

**STATUTORY INSTRUMENTS SUPPLEMENT**

*to The Uganda Gazette No. 80 Volume CXVI, dated 8th December, 2023*

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**S T A T U T O R Y I N S T R U M E N T S**

**2023 No. 96.**

**The Public Procurement and Disposal of Public Assets  
(Amendment of Schedule 4) Instrument, 2023.**

IN EXERCISE of the powers conferred upon the Minister responsible for finance by section 97A of the Public Procurement and Disposal of Public Assets Act, 2003, this Instrument is, with the approval of Cabinet, made this 26th day of November, 2023.

**1. Title**

This Instrument may be cited as the Public Procurement and Disposal of Public Assets (Amendment of Schedule 4) Instrument, 2023.

**2. Substitution of Schedule 4**

For Schedule 4 of the Public Procurement and Disposal of Public Assets Act, 2003, is substituted the following—

“SCHEDULE 4

*Section 27 (1)*

**COMPOSITION OF CONTRACTS COMMITTEE**

The Contracts Committee of a procuring and disposing entity shall be composed of the following members—

- (a) a chairperson;
- (b) a maximum of three other members, one of whom shall be a lawyer, except for a Contracts Committee of a local government, where the members may not include a lawyer; and
- (c) the secretary to the Contracts Committee.

MATIA KASAIJA  
*Minister of Finance, Planning and Economic Development*

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**S T A T U T O R Y I N S T R U M E N T S**

**2023 No. 101.**

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC  
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REGULATIONS, 2023.**

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# STATUTORY INSTRUMENTS

2023 No. 101.

## **The Public Procurement and Disposal of Public Assets (Procurement of Consultancy Services) Regulations, 2023.**

*(Made under sections 96(1) and 96A of the Public Procurement and  
Disposal of Public Assets Act, 2003)*

IN EXERCISE of the powers conferred upon the Minister responsible for finance by sections 96(1) and 96A of the Public Procurement and Disposal of Public Assets Act, 2003, in consultation with the Minister responsible for the Kampala Capital City Authority and the Minister responsible for local governments, and on the recommendation of the Authority, these Regulations are made, this 26<sup>th</sup> day of September, 2023.

### PART I—PRELIMINARY

#### **1. Title and commencement.**

(1) These Regulations may be cited as the Public Procurement and Disposal of Public Assets (Procurement of Consultancy Services) Regulations, 2023.

(2) These Regulations shall come into force on the 5<sup>th</sup> day of February, 2024.

#### **2. Interpretation.**

In these Regulations, unless the context otherwise requires—

“Act” means the Public Procurement and Disposal of Public Assets Act, 2003;

“consultancy service” means a service of an intellectual or advisory nature, provided by a consultancy or consulting firm skilled and qualified in a particular field of profession; and includes, but is not limited to, engineering design or supervision, accountancy, auditing, financial services, procurement services, training and capacity building

services, management advice, policy studies and advice and assistance with institutional reform;

“consultant” means an individual who provides consultancy services to a procuring and disposing entity;

“consultants qualifications selection method” means the method of selecting consultants and consulting firms where a procuring and disposing entity—

- (a) prepares the terms of reference to request expressions of interest and information on the experience of consultants or consulting firms, in order to develop a short list;
- (b) selects a consultant or consulting firm with the most appropriate qualifications;
- (c) requests the consultant or consulting firm with the most appropriate qualifications to submit a combined technical and financial proposal;
- (d) evaluates the combined technical and financial proposal; and
- (e) invites the consultant or consulting firm for negotiations;

“consulting firm” means a company, corporation, organisation or partnership that provides consultancy services to a procuring and disposing entity;

“fixed budget selection method” means a method of selecting consultants or consulting firms with the best technical proposal that is within the budget;

“least cost selection method” refers to the method of selecting consultants or consulting firms where the lowest priced proposal meeting the minimum qualifying score of the technical proposal is selected;

“quality based selection method” means the method of selecting consultants or consulting firms, that uses quality as the

primary factor and the technical proposal of the consultants or consulting firms are evaluated and only the financial proposal of the best evaluated consultant or consulting firm is opened and negotiated upon;

“quality cost based selection method” means the method of selecting consultants or consulting firms which takes into account the quality of the proposal and the cost of the services in the selection of the consultant or consulting firm.

## PART II—INITIATION OF PROCUREMENT REQUIREMENTS

### **3. Initiation of procurement requirement and confirmation of funding.**

(1) A procurement requirement shall be initiated using Part I of Form 18 in the Schedule.

