's performance-

- (a) is satisfactory, the procuring entity shall authorise payments by measurement and certification, at the intervals or stages stated in the contract provided that percentage of each such payment may be retained as retention money, if so stated in the contract; or
- (b) is not in conformity with the requirements prescribed in the contract, the procuring entity shall notify the consultant of any deficiencies and may refuse to authorise further payments until the requirements are met.

(3) Where an agreement is not reached with the consultant to rectify the deficiencies as prescribed under subregulation (2)(b), the procuring entity shall formally notify the consultant of the breach of the terms of the contract and may invoke the procedures for instituting a dispute according to the contract terms.

(4) Where the consultant fails to provide services at the required standard or remedy the deficiencies, the procuring entity may-

- (a) withhold payment of any outstanding moneys; or
- (b) call any performance security, if such has been furnished by the consultant.

(5) Funds that have been committed for any contingency included in the contract value may be used-

- (a) to cover variations in cost according to any formula specified in the contract; or

(b) for additional services that are considered necessary by the procuring entity.

(6) Where the services have been provided and approved by the procuring entity, and after any period specified in the contract has elapsed, the procuring entity shall promptly authorise final payment to be made to the consultant on his application, and release any performance security provided the consultant has rectified all the defects identified.

Evaluation of consultant's performance

331.-(1) A procuring entity shall evaluate and record the performance of consultants on services financed by the Government or any public body.

(2) The procedures of the procuring entity shall be designed to ensure performance evaluation is handled objectively and confidentially.

(3) The procuring entity shall consider the performance of consultants on public financed studies and projects.

Professional liability

332.-(1) The consultant shall carry out the assignment with due diligence and in accordance with prevailing standards of the profession.

(2) The liability of the consultant to the procuring entity shall be governed by applicable laws, and where the parties to the contract wish to limit liability, the parties shall ensure that-

(a) there is limitation in case of the consultant's gross negligence or willful misconduct;

(b) the consultant's liability to the procuring entity is not limited to less than the total payments expected to be made under the consultant's contract, or the proceeds the consultant is entitled to receive under insurance, whichever is higher; and

(c) any limitation is dealt with the consultant's liability towards the client only and not with the consultant's liability towards third parties.

Liquidated
damages

333.-(1) A consultant who fails to satisfactorily complete the services required under the contract within the specified period, inclusive of duly granted time extensions, if any, shall be liable for damages for the delay.

(2) The consultant shall pay to the procuring entity the liquidated damages in an amount equal to one-tenth of one percent of the cost of unperformed portion for every day of delay, and in no case shall the sum of liquidated damages exceed ten percent of the performance security.

(3) Where the sum of liquidated damages exceeds ten percent of the performance security, the contract shall automatically be terminated, without prejudice to other courses of action and remedies available to it.

(4) Upon termination of the contract, the procuring entity may take over the contract or award the same to a qualified consultant through negotiation.

(5) Subject to subregulation (4), a consultant who fails to perform the contract shall pay liquidated damages and their performance security shall be forfeited.

(6) For contracts with a performance securing declaration and the delay in completion of the services exceeds ten percent of the specified contract time, plus any time extensions granted to the consultant, the procuring entity shall terminate the contract and take action according to the performance security furnished, and award the contract to a qualified consultant through negotiations.

PART X SUPPLY MANAGEMENT

(a) Receipt and Recording of Goods

Receipt and
recording of goods

334.-(1) A procuring entity shall receive goods that conform to the requirements stipulated under the respective contract.

(2) Goods received shall be recorded in the goods received note.

(3) A procuring entity shall ensure that all goods received are properly recorded in the stores ledger.

(b) Storage of Goods and Management of Warehouses

Management of warehouse

335.-(1) The procuring entity shall ensure the presence of a warehouse which meets the criteria for the storage and safekeeping of goods.

(2) The procuring entity shall ensure the presence of an officer responsible for the warehouse who shall have the obligation to oversee the receipt, maintenance, storage and distribution of goods.

(3) Goods shall be received using a goods received note, internal transfer forms, or any other relevant receiving documents.

(4) The procuring entity shall, for the purpose of ensuring goods are properly stored-

- (a) examine the type, origin and characteristics of each goods to determine the appropriate method of storage and maintenance;
- (b) identify the facility for the proper storage and maintenance of received goods;
- (c) ensure safety measures are observed, including the availability of adequate safety equipment.

(5) The procuring entity shall conduct periodic verification of goods and-

- (a) identify and sort obsolete or expired goods;
- (b) rectify any discrepancies and take appropriate action; and
- (c) establish a procedure for the disposal of obsolete or expired goods.

Control of stored goods

336. The procuring entity shall, for the purpose of ensuring control of stored goods-

- (a) maintain a standard stores ledger by recording the goods in the warehouse;

- (b) ensure the name of the item, the bin card or records from another location and the unit of quantity issued and received are recorded in the stores ledger;
- (c) undertake annual stocktaking and ensure all stores ledger of goods are closed and show the balance at the end of each financial year and carried forward to the new financial year;
- (d) ensure entries of receipts and issues are made and updated in the stores ledger by accurately showing the date, voucher number and other relevant information to reflect the quantity and amount held in stock at all times;
- (e) ensure no erasure or alteration may be made to any entry in the stores ledger without prior approval of the relevant authority; and
- (f) where any corrections are necessary, the corrections shall be authenticated by the officer responsible .

Use of bin card in issuance and receipt of goods or equipment

337.-(1) The procuring entity shall ensure the use of bin card for each goods stored in the warehouse.

(2) The officer responsible for managing the warehouse shall maintain records of the receipt and issuance of goods on the bin card as required, by entering the numbers of receipt or issuance documents.

Marking of goods

338. Goods shall, as may be deemed appropriate:

- (a) be marked by the manufacturer; or
- (b) be stamped, sealed or labeled with an authorised mark after being received by the procuring entity.

Identification numbers for supplies

339.-(1) The procuring entity shall organise and assign identification numbers to supplies immediately after receipt.

(2) Records of received supplies shall be entered into the Government property register through the relevant electronic system and updated regularly where changes occur.

Calibration of scales, weights and measures

340. A procuring entity shall arrange for the periodical calibration of all scales, weights and measures to ensure that they function accurately.

Maintenance of store keys

341.-(1) The warehouse officer shall be responsible for keeping the warehouse keys, passwords or digital keys.

(2) The appointed officer shall be required to store the warehouse keys in a safe or a designated place for key storage, witnessed by another officer appointed by the procuring entity.

(3) For warehouses secured with passwords or digital keys, the officer appointed in accordance to subregulation (1), shall comply with security procedures for storing and managing passwords or cards.

Inspection of warehouses and storage facilities

342.-(1) The procuring entity shall conduct regular inspections of the warehouse and storage facilities to ensure the safety of the warehouse and optimal conditions for the storage facilities.

(2) The procuring entity shall be required to take prompt action to rectify leaks, damage, wear or any other deficiencies identified during the inspection.

(c) Distribution of Goods

Distribution of goods within procuring entity

343.-(1) The user department shall request goods from the warehouse based on requirements arising from the procurement plan by filling out a goods requisition form.

(2) For a procuring entity with a sub-division outside the main entity, the sub-division shall, through a goods requisition form, submit a request for goods from the procuring entity's warehouse according to its requirements.

(3) Upon receipt of the request under subregulation (2), the procuring entity shall transport the goods to the requesting sub-division, along with the relevant delivery and receipt documentation.

(4) Where the warehouse manager confirms that the requisition is correct and the requested goods are available in the warehouse, he shall prepare a delivery note indicating the quantity and type of goods to be issued.

(5) For the purpose of subregulation (4), the delivery note shall be signed by the relevant officer from the user department and the warehouse manager.

(6) The delivery note shall be recorded in the stores ledger, showing the delivery note number of the goods issued in accordance with the sequence of delivery note numbers in the ledger, and any remaining goods shall be recorded in the balance column of the ledger.

(7) Any necessary correction of errors in the delivery note shall be made and submitted to the head of the Procurement Management Unit for approval and record-keeping, and authenticated by the issuer and recipient of the goods.

Distribution of purchased goods for other institutions

344.-(1) The distribution center shall submit its requirements to the headquarters of the relevant center as may be required.

(2) Upon receipt of the requirements under subregulation (1), the headquarters shall-

- (a) process and approve the submitted requirements;
- (b) collect and package the specified goods according to warehouse procedures;
- (c) transport the goods to the requesting distribution center, together with the delivery and receipt documentation and a document indicating the value of the goods; and
- (d) ensure that records of issuance of goods are updated in the ledger.

(3) The distribution center shall receive and store the goods in the warehouse for distribution to the procuring entity.

(4) The procuring entity shall submit its requirements for goods to the distribution center using a

goods requisition form provided by the distribution center headquarters.

(5) Upon receipt of the requisition under subregulation (4), the manager of the distribution center shall-

- (a) confirm the requisition and payment for the requested goods; and
- (b) submit to the warehouse manager for issuance procedures.

(6) If the warehouse manager satisfies himself as to the availability of the requested goods in the warehouse, he shall-

- (a) prepare a delivery note showing the nature, quantity and value of goods to be issued; and
- (b) deliver the goods to the requesting entity subject to the warehouse procedures.

(7) For the purposes of this regulation, “distribution center” means a district, regional or zonal sub-office operating under the entity procuring for another entity.

Entry on bin cards

345.-(1) The warehouse manager shall ensure that records of received and issued goods in the warehouse are entered into the bin card, indicating the quantity of goods received, issued and remaining.

(2) The warehouse manager shall-

- (a) where goods are to be collected, obtain the receiving officer's signature on the delivery note; and
- (b) where goods are to be dispatched for transport, attach a copy of the cargo certificate to the delivery note.

(3) Copies of the delivery notes of remaining goods shall be sent along with the goods to the user department, and the original copy shall be inspected and signed by the receiving officer, who shall retain one copy as proof of receipt and return the original copy.

(4) After returning the original copy of the delivery note, the warehouse manager shall verify the

goods issuance documents against the original documents returned and signed by the receiving officer.

Handover of
warehouse

346.-(1) Where the warehouse manager is handing over the warehouse management functions, the accounting officer shall ensure that the stores ledgers are inspected in the presence of a witness and that formal handover is conducted.

(2) The handing-over officer shall ensure that-

- (a) all stores ledgers are fully updated as of the handover date and that the ledger pages are closed after the final entry; and
- (b) a handover report is prepared in three copies, listing all documents under his supervision.

(3) The handover report shall include-

- (a) the actual balance against the balance recorded in the stores ledger;
- (b) delivery documents that are unused, used and in ongoing use and any other documents as may be required; and
- (c) warehouse information, including-
 - (i) seals, obsolete goods or stamps;
 - (ii) laws, regulations, guidelines and books;
 - (iii) record of files and other official documents; and
 - (iv) existing and spare keys or digital access keys.

(4) Where due to illness or other urgent reasons the warehouse manager is unable to hand over his functions, the manager shall notify the accounting officer either personally or through a representative.

(5) The officer receiving the warehouse management functions shall ensure that-

- (a) the handover details are accurately recorded;
- (b) he inspects the goods and storage to verify that proper handling procedures have been observed; and
- (c) he performs any other functions as specified in the handover document.

(6) The list of verified goods and the results of the verification, including details of discrepancies, if any, shall be signed by the persons involved in the presence of a witness and attached to the handover report.

(7) Where the report consists of more than one page, each page shall be numbered, signed, and dated by the relevant officers.

Discrepancies
during handover

347.-(1) Any discrepancies identified during handover shall be recorded in the relevant stores ledger, providing detailed information on the discrepancy and be included in the handover notice by the handing-over officer.

(2) Where the discrepancy involves shortages or losses, the receiving officer shall report this to the accounting officer who shall take appropriate measures.

PART XI
PROCEDURES FOR DISPOSAL OF ASSETS BY TENDER

(a) Procedures for Disposal of Assets by Tender

Approval for
disposal of public
assets by tender
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348. The disposing entity shall, prior to any process of disposing of public assets by tender, obtain approval for disposal subject to the procedures specified under the Public Finance Act and its regulations.

Disposal by tender
plan

349.-(1) The disposing entity shall ensure that the assets to be disposed of are organised in a manner that attracts competition.

(2) The disposing entity shall ensure inclusion of all assets to be disposed of so as reduce the costs of disposal.

(3) Disposing entities may group assets for the purpose of conducting common disposal.

(b) Methods of Disposal of Assets and Conditions for Use of the Methods

Disposal of assets by competitive tendering

350.-(1) Disposal of assets by tender shall be carried out through a competitive tendering process, except in cases of disposal under regulation 351.

(2) The disposing entity intending to commence the disposal process through competitive tendering must provide timely notice to potential buyers about the assets to be disposed off in order to provide fair opportunity and increase competition among buyers.

Disposal of assets by restricted or direct tendering

351. A disposing entity may dispose assets using restricted or direct tendering where-

- (a) the market is limited, and there are few buyers who are willing to pay the reserve price; or
- (b) national security, public interest, legal, human rights, or environmental considerations are served by selling the assets to a particular firm, group or individual.

International competitive tendering

352. In the disposal of assets by international competitive tendering, the disposing entity shall, subject to the tender advertising requirements under regulation 18, invite potential buyers to submit tenders for the purchase of public assets.

National competitive tendering

353.-(1) In the disposal of assets by national competitive tendering, the disposing entity shall, subject to the tender advertising requirements under regulation 18, invite potential buyers registered in the United Republic to submit priced tenders for the purchase of public assets.

(2) Disposal of public assets by national competitive tendering may be used where-

- (a) all payments may be made wholly in Tanzanian shillings; and
- (b) the estimated value of the assets does not exceed the maximum limit for national competitive tendering prescribe in the Seventeenth Schedule.

(c) Tendering Proceedings

Invitation for disposal of asset by tender

354.-(1) The disposing entity intending to commence the asset disposal process by competitive tendering shall prepare and advertise a tender notice inviting potential buyers to submit priced tenders for the purchase of assets to be disposed.

(2) The Procurement Management Unit shall submit the invitation and the tender documents for disposal of assets to the accounting officer or tender board for opinion and approval, and shall prior to issuing the invitation and tender documents, incorporate any amendments which have been approved.

(3) Invitations issued without the approval of the accounting officer or the tender board shall be considered invalid and in such cases, the disposing entity shall be required to re-issue invitations to tender.

(4) The tender notice shall be advertised for an adequate period of time to enable potential buyers to obtain the tender documents for disposal of assets, prepare and submit their tenders before the tender submission deadline.

(5) The disposing entity shall provide potential buyers with reasonable opportunity to inspect the assets before the tender submission deadline.

(6) The tender opening time shall be immediately after the tender submission deadline and shall be specified in the tender documents.

Contents of invitation for disposal by tender

355. The invitation of tenders for disposal of public assets shall contain the following information:

- (a) the name and address of the disposing entity, the description of the asset to be disposed, the location of the asset and the arrangements for a potential buyer to inspect the asset, including a statement that the asset is sold on “as is, where is” basis;
- (b) the means or conditions of obtaining the tender documents;

Contents of tender documents

- (c) the language in which the tender documents are available;
- (d) the means for the submission of tenders; and
- (e) the deadline for submission of tenders as well as the date and time for tender opening.