(2) Initiation of a procurement requirement shall include—

- (a) the terms of reference for the procurement;
- (b) the estimated value of the consultancy services;
- (c) confirmation of availability of funds to support the procurement; and
- (d) approval of the procurement requirement as required under subregulation (5).

(3) In estimating the value of the consultancy services required and confirming the availability of funds required under subregulation (2) (c), a procuring and disposing entity shall—

- (a) base the estimate on an assessment of the market price;
- (b) seek technical advice, where required; and
- (c) ascertain that the confirmation of availability of funding takes into account the total cost of acquiring the consultancy services.

(4) A specific reference number shall be allocated to each procurement requirement at the initiation stage, using the numbering system specified in guidelines issued by the Authority.

(5) The approval of a procurement requirement required under subregulation (2) shall be evidenced by the signature of the Accounting Officer.

#### **4. Availability of funds.**

(1) A procuring and disposing entity shall not initiate any procurement for which funds are not available or adequate in the budget of the procuring and disposing entity except where—

- (a) the delivery of the consultancy services and the consequent payments to a provider are to be effected from subsequent financial years;
- (b) in the case of framework contracts, the procuring and disposing entity shall commit funds at the time of issue of each specific call off order for consultancy services; or
- (c) the Secretary to the Treasury confirms in writing that the required funding shall be made available.

(2) The availability of funds shall be evidenced by budgeted or supplementary funds for the current financial year or an allocation for subsequent years.

(3) The Accounting Officer shall confirm the availability of funds.

(4) Procurement may be initiated, in accordance with this regulation, before the receipt of funds, but a contract shall not be signed before the commitment of funds.

#### **5. Assessment of market price.**

The market price of a procurement requirement shall be determined using the prices specified for similar consultancy services in guidelines on prices issued by the Authority.

## PART III—METHODS OF PROCUREMENT

### **6. Choice of procurement method.**

(1) A procuring and disposing entity shall use the procurement methods specified in Part VI of the Act for the procurement of consultancy services.

(2) The choice of a procurement method for the procurement of consultancy services shall be in accordance with these Regulations and guidelines issued by the Authority.

(3) The choice of procurement method shall be determined by—

- (a) the estimated value of the consultancy services; and
- (b) the circumstances relating to the requirement.

(4) The choice of procurement method shall be in accordance with the thresholds specified in guidelines issued by the Authority.

### *Circumstances relating to a procurement*

### **7. Emergency situations.**

(1) An emergency situation may be used to determine the procurement method to be used notwithstanding the estimated value of the required consultancy services.

(2) The Procurement and Disposal Unit shall make a recommendation to use an emergency situation as the criterion for determining the choice of procurement method to be used.

(3) The recommendation under subregulation (2) shall include a comprehensive justification for the choice of the procurement method and the reasons giving rise to the emergency situation.

(4) Where an emergency situation is used as the criterion for determining the choice of a procurement method, competition shall

not be excluded from the procurement process solely on the basis of the emergency situation.

(5) A procuring and disposing entity shall obtain maximum competition to the extent practicable in procurement under an emergency situation.

(6) Where the value of a procurement requirement requires the use of open bidding method, a procuring and disposing entity shall in descending order, consider to use—

- (a) the restricted bidding method;
- (b) the quotation method; or
- (c) the direct procurement method,

with the following appropriate modifications, as may be applicable—

- (i) a bidding period which is less than the minimum bidding period specified in these Regulations;
- (ii) a shortlist of at least two bidders;
- (iii) simplified documentation including the bid submission method and evaluation methodology; and
- (vi) any other modification which would make the use of the competitive method possible.

## **8. Limited number of providers.**

(1) The choice of procurement method may be determined by the availability of the consultancy services from only a limited number of providers or a sole provider, regardless of the estimated value of the requirement.

(2) The number of providers may be limited by—

- (a) the existence of intellectual property rights, patent or proprietary rights;

- (b) the existence of a monopoly;
- (c) existing laws;
- (c) an existing standardisation policy;
- (d) the need for compatibility or interchangeability with existing consultancy services; or
- (e) any other justified circumstances.

(3) Where there is a limited number of providers, the Procurement and Disposal Unit shall make a recommendation to procure the consultancy services, from a limited number of providers as the criterion for determining the choice of a procurement method and the recommendation shall include—

- (a) full details of the circumstances in subregulation (2) which are applicable to the procurement;
- (c) a clear statement as to why other sources cannot be used to procure the requirement using a competitive procurement method; and
- (d) an analysis of the statement of requirements, with justification for any parts of the statement of requirements that restricts the number of the potential providers.

## **9. Compatibility and continuity.**

(1) A procuring and disposing entity may use direct procurement for compatibility with the consultancy services or for continuity with an existing provider.

(2) Where compatibility or continuity are used as the basis for direct procurement method, the Procurement and Disposal Unit shall in the recommendation to use the direct procurement method on grounds of compatibility or continuity include a comprehensive justification of the need for compatibility or continuity.

(3) The recommendation to use the direct procurement method on grounds of compatibility or continuity shall contain—

- (a) an analysis of the statement of requirements explaining the need for or the benefits of compatibility or continuity, which may include—
  - (i) technical reasons;
  - (ii) legal reasons, including continued liability or preservation of warranties;
  - (iii) measures taken to achieve efficiency and value for money; and
  - (iv) any other reasons, including the use of experience acquired or savings in mobilisation costs; and
- (b) a clear statement as to why other items or providers cannot reasonably be used to subject the procurement requirement to a competitive procurement method.

(4) Convenience or the lack of an adequate statement of requirements shall not be used as the reason for recommending compatibility or continuity as the basis for the recommendation to the use of the direct procurement method.

#### **10. Splitting of requirements.**

(1) A procuring and disposing entity shall not split a procurement requirement where the consultancy services may be procured under a single contract.

(2) Notwithstanding subregulation (1), a procuring and disposing entity may split a procurement requirement, where the split offers a clear and calculable social, economic or technical advantage.

#### **11. Division into lots.**

(1) A procuring and disposing entity may, at the commencement of a procurement process, divide the procurement



requirements for consultancy services into separate lots, where it is anticipated that the award of several separate contracts shall result in optimum value for the procuring and disposing entity.

(2) Where a procurement requirement is divided into lots, which may result in separate contracts, the choice of procurement method shall not be determined by the estimated value of each lot but by the total value of all the lots.

(3) Where a number of lots are to be procured under the same procurement process, the bidding documents shall clearly state—

- (a) the number of lots included in the procurement process;
- (b) the nature of each lot;
- (c) the number of lots for which a bidder may bid; and
- (d) the method of evaluating each lot or multiple lots.

*Rules and conditions for use of procurement methods*

**12. Rules and conditions for using specific procurement method.**

The rules in regulations 13 to 25, respectively, shall apply for the methods of procurement, as may be specified.

**13. Rules for open domestic bidding.**

(1) Procurement using the open domestic bidding method shall be open to all bidders and shall be by public advertisement of a bid notice in at least one newspaper of nation-wide circulation.

(2) Notwithstanding subregulation (1), a bidder may be selected through a pre-qualification process, following publication of a pre-qualification notice in at least one newspaper of nation-wide circulation.

(3) The Procurement and Disposal Unit shall make a submission to the Contracts Committee in respect of procurement under the open domestic bidding method using Part II of Form 18 in the Schedule.

(4) For the avoidance of doubt, the pre-qualification process referred to in subregulation (2) is not the pre-qualification process referred to in regulation 31.

**14. Conditions for open domestic bidding.**

(1) Bidding documents may be issued to prospective bidders at a fee.

(2) The cost of bidding documents shall be approved by the Contracts Committee.

**15. Rules for open international bidding.**

(1) Procurement using the open international bidding shall be open to all consultants and consulting firms and shall be by public advertisement of a bid notice in at least one publication of wide international circulation.

(2) Notwithstanding subregulation (1), a bidder may be selected through a pre-qualification process, following publication of a pre-qualification notice in at least one publication of wide international circulation.

(3) The Procurement and Disposal Unit shall make a submission to the Contracts Committee in respect of procurement under open international bidding using Part II of Form 18 in the Schedule.

(4) For the avoidance of doubt, the pre-qualification process referred to in subregulation (2) is not the pre-qualification process referred to in regulation 31.

**16. Conditions for open international bidding.**

(1) Open international bidding may be used instead of open domestic bidding where competition may not be effective without foreign consultants or consulting firms or where involvement of foreign consultants or consulting firms in the bidding process may increase value for money.

(2) A consultant or consulting firm that is resident in Uganda may participate in a bid advertised under open international bidding.

(3) Bidding documents may be issued to prospective consultants or consulting firms at a fee.

(4) The cost of bidding documents shall be approved by the Contracts Committee.

**17. Rules for restricted domestic bidding and restricted international bidding.**

(1) Procurement using the restricted domestic bidding or restricted international bidding method shall be by selection of a consultant or consulting firm using a shortlist.