356. The tender documents shall contain the following:

- (a) criteria and procedures for evaluation of qualifications of potential buyers and demonstration of qualifications;
- (b) the requirements as to documentary evidence or other information to be submitted by prospective asset buyers to demonstrate their qualifications;
- (c) the description of the assets, their locations and conditions for sale, responsibilities for the risk and cost for dismantling and disposing the asset;
- (d) terms and conditions of the asset disposal contract, to the extent known to the disposing entity, and the contract form, if any, to be signed by the parties;
- (e) whether the potential asset buyers are permitted to submit tenders for only a portion of the assets to be disposed, a description of the portion or portions for which tenders may be submitted;
- (f) the type of currency in which the tender price is to be submitted;
- (g) the language in which tender is to be prepared;
- (h) a statement that a potential asset buyer who fails to modify or who withdraws the tender prior to the deadline for submission of tenders shall forfeit the tender security;
- (i) the manner, date and deadline for the submission of tenders;
- (j) the tender validity period;
- (k) the date and time for tender opening;

- (l) the procedures for tender opening and criteria for examination and evaluation of tenders;
- (m) the currency to be used for the purpose of evaluation and comparison of tenders;
- (n) the means by which potential asset buyers may obtain clarification of the tender documents, and a statement as to whether the disposing entity intends, at such stage, to convene a meeting of potential asset buyers;
- (o) any requirements with respect to the issuer, nature, form, amount and any other significant terms and conditions of the tender security and performance security;
- (p) references to the Act, these Regulations and other laws and regulations directly pertinent to the disposal proceedings, provided, however, that the omission of any such reference shall not constitute grounds for review under section 119 of the Act or give rise to liability on the part of the procuring entity;
- (q) the name, title and address of one or more officers or employees of the disposing entity authorised to directly communicate and receive communications from potential asset buyers in connection with the asset disposal proceedings, without the intervention of an intermediary;
- (r) a statement on the right enshrined in section 119 of the Act to seek review of an unlawful act or decision of, or procedure followed by, the disposing entity in relation to the disposal proceedings;
- (s) a statement on the right reserved by the disposing entity to reject all tenders subject to the provisions of these Regulations; and
- (t) any other requirements established by the disposing entity subject to the Act and these Regulations, in relation to the preparation

and submission of tenders and to other aspects of the disposal proceedings.

Evaluation and comparison of tenders

357.-(1) An accounting officer shall form a tender evaluation committee comprising of three or five members.

(2) In exceptional circumstances, the accounting officer may form an evaluation committee of more than five members depending on the value and complexity of the procurement if there are justifiable reasons to increase the number of members of the evaluation committee, provided that an odd number of members is maintained.

(3) The tender evaluation committee shall evaluate the opened tenders on a common basis to determine the cost or price to the disposing entity for each tender and allow comparison of the tenders based on the evaluated cost or price.

(4) The tender evaluation shall be done based on the terms and conditions specified in the tender documents.

(5) Tenders shall be compared among themselves in order to determine the highest evaluated price for asset disposal.

(6) In determining the highest evaluated tender for asset disposal, the preferred evaluation method shall be the evaluation solely based on the price, except where other factors, including end-user or export restrictions, or the need to attach conditions to a sale are to be taken into consideration, and clearly stated in the tender documents.

(7) Where the evaluation is based solely on the price, a contract shall be awarded to the tenderer with the highest price.

(8) Where tenders are received, the evaluation committee shall-

- (a) correct any arithmetic errors;
- (b) convert tenders to a common currency; and
- (c) compare the tender prices with the value of the goods or the reserve price for disposal of

assets specified by the disposing entity, where appropriate.

(9) Award of contract shall be recommended for the highest evaluated tender which meets the eligibility requirements and passes the evaluation criteria, subject to any reservation regarding the valuation price or reserve price for disposal set by the disposing entity.

(10) In evaluating and comparing tenders, the disposing entity may grant a margin of preference for the benefit of Tanzanian potential buyers, provided that the margin of preference shall be calculated in accordance with regulation 38 and reflected in the records of the procurement proceedings.

(11) Where tender prices are expressed in two or more currencies, the prices of all tenders shall be converted to the same currency, in accordance to the exchange rates specified in the tender documents, for the purpose of evaluating and comparing the tenders.

(12) The exchange rates to be used in valuation shall be the selling rates published by the Bank of Tanzania on the date of tender opening.

(13) The evaluation committee shall prepare a detailed report on the evaluation and comparison of tenders, setting forth the specific reasons on which the determination of the highest evaluated price tender is based.

(14) The evaluation report shall be submitted to the Procurement Management Unit to verify if it is in accordance with the tender document, and if the Procurement Management Unit-

- (a) is satisfied with the report, it shall forward the report to the accounting officer or tender board for approval; or
- (b) is not satisfied, it shall return the evaluation report to the evaluation team with reasons for re-evaluation.

Identically priced tenders

358.-(1) Where the highest-priced tender has been submitted by more than one tenderer, a disposing

entity shall invite the tenderers who submitted identically priced tenders to submit a revised tender.

(2) A tenderer, other than those who submitted the identical highest-priced tenders, shall not be permitted to submit a revised tender or participate in the re-tendering process in any way.

(3) A revised tender shall only contain a revised price and a tenderer shall not be permitted to change the terms and conditions, technical details, documentation or any other aspects of their original tender, in any way.

(4) A revised tender shall be prepared and submitted in the same manner as the original tender.

(5) The tenderer shall be given adequate time to submit the revised tender, which shall not exceed half of the time used for preparation and submission of the original tender.

(6) The tender opening procedure for the revised tenders shall be the same as that for the original tenders.

(7) The evaluation of revised tenders shall be conducted in the same manner as the original evaluation, except that the price in the revised tender shall replace the original price.

(8) The award of the contract for revised tenders shall be recommended for the highest-priced revised tender that meets the requirements and fulfills the evaluation criteria.

(9) Where the highest-priced revised tender has been submitted by more than one tenderer, further re-tendering shall be held in accordance with this regulation.

(10) Where it is subsequently discovered that an error was made in the original evaluation, including, an arithmetic error or application of an exchange rate, and that as a result tenderers had not submitted identical highest priced tenderers, the re-tendering procedure shall be declared null and void and the revised tenders shall not be considered.

(11) Where re-tendering under subregulation (9) fails, the entire process shall be cancelled and repeated.

Negotiations with
successful tenderer

359.-(1) Negotiations shall be conducted with the successful tenderer for the disposal of assets.

(2) Where necessary, negotiations may involve issues of increasing or decreasing the price based on the type of goods or the need for disposal.

(3) Negotiations with a tenderer shall not be permitted until after the accounting officer or tender board has approved the evaluation committee's recommendations of the successful tenderer and the need to hold negotiations.

(4) Procurement Management Unit shall recommend members of a negotiation team based on appropriate seniority and experience depending on the value and complexity of the disposal and the members shall be approved by the accounting officer who shall also appoint the chairman from amongst the members.

(5) The number of members of the negotiation team shall be a minimum of three and maximum of five depending on the value and complexity of the disposal requirement and may include members of the original evaluation committee or different officers.

(6) Notwithstanding subregulation (5), the Paymaster General may, upon the request of the accounting officer and if satisfied that it is in the public interest, authorise the accounting officer to increase the number of members of the negotiation team.

(7) The negotiation team shall include members with relevant mix of skills and experience, including-

- (a) knowledge of end-user requirements;
- (b) negotiation skills;
- (c) procurement and contracting skills;
- (d) financial management skills; or
- (e) technical skills relevant to the subject of the disposal.

(8) The chairman of the negotiation team shall be responsible for-

- (a) ensuring all arrangements for negotiation meetings are made;
- (b) chairing all negotiations;

- (c) ensuring the negotiations are conducted in accordance with all legal requirements;
- (d) ensuring all members are aware of their responsibilities, including the need for confidentiality;
- (e) ensuring all members have a common understanding of the process of negotiations and objectives to be achieved;
- (f) ensuring members understand their respective roles in the negotiations and the standard approach of the team;
- (g) managing communications between the negotiation team and the tenderer or any other body;
- (h) ensuring the negotiation team has access to necessary information; and
- (i) preparing the final report on the negotiation or ensuring that it is prepared.

(9) The negotiation team shall prepare a negotiations plan which shall specify the issues to be negotiated as specified in the evaluation report and the objectives to be achieved and whenever possible, quantify the objectives and set maximum and minimum negotiating parameters.

(10) The accounting officer or tender board shall approve the negotiations plan prior to any negotiations.

(11) Prior to confirming any agreement reached, the Procurement Management Unit shall seek approval of the accounting officer or tender board.

(12) The negotiation team shall prepare minutes of the meeting which shall be signed by both parties that is a true and accurate record of the negotiations held and submit the minutes to the Procurement Management Unit.

(13) The Procurement Management Unit shall submit the recommendations of the negotiation team to the accounting officer or tender board to-

- (a) proceed with contract award to the recommended tenderer, incorporating the agreements reached during negotiations;

- (b) revise the negotiation objectives and hold further negotiations; or
- (c) terminate the negotiation and reject the tender.

(14) Where the negotiation team recommends rejection of the tenderer, it may also, where appropriate, recommend inviting the next ranked tenderer for negotiations.