(2) Where the restricted domestic bidding or restricted international bidding method is used on the ground that the consultancy services are available only from a limited number of consultants or consulting firms, the procuring and disposing entity shall—

- (a) include all the potential consultants or consulting firms on the shortlist; and
- (b) before issuing the bidding documents, publish a notice of restricted bidding on the website of the procuring and disposing entity indicating—
  - (i) the subject matter of the procurement;
  - (ii) that restricted bidding is to be used on the ground that the consultancy services are available from a limited number of consultants or consulting firms;
  - (iii) the proposed shortlist; and
  - (iv) that any other consultants or consulting firms that are able to offer the required consultancy services may write to the procuring and disposing entity requesting to participate.

(3) The invitation letters for restricted bidding shall be prepared using the notices in the standard bidding documents issued by the Authority.

(4) The Procurement and Disposal Unit shall make a submission to the Contracts Committee in respect of procurement under restricted domestic bidding or restricted international bidding, respectively, using Part II of Form 18 in the Schedule.

**18. Conditions for restricted international bidding**

(1) Restricted international bidding may, in descending order, be used where—

- (a) the consultancy services are available only from a limited number of consultants or consulting firms;
- (b) the estimated value of the procurement does not exceed the threshold stated in the procurement guidelines; and
- (c) there is insufficient time for an open bidding procedure in an emergency situation.

(2) The procurement process under restricted international bidding shall be in accordance with the following requirements—

- (a) the invitation to bid shall be addressed to a limited number of potential consultants or consulting firms without advertising the opportunity;
- (b) the selection of consultants or consulting firms shall be in accordance with these Regulations; and
- (c) a public bid opening shall be held in accordance with these Regulations.

**19. Conditions for restricted domestic bidding.**

(1) Restricted domestic bidding may be used where—

- (a) the consultancy services are available only from a limited number of consultants or consulting firms;

- (b) there is insufficient time for an open bidding method in an emergency situation; or
- (c) the estimated value of the procurement does not exceed the threshold stated in the procurement guidelines issued under the Act.

(2) The procurement process under restricted domestic bidding shall be in accordance with the following requirements—

- (a) the invitation to bid shall be addressed to a limited number of potential consultants or consulting firms without advertising the opportunity;
- (b) the selection of consultants or consulting firms shall be in accordance with the procedure prescribed under these Regulations; and
- (c) a public bid opening shall be held in accordance with these Regulations.

## **20. Rules for the quotation method.**

(1) Procurement using the quotation method shall be by selection of consultants or consulting firms using a shortlist which shall have at least six providers.

(2) A procurement process under the quotation method shall not require the opening of the quotations or proposals to be held at a public bid opening session.

(3) The Procurement and Disposal Unit shall make a submission to the contracts committee in respect of procurement under the quotation method using Part II of Form 18 in the Schedule.

## **21. Conditions for use of the quotation method.**

(1) The quotation method may, in descending order of priority, be used where—

- (a) the estimated value of the procurement does not exceed the threshold specified in the procurement guidelines made under the Act; or

- (b) there is insufficient time for the open or restricted bidding procedure such as in an emergency situation.

(2) The process under quotation procurement shall be as follows—

- (a) the request for proposals document shall be addressed to a limited number of potential consultants or consulting firms without advertising;
- (b) the selection of the consultants and consulting firms shall be in accordance with these Regulations; and
- (c) the bid opening process shall not be open to the public and shall be held in accordance with these Regulations.

## **22. Rules for micro procurement.**

(1) A micro procurement process shall not require—

- (a) the issuance of bidding documents;
- (b) the submission of bids;
- (c) a public bid opening session;
- (d) the use of an Evaluation Committee;
- (e) the issuance of a notice of best evaluated bidder; and
- (f) adjudication by the Contracts Committee.

(2) A procuring and disposing entity may delegate to a user department, the authority to undertake micro procurement of the value specified in the guidelines or the limit set by the Contracts Committee, which shall be lower than the value in the guidelines.

## **23. Conditions for micro procurement.**

(1) A procuring and disposing entity may engage in micro procurement for consultancy services where the value of the consultancy services is below the threshold stated in guidelines made under the Act.

(2) Where a procuring and disposing entity engages in micro procurement—

- (a) the original invoice or receipt evidencing the consultancy services procured and the price paid shall be obtained and signed by the official procuring the consultancy services; and
- (b) the Accounting Officer shall ensure that value for money is obtained to the extent practical under the procurement procedure.

**24. Rules for direct procurement.**

(1) A procuring and disposing entity shall use the appropriate documents from the standard documentation, with the necessary modifications, for the requirements of the procurement using the direct procurement method.

(2) The Procurement and Disposal Unit shall make a submission to the Contracts Committee in respect of procurement using the direct procurement method using Part II of Form 18 in the Schedule.