(15) The results of any approved negotiations shall be specified in a letter of tender acceptance and attached to the contract.

(16) Where negotiations are commenced with the next ranked tenderer the disposing entity shall not reopen earlier negotiations and the original successful tenderer shall be informed in writing of the reasons for termination of the negotiations.

Acceptance of tender and entry into force of disposal contract

360.-(1) The tender which is ascertained to be the successful tender shall be accepted and the notice of acceptance of the tender shall be given promptly to successful tenderer after approval has been obtained from relevant authority.

(2) The disposing entity and successful tenderer shall sign the disposal of asset contract within fourteen days after complying with all terms before signing of contract.

(3) Where the successful tenderer whose tender is accepted fails to sign a disposal of asset contract, if required to do so, or fails to provide any required security for the performance of the contract, the disposing entity shall, upon approval of the accounting officer or tender board, select a successful tender from among the remaining tenders that are in force, subject to the right of the disposing entity, to reject all remaining tenders.

(4) After signing of the disposal of assets contract and, if required, the provision by the successful tenderer of a performance security in respect of the contract, notice of the disposal contract shall be given to unsuccessful tenderers, specifying the name and address

of the successful tenderer that has entered into the contract and the contract price.

Record of disposal
of asset
proceedings

361.-(1) A disposing entity shall maintain a record of its disposal proceedings and contract management pursuant to the provisions of regulation 14.

(2) For the purpose of subregulation (1), the records of disposal proceedings shall include the following:

- (a) records of a disposal process;
- (b) records relating to contracts management;
- (c) records of investigations of complaints or any other matter related to the Act or these Regulations;
- (d) a copy of an invitation notice;
- (e) copies of tender documents, their amendments or clarifications and any additional information ;
- (f) a record of the tender opening;
- (g) a copy of all tenders evaluated, clarifications requested and responses received;
- (h) the evaluation report;
- (i) minutes of meetings on the disposal of asset, including negotiation proceedings;
- (j) a copy of a letter of tender acceptance to a successful tenderer, if any;
- (k) the contract, if any;
- (l) all documents related to contracts management, including records of receipts of payment and handing over certificates;
- (m) all correspondence between a disposing entity and a tenderer or a third party disposal agent;
- (n) a copy of all submissions to the accounting officer or tender board and all decisions related to the disposal of asset, including, the choice of disposal method, approval of tender documents, approval of an evaluation report, approval of negotiations, contract award decision, approval of contract documents and

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Regulations
GN No.
446 of 2013

any decision to suspend or cancel disposal of asset proceedings; and
(o) the write-off approval from the Paymaster General or competent authority pursuant to the Public Finance Act.

362. The Public Procurement Regulations of 2013 are hereby repealed.



FIRST SCHEDULE

(Made under regulations 11(7), 20(1) and 126(1))

A. FEES AND CHARGES FOR PROCURING ENTITIES

CHARGES FOR PROCESSING EACH TENDER

S/N	Types of Charges	Invitation to Tenders Charges in Tshs
1.	Charges for Open Competition	100,000.00
2.	Charges for Restricted Tenders	500,000.00
3.	Charges for Single-Source Tenders	500,000.00
4.	Charges for each Quotation	50,000.00
5.	Charges for each mini-competition	10,000.00
6.	Charges for framework agreements	500,000.00
7.	Charges for pre-qualification	-

ANNUAL FEES FOR GENERAL PROCUREMENT NOTICE

TYPE	General Procurement Notice Fees	Payment for the Electronic Public Procurement System in Tshs
A	Procurement volume not exceeding Tshs 500,000,000.00	100,000.00
B	Procurement volume exceeding Tshs 500,000,000.00 but not exceeding Tshs. 2,000,000,000.00	300,000.00
C	Procurement volume exceeding Tshs 2,000,000,000.00 but not exceeding Tshs. 5,000,000,000.00	500,000.00
D	Procurement volume exceeding Tshs 5,000,000,000.00 but not exceeding Tshs. 10,000,000,000.00	1,000,000.00
E	Procurement volume exceeding Tshs 10,000,000,000.00 but not exceeding Tshs. 20,000,000,000.00	1,500,000.00
F	Procurement volume exceeding Tshs 20,000,000,000.00 but not exceeding Tshs. 50,000,000,000.00	2,500,000.00

The Public Procurement Regulations,

GN. No. 261 (Contd)

F	Procurement volume exceeding Tshs 50,000,000,000.00	3,500,000.00
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FEES FOR MONITORING THE IMPLEMENTATION OF PUBLIC PROCUREMENT CONTRACTS FOR PROCURING ENTITIES

TYPE	Types of Contracts	Fees for Monitoring the implementation of Contracts in Tshs
A	Procurement volume not exceeding Tshs. 30,000,000.00	-
B	Procurement volume exceeding Tshs. 30,000,000.00 but not exceeding Tshs. 100,000,000.00	100,000.00
C	Procurement volume exceeding Tshs. 100,000,000.00 but not exceeding Tshs. 1,000,000,000.00	300,000.00
D	Procurement volume exceeding Tshs. 1,000,000,000.00 but not exceeding Tshs. 5,000,000,000.00	500,000.00
E	Procurement volume exceeding Tshs. 5,000,000,000.00 but not exceeding Tshs. 10,000,000,000.00	1,000,000.00
F	Procurement threshold exceeding Tshs. 10,000,000,000.00 but not exceeding Tshs. 30,000,000,000.00	3,000,000.00
G	Procurement threshold exceeding Tshs. 30,000,000,000.00	5,000,000.00

B: TENDERERS FEES

S/N	TYPE OF FEE		TSHS
1.	Annual registration fee		100,000.00
2.	Tender participation fee	Nationally	30,000.00
		Internationally	500,000.00
3.	Tender participation fee for common use items		10,000.00
4.	DISPOSAL OF ASSETS: Registration of asset buyers		50,000.00

FEE FOR MONITORING THE IMPLEMENTATION OF PUBLIC PROCUREMENT CONTRACTS FOR TENDERERS

TYPE	TYPE OF CONTRACT	Fee for monitoring the implementation of contracts in Tshs
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The Public Procurement Regulations,

GN. No. 261 (Contd)

A	Procurement volume not exceeding Tshs. 10,000,000.00	-
B	Procurement volume exceeding Tshs. 10,000,000.00 but not exceeding Tshs. 50,000,000.00	100,000.00
C	Procurement volume exceeding Tshs. 50,000,000.00 but not exceeding Tshs. 100,000,000.00	200,000.00
D	Procurement volume exceeding Tshs. 100,000,000.00 but not exceeding Tshs. 500,000,000.00	500,000.00
E	Procurement volume exceeding Tshs. 500,000,000.00 but not exceeding Tshs. 1,000,000,000.00	1,000,000.00
F	Procurement volume exceeding Tshs. 1,000,000,000.00 but not exceeding Tshs. 5,000,000,000.00	2,000,000.00
G	Procurement volume exceeding Tshs. 5,000,000,000.00 but not exceeding Tshs. 10,000,000,000.00	4,000,000.00
H	Procurement volume exceeding Tshs. 10,000,000,000.00 but not exceeding Tshs. 30,000,000,000.00	6,000,000.00
I	Procurement volume exceeding Tshs. 30,000,000,000.00 but not exceeding Tshs. 60,000,000,000.00	8,000,000.00
J	Procurement volume exceeding Tshs. 60,000,000,000.00	10,000,000.00

C: OPTIONAL FEES

S/N	Type of fee	Tshs
1.	Short Message: Registration fees shall be charged annually after the tenderer registers for the short message service on tender information	60,000.00
2.	Registration fees for services – Charged annually after the institution requests API registration	5,000,000.00
3.	Catalogue: Based on the number of goods or services offered	250,000.00
4.	Advertisements through the electronic public procurement system	3,000,000.00
	For public institution	2,500,000.00

SECOND SCHEDULE

(Made under regulation 22)

**PREPARATION AND APPROVED SPECIFICATION CRITERIA OF THE GOODS,
EQUIPMENT, GOODS AND WORKS PROCURED BY THE GOVERNMENT**

No	Goods, equipment and works	Responsible Government institution
1	Furniture and fixtures	The Ministry responsible for public service management and good governance
2	Equipment for ICT and related goods	Ministry or entity responsible for ICT
3	Buildings and Construction	Ministry or entity responsible for building and works
4	Vehicles, equipment, spare parts, plant and machinery	The Ministry or entity responsible for the vehicles, equipment, spare parts, plant, and machinery
5	Stationeries	Ministry or entity responsible for publication in the Government
6	Health commodities	Ministry or entity responsible for health commodities
7	Supplies used in the education sector	Ministry or entity responsible for education
8	Petroleum products, energy and water	The Ministry or entity responsible for petroleum products, energy and water
9	Food for schools, training institutions, hospitals and prisons	Entity responsible for food security

THIRD SCHEDULE

(Made under regulations 23(5), 27(3) and 30(3))

FORM NO. 1

BID SECURING DECLARATION

Date: *[Insert Date (as day, month and year)]*

Tender No: *[Insert number of the tendering process]*

Alternative No: *[insert identification number if this is an alternative tender]*

To: *[insert complete name of procuring entity]*

I/We, *[insert a tenderer name]* the undersigned, hereby declare that:

We understand that, in accordance with the conditions of tender documents, tenders shall be submitted and supported with a bid securing declaration.

We accept that we will be suspended from being eligible for tendering in any contract with the procuring entity for the period of time prescribed by the Authority if we are in breach of our obligation(s) under the tender conditions, because:

- (a) we have withdrawn or modified our tender during the period of tender validity specified in the Form of tender; or
- (b) having been notified of the acceptance of our tender by the procuring entity during the period of tender validity,
 - (i) we failed or refused to sign the contract, when required, or
 - (ii) we failed or refused to furnish the performance security, or failed to implement other conditions before signing the contract in accordance with the tender documents.

We understand this bid securing declaration shall expire if we are not the successful tenderer, immediately upon-

- (i) receipt of your notification of the name of the successful tenderer; or
- (ii) twenty-eight days after the expiry of our tender.

Signed: *[insert signature of person whose name and capacity are shown]* in the capacity of *[insert legal capacity of person signing the bid securing declaration]*

Name: *[insert full name of person signing the bid securing declaration]* I have been duly authorised to sign the tender on behalf of: *[insert complete name of tenderer]*

Dated on _____ day of _____, _____ *[insert date of signing]*

Corporate Seal *[where appropriate]*

[NOTE: Where there is a joint venture, the bid securing declaration shall contain the names of all the partners in the joint venture which submitted the tender]

PERFORMANCE SECURING DECLARATION

Date: *[insert date (e.g., day, month, and year)]*
Contract Number: *[insert contract number]*

To: *[insert full name of the procuring entity]*

I/We, *[insert name of the tenderer]*, whose signatures appear below, hereby declare that:

We understand the terms of the contract and affirm our commitment to faithfully implementation the contract.

I/We agree that we shall be barred from participating in any procurement contract tendering for a period to be determined by the Authority if we breach our obligations under the contract terms, in accordance with the debarment procedures outlined under the Act and these Regulations.

I/We understand that this performance securing declaration shall expire upon the successful completion of the contract and the acceptance of the goods, works or services by the procuring entity.

Signed by: *[insert the signature of the person whose name and position are shown]* in the capacity of *[insert the legal capacity of the person signing the performance securing declaration]*.

Name: *[insert the full name of the person signing the performance securing declaration]*
Authorised to sign on behalf of: *[insert the full name of the tenderer]*

Dated this day of Year of *[insert the signing date]*

Seal (if applicable)

[Note: In the case of a joint venture, the performance securing declaration shall include the names of all partners in the joint venture that submitted the tender.]

TENDER SECURITY (BANK GUARANTEE)

[If required, the bank/tenderer shall complete this bank tender guarantee form according to the details provided in the brackets]

[Insert name of bank and address of the branch or office issuing the guarantee]

Beneficiary: [insert name and address of the procuring entity]

Date: [insert date]

TENDER GUARANTEE No: [insert number]

We have been informed that [insert name of tenderer; if a joint venture, list the full legal names of all partners] (hereinafter referred to as “the Tenderer”) has submitted to you its tender dated [insert date] (hereinafter referred to as “the Tender”) for the implementation of [insert name of Contract] Tender No. [insert tender number].

Furthermore, we understand that, according to your conditions, tenders must be accompanied by a bank performance guarantee.

At the request of the tenderer, we [insert name of the bank] hereby irrevocably undertake to pay you any sum or sums not exceeding a total of [insert amount in figures specified in the procuring entity's currency or the equivalent amount in an internationally convertible currency][insert amount in words] upon receipt of your written demand for payment accompanied by a written statement stating that the tenderer is in breach of its obligations under the Tender conditions, because the tenderer:

- (a) has withdrawn its tender during the period of tender validity specified by the tenderer in the tender;
- (b) has refused to accept the correction of arithmetic errors in accordance with the instructions to tenderers of the Invitation to tender; or
- (c) having been notified of the acceptance of its tender by the procuring entity during the period of tender validity,
 - (i) has failed or refused to execute the contract, when required, or
 - (ii) has failed or refused to furnish the tender guarantee or comply with any other conditions precedent to the signing of the contract in accordance with the tender documents.

This guarantee shall expire if:

- (a) the tenderer is the successful tenderer, upon our receipt of a copy of the signed contract by the tenderer and the procuring entity; or
- (b) the tenderer is not the successful tenderer, upon receipt of a copy of your notification to the tenderer that the tenderer was unsuccessful, or twenty-eight days after the end of validity of tender of tenderer, whichever is earlier.

Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

.....
[Signature of authorised representatives]

TENDER INSURANCE BOND

[If required, the Surety/Tenderer shall complete this Tender Insurance Bond form according to the instructions provided in the brackets.]

BOND NO. [Insert bond number]

BY THIS BOND *[insert name of the Tenderer; if a joint venture, insert the full legal names of the partners]* as Principal (hereinafter referred to as the “Principal”), and *[insert name, legal title, and address of Surety]*, duly authorised to transact business in *[insert name of the country of the Employer]*, as Surety (hereinafter referred to as “Surety”), are held and firmly bound unto *[insert name of Employer]* as Obligee (hereinafter referred to as “Employer”) in the sum of *[insert amount in figures specified in the currency of the Employer’s country or the equivalent amount in an internationally convertible currency]* *[insert amount in words]*, for the payment of which sum, well and truly to be made, we, the Principal party and identified Surety, bind ourselves, our heirs, assignees, jointly and severally, firmly by this bond.

WHEREAS the tenderer has submitted a written tender to the employer dated on*[insert date]* day of*[month]*,*[year]*, for the works of *[insert name of contract]* (hereinafter referred to as the “Tender”).

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the tenderer:

1. withdraws his tender during the period of tender validity specified in the Tender Form; or
2. refuses to accept the correction of its tender price, pursuant to the instructions to tenderers;
3. having been notified of the acceptance of its tender by the employer during the period of tender validity,
 - (a) fails or refuses to execute the agreement in accordance with the instructions to tenderers, if required; or
 - (b) fails or refuses to furnish the Performance Security in accordance with the instructions to tenderers.

The Surety commits to pay the employer the amount stated above upon receipt of the employer’s first written demand, without the employer having to substantiate its demand, provided that in its demand the employer shall note that the amount claimed by it is owing to the occurrence of one or more of the above conditions, specifying which condition(s) has occurred.

The Surety agrees that its obligation shall remain in full force and effect up to and including twenty-eight (28) days after the expiry of the tender validity period as stated in the Tender Form or any extension thereof provided by the tenderer.

IN WITNESS WHEREOF, the tenderer and the surety have executed in their respective names this bond on the *[day]* of *[month]*, *[year]*.

Tenderer:

(Seal where applicable)

Surety:

(Seal where applicable)

..... *[Insert signatures of authorised representatives]* *[Insert signatures of authorised representatives]*

..... *[Insert name and title]*

..... *[Insert name and title]*

PERFORMANCE BANK GUARANTEE (UNCONDITIONAL)

[Bank/successful tenderer providing the guarantee shall complete this form according to the instructions given in the brackets, if Procuring Entity requires this type of security.]