- (3) A bid for direct procurement shall be in writing.

**25. Conditions for use of the direct procurement method.**

- (1) Direct procurement may be used where—
  - (a) there is insufficient time for any other procedure such as in an emergency situation;
  - (b) the consultancy services are available from only one consultant or consulting firm;
  - (c) a contract may be extended for additional consultancy services of a similar nature and no advantage may be obtained by further competition, if the prices on the extended contract are reasonable;
  - (d) additional consultancy services are required to be compatible with existing services and it is advantageous or necessary to purchase the additional services from the

original consultant or consulting firm, provided the prices of the additional services are reasonable; or

- (e) it is essential or preferable to procure additional consultancy services from the previous consultant or consulting firm to ensure continuity for downstream work, including continuity in technical approach, use of experience acquired or continued professional liability, if the prices of the additional services are reasonable.

(2) Where the direct procurement method is used in the circumstances set out in subregulation (1) (c), (d) or (e), the value of the additional consultancy services shall not exceed fifteen percent of the value of the contract.

(3) Where the direct procurement method is used more than once in the circumstances set out in subregulation (2), the cumulative value of the additional services shall not exceed twenty five percent of the value of the contract.

#### PART IV—RULES AND PROCESSES FOR THE PROCUREMENT OF CONSULTANCY SERVICES

### **26. Procurement of consultancy services by publishing notice of expression of interest.**

(1) A procuring and disposing entity may procure consultancy services by publishing a notice of expression of interest under open domestic bidding or open international bidding, to obtain a shortlist of bidders where—

- (a) the consultancy services are specialised or require detailed design or methodology;
- (b) the cost of preparing a detailed bid would discourage competition;
- (c) the evaluation is particularly detailed and the evaluation of a large number of bids would require excessive time and resources from a procuring and disposing entity;



- (d) the bidding is for groups of procurements which are similar, for the purpose of preparing a shortlist.

**27. Notices and documents for expression of interest.**

(1) A procuring and disposing entity shall invite consultants or consulting firms to provide consultancy services by publishing a notice to interested consultants or consulting firms to submit expressions of interest.

(2) A procuring and disposing entity shall publish the notice inviting expressions of interest in at least one newspaper of wide circulation in Uganda.

(3) The notice inviting expressions of interest may in addition to being published in a newspaper, be published in the relevant professional publication.

(4) Where a procuring and disposing entity does not expect the required consultancy services to be available from at least six consultants or consulting firms in Uganda, the notice inviting expressions of interest shall be published in a publication of wide international circulation.

(5) The notice inviting expressions of interest shall on the date of publication of the notice, be displayed on the website of the Authority and on the procurement and disposal notice board of the procuring and disposing entity and where available, on the website of the procuring and disposing entity, and shall remain on display up to the date of closing of submission of expressions of interest.

(6) A procuring and disposing entity may publish an abridged version of the notice inviting expressions of interest and where the procuring and disposing entity publishes an abridged version—

- (a) the abridged notice shall indicate the website address where the full notice may be viewed; and

(b) the full notice shall be displayed on the website of the Authority and where available, of the procuring and disposing entity.

(7) A notice inviting expressions of interest shall indicate—

(a) the name, address and contact details of the procuring and disposing entity;

(b) a summary of the scope of the assignment and a brief description of the required consultancy services;

(c) a statement of any eligibility and qualification requirements;

(d) the criteria to be used to evaluate the expressions of interest;

(e) details of the information required in the expression of interest, including any information or documentation required to verify the eligibility or qualifications of a consultant or consulting firm;

(f) instructions on the location for submission of expressions of interest and the deadline for submission; and

(g) instructions on the sealing and labelling of expressions of interest.

(8) A procuring and disposing entity shall use the standard notice inviting expressions of interest issued by the Authority, to prepare a notice inviting expressions of interest.

(9) A request to publish a notice shall be made by the Procurement and Disposal Unit to the Contracts Committee using Part II of Form 18 in the Schedule.

## **28. Period for expressions of interest.**

(1) The period for expressions of interest shall start on the date the notice is first published and end on the deadline for submission of expressions of interest.

- (2) The period shall be determined taking into consideration—
  - (a) the level of detail required in the expression of interest;
  - (b) whether the consultants or consulting firms are required to submit authenticated legal documents or similar documents as part of the proposals and the time required to obtain these documents; and
  - (c) the location of the consultants or consulting firms and the time required to deliver the expression of interest to the procuring and disposing entity.
- (3) The minimum period for expressions of interest shall be—
  - (a) ten working days, where the notice is only published in Uganda; and
  - (b) fifteen working days, where the notice is published internationally.