[Insert name of bank, and address of the issuing branch or office]

Beneficiary: *[Insert name and address of the Procuring Entity]*

Date: *[Insert date]*

PERFORMANCE GUARANTEE NUMBER: *[Insert Performance Guarantee number]*

We have been informed that *[insert name of the Contractor/Supplier/Service Provider]* (hereinafter referred to as "Contractor/Supplier/Service Provider") has entered into Contract No. *[Insert Contract reference number]* dated *[Insert date of the contract]* with your entity for the performance of *[Insert name and brief description of the contract]* (hereinafter referred to as "Contract").

Furthermore, we understand that, according to the terms of the contract, a performance guarantee is required.

At the request of the Contractor/Supplier/Service Provider, we *[insert name of the Bank]* hereby undertake to pay you any sum or sums not exceeding in total an amount of *[insert amount in figures and in words]*, payable in the type and proportion of currency in which the contract price is payable, upon receipt of your written demand accompanied by a written statement indicating the Contractor's/Supplier's/Service Provider's failure to fulfil its obligations under the contract, without the need to prove or to show grounds for your demand or the amount specified therein.

This guarantee shall expire no later than twenty-eight days from the date of issuance of the certificate of completion of a contract, calculated based on a copy of the certificate that we shall be provided with, or on *[insert day]* of *[insert month]*, *[insert year]*, whichever occurs first. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

[Signature of the Bank's authorised representative(s)]

PERFORMANCE INSURANCE GUARANTEE

[The Guarantor/successful tenderer providing the guarantee shall complete this form according to the instructions shown in brackets, if the procuring entity requires this security.]

For this Guarantee *[insert name and address of the Contractor/Supplier/Service Provider]* who is the Principal (hereinafter referred to as “Contractor/Supplier/Service Provider”) and *[insert name, legal title, and address of the guarantor, the guarantor’s company, or insurance company]* as the Guarantor (hereinafter referred to as “Guarantor”), and is binding upon us to *[insert name and address of the Procuring Entity]* (hereinafter referred to as “Procuring Entity”) for the amount of *[insert amount in figures and words]* for the payment of which sum, in the type and proportion of currency in which the contract price is payable, the Contractor/Supplier/Service Provider and the Guarantor hereby bind themselves, their heirs, administrators and signees, jointly and severally, under the following terms.

WHEREAS the *Contractor/Supplier/Service Provider* has entered into a contract with the Procuring Entity dated on *[insert date]* day of *[month]*, *[year]* for *[insert name of the Contract]* in accordance with the tender documents, plans, and amendments thereto, to the extent specified herein, are hereby referred to and made a part of this Contract.

NOW, THEREFORE, the condition of this obligation is such that if the Contractor/Supplier/Service Provider shall promptly and faithfully perform the contract mentioned above (including any amendments thereof), this obligation shall be void; otherwise, it shall remain to be legally valid. Whenever the Contractor/Supplier/Service Provider is, and has been declared by the Procuring Entity to be, in default under the contract, and the Procuring Entity has performed its obligations, the Guarantor may promptly remedy the default, or shall promptly:

1. Complete the contract in accordance with its terms and conditions;
2. Obtain tenders from qualified tenderers for submission to the Procuring Entity to complete the contract in accordance with its terms and conditions, and upon determination by the Procuring Entity and the Guarantor of the lowest evaluated successfull tenderer, arrange for a contract between such tenderer and the Procuring Entity and make available as the work progresses (*even though there may be a default or continuation of a default under the contract or contracts of completion arranged under this paragraph*) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, however, the amount stated in the first paragraph hereof, including other costs and damages for which the Guarantor may be liable. The term “balance of the contract price,” as used in this paragraph, shall mean the total amount payable by the Procuring Entity to the tenderer under the contract, less the amount properly paid by the Procuring Entity to the tenderer; or
3. Pay the Procuring Entity the amount required by the Procuring Entity to complete the contract in accordance with its terms and conditions up to a total not exceeding the amount of this guarantee.

The Guarantor shall not be liable for a greater sum than the amount stated in this guarantee.

Any proceedings under this guarantee shall be initiated before the expiry of one year from the date of issuance of the completion certificate.

There shall be no right of action against this guarantee or for its use by any person or corporation other than the Procuring Entity named herein or its heirs, administrators, or assignees.

IN WITNESS WHEREOF, the Contractor/Supplier/Service Provider has hereunto set its hand and seal, and the Guarantor has consented by affixing its corporate seal and has caused these presents to

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be signed by its duly authorised legal representative, this *[insert date]* day of *[insert month]*, *[insert year]*.

Signed by *[insert authorised representatives' signatures]*

On behalf of *[insert name of the Contractor/Supplier/Service Provider]* in the capacity of *[insert title/position]*

In the presence of *[insert name and signature of the witness]*

Date *[insert date]*

Signed by *[insert signatures of the Guarantor's authorised representatives]*

On behalf of *[insert name of the Guarantor]* in the capacity of *[insert title/position]*

In the presence of *[insert name and signature of the witness]*

Date *[insert date]*



BANK GUARANTEE FOR ADVANCE PAYMENT

[Bank's Name, and Address of Issuing Branch or Office]

Beneficiary: *[name and address of the procuring entity]*

Date:

ADVANCE PAYMENT GUARANTEE No:

We have been informed that *[name of Contractor/supplier/service provider]* (hereinafter referred to as “the Contractor/supplier/service provider”) has entered into Contract No. *[reference number of the contract]* dated ____ with your entity, for the performance of *[name of contract and brief description of Works]* (hereinafter referred to as “the Contract”).

Therefore, we understand that, according to the terms of the Contract, an advance payment in the sum *[insert amount in figures and in words]* is to be made against an advance payment guarantee.

At the request of the Contractor/supplier/service provider, we *[insert name of Bank]* hereby undertake to pay you any sum or sums not exceeding in total amount of *[insert amount in figures and in words]* upon receipt of your first demand in writing accompanied by a written statement stating that the Contractor/supplier/service provider is in breach of its obligation under the Contract because the Contractor/supplier/service provider used the advance payment for other purposes than intended one. It is a condition for any claim and payment under this guarantee to be made where the advance payment referred to above have been received by the Contractor/supplier/service provider on its account number *[insert account number]* for *[insert name and address of Bank]*.

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the contractor/supplier/service provider as indicated in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that eighty (80) percent of the Contract Price has been certified for payment, or on the day of *[insert date, month and year]* whichever is earlier. Therefore, any demand for payment under this guarantee shall be received by us at this office on or before that date.

Yours truly,

Signature and seal:

Name of Bank/Financial Institution:

Address:

Date:

FOURTH SCHEDULE

(Made under regulations 27(1), 30(1), 38(3), 43(1), 44, 45(1), 46 and 144)

PREFERENCE SCHEME FOR LOCAL SUPPLIERS, CONTRACTORS AND SERVICE PROVIDERS

A. Margin of Preference for Local Contractors or Service Providers, or Joint venture between Local and Foreign Contractors or Service Providers under National and International Competitive tendering

(a)	Margin of Preference under National and International Competitive Tendering for Contractors or Service Providers	The margin of preference shall be 10%.
(b)	Margin of Preference under National and International Competitive Tendering or Joint Ventures between Local and Foreign Contractors or Service Providers	
Contribution of foreign contractors or service providers in joint venture or consortium	26 - 49% 0 - 25%	The margin of preference shall be 8% The margin of preference shall be 10%

B. The margin of preference for products extracted or manufactured in Tanzania shall be 15%.

C. Exclusive Preference for Local Suppliers, Contractors, or Service Providers shall apply to tenders with the following values:

Type of Procurement	Value (Tshs)
Goods	Up to 50,000,000,000.00
Works	Up to 50,000,000,000.00
Non-Consultancy Services	Up to 50,000,000,000.00

D. Regional Level Preference for Local Suppliers, Contractors, or Service Providers shall apply to tenders with the following values:

Type of Procurement	Value (Tshs)
Works	Up to 1,000,000,000.00
Goods	Up to 200,000,000.00

Non-Consultancy Services	Up to 200,000,000.00
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Note: Exclusive preference applies to local suppliers, contractors, or service providers and joint ventures between local and foreign suppliers, contractors, or service providers if the contribution of local suppliers, contractors, or service providers in the joint venture exceeds 75%.

FIFTH SCHEDULE

(Made under regulations 27(1), 30(1), 44, 45(1), 46 and 144)

NATIONAL AND EXCLUSIVE PREFERENCES FOR LOCAL CONSULTANTS

A. Margin of Preference for Local Consultants, or association between Local and Foreign Consultants under National and International Competitive tendering

(a)	Margin of preference under national and international competitive tendering for local consultants.	The margin of preference shall be 10%.
(b)	Margin of preference under national and international competitive tendering for joint ventures between local and foreign consultants	
Contribution of the foreign consultant in the joint venture or subcontract	26% - 46%	The margin of preference shall be 8%.
	0% - 25%	The margin of preference shall be 10%.

B. Exclusive preference for local consultants shall apply to tenders with the following values:

Tenderer	Value (Tshs)
Firm	Up to 50,000,000,000.00
Individual Consultant	Up to 50,000,000,000.00

C. Regional level preference for local consultants shall apply to tenders with a value not exceeding Tshs 200,000,000.00.

Note: Exclusive preference shall apply to local consultants and joint venture between local and foreign consultants where the contribution of the local consulting firm in the joint venture exceeds 75%.

SIXTH SCHEDULE

(Made under regulations 35(3), 125(6), 150(2), 165 and 166(1))

**PROCUREMENT METHODS AND EXPENDITURE LIMITS FOR GOODS, WORKS,
SERVICES NON-CONSULTANCY SERVICES AND DISPOSAL OF PUBLIC ASSETS**

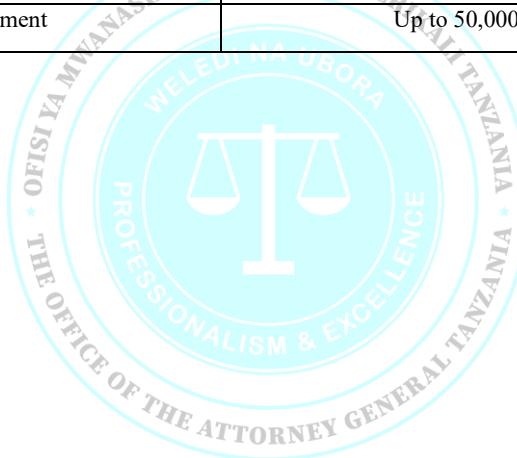
Procurement Method	Goods (Tshs)	Works (Tshs)	Non-consultancy services (Tshs)	Disposal of Public Assets (Tshs)
International competitive tender	No limit	No limit	No limit	No limit
National competitive tender	Up to 50,000,000,000	Up to 50,000,000,000	Up to 50,000,000,000	Up to 50,000,000,000
Restricted tendering	No limit	No limit	No limit	No limit
Competitive quotation (shopping)	Up to 500,000,000	Up to 500,000,000	Up to 500,000,000	Not applicable
Single source procurement	No limit	No limit	No limit	Not applicable
Minor value procurement	Up to 50,000,000	Up to 100,000,000	Up to 50,000,000	Not applicable
Micro value procurement	Up to 10,000,000	Up to 20,000,000	Up to 10,000,000	Not applicable
Micro value procurement for commercially operating entities in procurement of cereals, livestock and livestock products	Up to 30,000,000	Not applicable	Not applicable	Not applicable
Micro value procurement for entities which according to its establishment and functions aims at saving lives and ensuring security of people and their properties	Up to 30,000,000	Not applicable	Not applicable	Not applicable

SEVENTH SCHEDULE

(Made under regulations 35(3), 249(2), 252 and 300(6))

SELECTION METHODS AND LIMIT FOR CONSULTANCY SERVICES

Selection Method	Limits (Tshs.)
International competitive selection	No limit
National competitive selection	Up to 50,000,000,000.00
Restricted tendering selection	No limit
Single source tendering selection	No limit
Individual consultant selection	Up to 50,000,000,000.00
Minor value procurement	Up to 50,000,000.00



EIGHTH SCHEDULE

(Made under regulation 40(3))

PREFERENCE SCHEME FOR FOREIGN FIRM SUBCONTRACTING TO LOCAL FIRM

Preference of up to 6% shall be provided to foreign contractors and consultants who sub-contract local firms in the following margins:

No.	Percentage of sub-contracting	Limit of preference
1.	Subcontract of 23 percent to 30 percent of the total project cost	6 percent
2.	Subcontract of 16 percent to 22 percent of the total project cost	4 percent
3.	Subcontract of 10 percent to 15 percent of the total project cost	2 percent
4.	Subcontract of 5 percent to 9 percent of the total project cost	1 percent

NINETH SCHEDULE

(Made under regulations 64(2) and 65(1))

THRESHOLD FOR TENDER BOARD APPROVAL

Threshold for approval of tenders by tender board shall be above the threshold prescribed in this Schedule in Tsh.

Type of Procurement	GROUP					
	A	B	C	D	E	F
Goods	5,000,000,00	3,000,000,00	800,000,00	300,000,00	100,000,00	50,000,00
Works	10,000,000,00	5,000,000,00	1,000,000,00	500,000,00	200,000,00	100,000,00
Non-consultancy services	3,000,000,00	1,500,000,00	200,000,00	100,000,00	80,000,00	50,000,00
Consultancy services	5,000,000,00	2,000,000,00	300,000,00	200,000,00	100,000,00	30,000,00

NOTE:

1. Explanation for groups of procuring entities described in this Schedule shall be as follows:

Group A: Procuring entities with procurement value exceeding 20 billion shillings per year

Group B: Procuring entities with procurement value exceeding 10 billion shillings but not exceeding 20 billion shillings per year

Group C: Procuring entities with procurement value exceeding 5 billion shillings but not exceeding 10 billion shillings per year

Group D: Procuring entities with procurement value exceeding 1 billion shillings but not exceeding 5 billion shillings per year

Group E: Procuring entities with procurement value exceeding 500 million shillings but not exceeding 1 billion shillings per year

Group F: Procuring entities with procurement value up to 500 million shillings.

2. Approval for procurement by way of international competitive tender, disposal of public assets by way of tender and procurement of used railway locomotives and coaches, aircraft and ships shall be provided by the tender board.

3. Approval for values below the threshold prescribed in this Schedule shall be provided by the accounting officer of the procuring entity.



TENTH SCHEDULE

(Made under regulations 78(3), 115(3) and 163(5))

**MINIMUM TIME FOR PROCUREMENT PROCESSING AND SUBMISSION OF TENDERS
FOR GOODS, WORKS AND NON-CONSULTANCY SERVICES**

Time specified under this Schedule is intended to give tenderers adequate time to prepare their tenders and shall not under any circumstances, be reduced except where a tender has been rejected, provided that-

- i. during re-tendering there are no major changes which necessitate preparation of new tenders; and

- ii. the same tenderers are invited,

in which case the minimum processing time may be reduced by half.

**Minimum time for Preparation and Submission of Pre-qualification Documents and Tenders
for Tenderers**

No.	Method of Procurement	Period (Calendar days)
PRE-QUALIFICATION STAGE		
1.	International competitive tendering	10
2.	National competitive tendering	7
TENDERING STAGE		
3.	International competitive tendering	10
4.	National competitive tendering	7
5.	Restricted International competitive tendering	7
6.	Restricted national competitive tender	5
7.	International shopping	4
8.	National shopping	3
9.	Minor value procurement	1
10.	Where large works are involved	50

ELEVENTH SCHEDULE

(Made under regulations 78(3), 115(3), 196(1), 272(5), 278(6) and 287(1))

**MINIMUM TIME FOR PROCUREMENT PROCESSING AND SUBMISSION OF TENDERS
FOR CONSULTANCY SERVICES**

Times prescribed in categories 1 and 2 are intended to give tenderers adequate time to prepare their tenders and shall not be reduced by procuring entity under any circumstances, except where a tender has been rejected provided that:

(a) during re-tendering there are no major changes which necessitate preparation of new proposals; and

(b) the same tenderers are invited,

whereby the minimum processing time may be reduced by half.