**29. Short listing of consultants and consulting firms after expression of interest.**

(1) The Evaluation Committee shall, using the evaluation criteria in the expressions of interest, prepare a shortlist of consultants or consulting firms that meet the requirements of the procuring and disposing entity.

- (2) The evaluation of expressions of interest shall determine—
  - (a) the capacity of a consultant or consulting firm to perform the assignment successfully; and
  - (b) the eligibility of a consultant or consulting firm.

(3) In determining the capacity of the consultant or consulting firm to perform an assignment successfully, the Evaluation Committee shall establish—

- (a) the experience of the consultant or consulting firm in assignments of a similar nature;

- (b) the experience of the consultant or consulting firm in countries with conditions similar to the conditions in Uganda;
  - (c) the skills of the consultant or consulting firm that are relevant to the assignment; and
  - (d) any other criteria that is relevant to the capacity of the consultant or consulting firm to perform the assignment.
- (4) In determining the eligibility of the consultant or consulting firm, the Evaluation Committee shall establish whether—
- (a) the consultant or consulting firm has the legal capacity to enter into a contract with the procuring and disposing entity;
  - (b) the consultant is not bankrupt or the consulting firm is not insolvent, in receivership, bankrupt or being wound up, as the case may be;
  - (c) the business activities of the consultant or consulting firm are not suspended;
  - (d) the consultant or consulting firm is not the subject of legal proceedings for any of the circumstances mentioned in paragraph (b);
  - (e) the consultant or consulting firm fulfilled the obligations to pay taxes and where applicable, made social security contributions in Uganda;
  - (f) the consultant or consulting firm does not have a conflict of interest in relation to the subject of the procurement;
  - (g) the consultant or consulting firm is not suspended by the Authority; and
  - (h) the consultant is not a member of the procuring and disposing entity as defined in section 91U of the Act.

(5) For the purpose of subregulation (4), the consultant or the consulting firm, as the case may be, shall be required to submit the following documents, with the expression of interest—

- (a) a copy of the trading licence or its equivalent;
- (b) a copy of the certificate of registration or its equivalent;
- (c) a signed statement indicating that the consultant or consulting firm does not have a conflict of interest in the subject of the procurement; and
- (d) any other relevant documents or statements as may be stated in the notice inviting expression of interest.

(6) Subregulation (5) (a) and (b) shall not apply to a consultant or consulting firm that is registered by the Authority on the register of providers.

(7) Where the business of a consultant or consulting firm is not registered in Uganda and a document required in subregulation (5) is not available in the country of the consultant or consulting firm, the consultant or consulting firm shall submit an alternative document or a statement affirming that the document is not available in the country of the consultant or consulting firm.

(8) A procuring and disposing entity shall verify the accuracy, validity and authenticity of the documents submitted by a consultant or consulting firm under subregulation (5) or (7).

(9) For the purpose of subregulation (3), in case of a consultant, the consultant shall be required to submit a curriculum vitae, with the expression of interest.

(10) The eligibility of a consultant or consulting firm shall be evaluated on a pass or fail basis and where a consultant or consulting firm fails the eligibility requirements, the consultant or consulting firm, as the case may be, shall be eliminated from the evaluation.

(11) A shortlist shall to the extent possible, have six consultants or consulting firms.

(12) The evaluation of expressions of interest shall be recorded using Form 19 in the Schedule.

**30. Debriefing of consultants and consulting firms not shortlisted.**

(1) The procuring and disposing entity shall, on the day the request for proposals is issued, notify the consultant or consulting firm that is not shortlisted.

(2) A procuring and disposing entity shall where requested by a consultant or consulting firm that is not shortlisted, provide the consultant or consulting firm with a debrief stating the reasons for the failure of the expression of interest of that consultant or consulting firm as the case may be.

(3) The debrief shall—

(a) include a copy of the shortlist of the consultants or consulting firms approved for the consultancy service; and

(b) include brief details of the reasons why the consultant or consulting firm was not shortlisted and the reasons why the consultant or consulting firm did not meet the required standard or the relative weaknesses of the expression of interest of the consultant or consulting firm against the evaluation criteria.

(4) The debrief shall be unique to a consultant or consulting firm, as the case may be, and shall not provide details of any other expression of interest except the information specified under subregulation (3) or information which is available publicly.

(5) A procuring and disposing entity shall provide the debrief within two working days of receipt of a request.