S/N	Procurement Method	Time (calendar days)
PERIOD FROM INVITATION TO EXPRESSION OF INTEREST		
1	International competitive tendering	14
2	National competitive tendering	7
PERIOD FROM INVITATION TO PROPOSAL FOR CONSULTANTS		
3	International competitive tendering	14
4	National competitive tendering	10
5	International restricted tendering selection	10
6	National restricted tendering selection	7
7	Individual consultant selection	7
8	Minor value procurement	4

TWELFTH SCHEDULE

(Made under regulation 87(1))

A. PROCUREMENT THRESHOLD FOR THE AUTHORITY

S/N	Type of procurement	Limit (Tshs)
1	Goods	Up to 1,000,000,000
2	Works	Up to 2,000,000,000
3	Non-consultancy services	Up to 500,000,000
4	Consultancy services	Up to 500,000,000
5	Disposal of assets	Up to 100,000,000

B. PROCUREMENT THRESHOLD FOR THE APPEALS AUTHORITY

S/N	Type of Procurement	Limit (Tshs)
1	Goods	Up to 100,000,000

2	Works	Up to 1,000,000,000
3	Non-consultancy services	Up to 500,000,000
4	Consultancy services	Up to 500,000,000
5	Disposal of assets	Up to 100,000,000

THIRTEENTH SCHEDULE

(Made under regulation 88)

DECLARATION AGAINST FRAUD AND CORRUPTION, AND COMPLIANCE WITH THE CODE OF ETHICS IN TENDER AND CONTRACT IMPLEMENTATION

This declaration shall be filled and submitted by the tenderer together with their tender.

1. **I**, of P.O. Box , hereby make the following **DECLARATION**:
2. **THAT**, I am (*insert Position/Title*) at (*insert name of company*), which is the tenderer in relation to tender No. (*insert tender number*) concerning (*insert description of the tender*) for (*insert name of procuring entity*), and I am duly authorised to make this declaration.
3. **THAT** the aforementioned tenderer, its employees, partners, agents, shareholders, associates, beneficial owners, or subcontractors shall not engage in any acts of corruption or fraud in relation to the tendering process or contract implementation.
4. **THAT** the aforementioned tenderer, its employees, partners, agents, shareholders, associates, beneficial owners, or subcontractors have not been influenced by any member of the tender board, management, or employees of (*insert name of procuring entity*).
5. **THAT** the aforementioned tenderer shall not engage in any solicitation, conspiracy or coercion in any form during the tendering process or contract implementation.
6. **THAT** the aforementioned tenderer, its employees, partners, agents, shareholders, associates, beneficial owners, or subcontractors shall not engage in any conflicts of interest in the tendering process and contract implementation.
7. **THAT** the aforementioned tenderer, upon discovering the existence of any conflict of interest, shall promptly notify the procuring entity.
8. **THAT**, we acknowledge our duty to allow the Government and the procuring entity to inspect any information related to the preparation of the tender and the execution of the contract arising from the tender, regardless of whether we are awarded the tender or not.
9. **THAT**, we acknowledge our responsibility to adhere to the code of ethics governing participation of tender in public procurement.
10. **THAT**, in the event that we are awarded the tender and proceed to implement the contract, and in case of contravention of the conditions of this declaration, the procuring entity has the right to terminate the procurement process and cancel any contract arising from the tender without cost or legal liability on their part and take any other appropriate action, including debarment in accordance with the Act.

THIS DECLARATION, is made truthfully to the best of the knowledge and information provided.

Signature of authorised company officer: _____

Name and position of company officer: _____

Name of tenderer: _____

Date: _____

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Address: _____
Telephone Number: _____
Email Address: _____
Tenderer's Seal: _____

NOTE

Tenderers shall submit declarations against fraud, corruption, and compliance with the Code of Ethics in tendering and contract execution from their partners, associates, or subcontractors.

FOURTEENTH SCHEDULE

(Made under regulation 128)

FEES FOR SERVICES PROVIDED BY THE AGENCY

Description of the payer	Fee in Tshs	
	Up to the limit of the minor value procurement	Above the upper limit of minor value procurement
Procuring entity (procurement through another entity)	3,500,000.00	10% of the contract value or 10,000,000.00 for each contract, whichever is lower.
Authority and Appeals Authority	Not applicable	10% of the contract value or 10,000,000.00 for each contract, whichever is lower.
Petroleum product suppliers	0.1% of the value of each call-off order	

FIFTEENTH SCHEDULE

(Made under regulation 145)

TENDER BOARD APPROVAL THRESHOLDS FOR COMMERCIALLY OPERATING ENTITIES

Type of Procurement	GROUP		
	A	B	C
Goods	10,000,000,000	6,000,000,000	4,000,000,000
Works	20,000,000,000	15,000,000,000	6,000,000,000
Non-consultancy services	6,000,000,000	3,000,000,000	2,000,000,000
Consultancy services	10,000,000,000	7,000,000,000	3,000,000,000

NOTE:

1. Groups of Procuring Entities as defined in this Table are as follows:
 - Group A: Procuring entities with annual procurement value exceeding forty billion shillings.
 - Group B: Procuring entities with annual procurement value exceeding twenty billion shillings but does not exceed forty billion shillings.
 - Group C: Procuring entities with annual procurement value not exceeding twenty billion shillings.
2. Disposal of public assets by tender and procurement of used locomotives and coaches, aircraft, and ships shall be approved by the tender board.
3. Procurement below the thresholds specified in this Schedule shall be approved by the accounting officer of the procuring entity.

SIXTEENTH SCHEDULE

(Made under regulations 290 and 302(7))

GUIDELINES FOR FIXING WEIGHTS FOR EVALUATING TECHNICAL PROPOSAL

(a) General conditions

No.	Criteria	Weights
1.	Firm's general experience, reputation and experience in previous similar assignments	5% to 15%
2.	Understanding of the terms of reference, methodology and the overall quality of the proposal	20% to 40%
3.	Qualification of key personnel	30% to 60%
4.	Local firms participation	5% to 15%
5.	Participation by national experts	5% to 10%
6.	Knowledge of the country	5% to 10%

(b) Pre-qualification

No.	Criteria	Weights
1.	Overall experience in the field of the assignment and in comparable assignments	20% to 50%
2.	Professional reputation of the firm and its experience in previous assignments	20% to 40%
3.	Knowledge of project environment in Tanzania and of the regional countries and their implications for the project	10% to 20%
4.	Inclusion of local firms and experts in the assignment	10% to 20%

(c) Request for Proposal or Evaluation of Proposal

No.	Criteria	Weights
1.	Understanding of terms of reference	10% to 20%

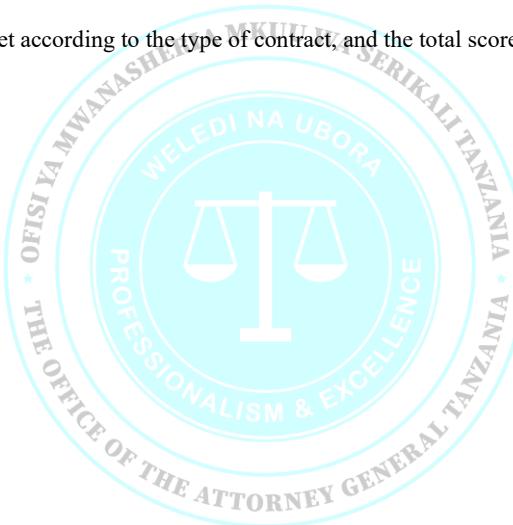
2.	Overall quality of the offer, quality of the work and methodology	20% to 30%
3.	Qualifications of experts and experience in the field of the assignment	40% to 60%
4.	Inclusion of local experts	5% to 15%

(d) Individual Consultants

No.	Criteria	Weights
1.	General Qualifications and Suitability of the task to be performed	30% to 60%
2.	Experience in the specific assignment described in the terms of reference	30% to 50%
3.	Language proficiency	5% to 15%
4.	Country's environmental knowledge	0% to 10%

Note:

The weights shall be set according to the type of contract, and the total score shall not exceed 100%.



SEVENTEENTH SCHEDULE

(Made under regulation 353(2))

METHODS OF SELECTION AND LIMIT OF APPLICATION FOR DISPOSAL BY TENDER

No.	Method of Disposal	Limits
1	International Competitive Tendering	No Limit
2	National Competitive Tendering	Up to 50,000,000,000

Dodoma,
25th June, 2024

MWIGULU LAMECK NCHEMBA MADELU,
Minister for Finance