**31. Pre-qualification for groups of similar procurements.**

(1) Where the pre-qualification process is for a group of procurements which are similar, the procuring and disposing entity shall apply regulations 28, 29 and 30 of these Regulations.

(2) The pre-qualification notice and document, shall specify the period of time for which the pre-qualification is to be used.

(3) The list of pre-qualified providers for groups of procurements which are similar shall be updated periodically.

(4) The procuring and disposing entity shall verify the information submitted by a provider under this regulation, before that provider is shortlisted.

*Single and sole source consultants*

**32. Procurement of single or sole source consultant.**

(1) Where exceptional circumstances prevent the use of competitive bidding and where the conditions for using the direct procurement method in regulation 25 are satisfied, a procuring and disposing entity may invite a consultant who has the capacity to perform the required assignment to submit a proposal.

(2) For the purposes of subregulation (1)—

(a) a single consultant shall be identified from a number of consultants who are able to provide the consultancy service; or

(b) a sole source consultant shall be identified where only one consultant is able to provide the consultancy service, due to the unique skills or knowledge of that consultant or where there is need for continuity in the delivery of the consultancy service.

(3) A procuring and disposing entity shall use the prequalified list of providers of the procuring and disposing entity to identify a single consultant or a sole source consultant for a consultancy service and

where the procuring and disposing entity does not have a prequalified list of providers, the procuring and disposing entity shall use—

- (a) the register of providers of the Authority;
- (b) the recommendations of a competent authority; or
- (c) the pre-qualified providers of another procuring and disposing entity.

(4) For each consultancy service, the consultants who are eligible for selection as single consultants shall, be procured on a rotational basis.

(5) The Procurement and Disposal Unit shall, prior to making a recommendation for procurement as a single or sole source consultant to the Contracts Committee, confirm that the consultant is eligible and qualified.

(6) Where a consultant is to be procured as a sole source consultant, the Procurement and Disposal Unit shall, prior to making a recommendation to the Contracts Committee, verify that only that consultant is able to meet the requirements of the required consultancy service, due to the unique skills or knowledge of the consultant and that the consultant is eligible and qualified.

(7) The Procurement and Disposal Unit shall submit the name of the recommended single consultant or sole source consultant to the Contracts Committee, for approval of the request for proposals, using Part II of Form 18 in the Schedule.

(8) The name of the single consultant or sole source consultant, who is approved by the Contracts Committee shall on the day the request for proposals is issued, be displayed on the procurement and disposal notice board of the procuring and disposing entity, and remain on display for the duration of the period for submission of proposals.



**33. Procurement of services of a consultant.**

(1) A procuring and disposing entity shall procure the services of a consultant where—

- (a) the procuring and disposing entity does not require the services of a consulting firm to provide the consultancy services;
- (b) additional professional support is not required; or
- (c) the experience and qualifications of the consultant are the important requirement.

(2) A notice inviting expression of interest from consultants shall in addition to the requirements in regulation 8, state—

- (a) the address of the website with the full terms of reference which shall state the skills, qualifications and experience required;
- (b) details of the information required from the consultants, which shall include the curriculum vitae, the fee rate of the consultants and a covering letter stating the suitability and availability of the consultant, for the assignment;
- (c) that the expression of interest is to be submitted using the one stage-single envelope method;
- (d) the criteria to be used to select the consultants which shall be based on the experience and qualifications of the consultant and capacity to provide the consultancy services; and
- (e) whether the selection shall take into account references and use interviews to assess the skills, qualifications and experience of the consultant.

(3) Where a consultant is to be interviewed as part of the selection process, the notice shall state that—

- (a) the consultant invited for the interview shall bear the costs of attendance;
- (b) the consultant invited for the interview shall be notified of the arrangements for the interview; and
- (c) where the consultant who is invited for interviews fails to attend, the consultant shall be eliminated from the selection process.

(4) The full terms of reference shall be displayed on a website referenced in the notice and shall promptly be made available to a consultant who makes a request.

(5) A procuring and disposing entity shall use the standard notice inviting consultants issued by the Authority to prepare a notice inviting consultants.

### *Request for proposals*

#### **34. Drafting request for proposals.**

(1) A procuring and disposing entity shall use the standard request for proposals issued by the Authority, to draft a request for proposals for consultancy services.

(2) A request for proposals shall be approved by the Contracts Committee.

(3) For the purposes of drafting a request for proposals under subregulation (1), a Procurement and Disposal Unit shall not make any textual or other changes to the section on instructions to consultants or consulting firms, the section on the general conditions of the contract and the section on the proposal forms, except in accordance with subregulation (4).

(4) The Procurement and Disposal Unit shall—

- (a) effect any necessary changes to the instructions to the consultants or consulting firms by an entry in the data sheet;

- (b) effect changes to the general conditions of contract by an entry to the special conditions of contract;
  - (c) modify the statement of requirements, as may be required; and
  - (d) modify the evaluation and qualification criteria in accordance with the options in the standard request for proposals issued by the Authority and these Regulations.
- (5) A request for proposals shall—
- (a) define the terms of reference of the consultancy service in a precise form and in a manner that leaves no doubt or assumption by a consultant or consulting firm;
  - (b) state clearly the selection method to be used which shall be appropriate to the requirements of the procuring and disposing entity;
  - (c) state the validity period of the proposals;
  - (d) state whether a pre-proposal meeting is to be held;
  - (e) where appropriate, notify of the date, time and the location for the opening of the technical proposals and the information to be read at the opening session;
  - (f) state clearly the evaluation criteria to be used including all appropriate factors and weighting and method of application of the appropriate factors;
  - (g) include a draft contract with the structure of payment, payment terms and method of payment; and
  - (h) require that the basis of the prices and costs required are adequately defined and that these represent the full cost of the procurement requirement.
- (6) A request for proposals shall—
- (a) in respect of the instructions to the consultants or consulting firms on the selection process—

- (i) indicate the form of the proposal securing declaration, where required;
  - (ii) indicate the form required of a valid proposal;
  - (iii) provide instructions on the requirements for signing and authorising proposals;
  - (iv) state the details for labelling the envelopes and that the proposals are to be submitted in a securely sealed plain outer envelope;
  - (v) contain instructions that a consultant may, at any time before the deadline for submission of proposals, withdraw the proposal and submit another or modify part of a proposal and the procedure for this;
  - (vi) state that a consultant or consulting firm may seek clarification on the request for proposal and the date by which clarification may be sought;
  - (vii) state that the original copy of the technical proposal and of the financial proposal shall be marked, “ORIGINAL” and specify the number of copies of the technical proposal and of the financial proposal to be submitted, which shall be marked, “COPY”;
  - (viii) state the currency in which a proposal is to be submitted;
  - (ix) state the proposal submission method, including instructions for the submission of the technical and financial proposals, separately, where applicable;
  - (x) state the selection method and evaluation criteria to be used; and
  - (xi) state the procedure for conversion of prices to a single currency for evaluation purposes, including the source and date of the exchange rates to be used;
- (b) in respect of the statement of requirements for the consultancy services, include—

- (i) the terms of reference and the expected input of the key personnel;
  - (ii) the duration and timing of the inputs and the completion schedule;
  - (iii) the inputs and facilities to be provided by the procuring and disposing entity; and
  - (iv) the required deliverables or outputs and the arrangements for approval or acceptance of the deliverables or outputs;
- (c) in respect of the proposed contract, include—
- (i) the type of contract to be placed;
  - (ii) the amount and form of the performance security, where this is required;
  - (iii) the currency in which the contract price is to be paid;
  - (iv) the payment terms and the documentation required for payment;
  - (v) the basis for determining the fixed prices and the variable prices, and the method for calculating the variations in the variable prices, where required;
  - (vi) provisions relating to fraud and collusion; and
  - (vii) the method of payment.

(7) For the purposes of subregulation (6) (a) (iv) and (vi), the consultants or consulting firms shall indicate on the envelopes—

- (a) the procurement reference number;
- (b) the name of the consultant or consulting firm; and
- (c) the following words—
  - (i) “TECHNICAL” or “FINANCIAL”, as may be necessary;

- (ii) “WITHDRAWAL”, “MODIFICATION” or “REPLACEMENT”, as may be necessary; and
- (iii) “NOT TO BE OPENED BEFORE DATE AND TIME OF PROPOSAL OPENING”.

(8) The request for proposals may require a consultant or consulting firm to comment on the terms of reference.

### **35. Changes to proposal details.**

(1) The request for proposals shall state that a consultant shall not seek to make a change to the substance of a proposal submitted and shall not be permitted to effect any change, after the deadline for submission of proposals.

(2) The request for proposals shall state that the proposal of a consultant who attempts to make a change to the proposal, after the deadline for submission of proposals, shall be rejected.

### **36. Terms of reference in request for proposals.**

(1) A statement of requirements for the procurement of consultancy services shall be in the form of terms of reference.

(2) The terms of reference for consultancy services shall be included in the request for proposals and in the contract.

(3) The terms of reference shall contain a clear and unambiguous description of the required consultancy services and shall include—

- (a) a background narrative to the required consultancy services;
- (b) the objectives of the required consultancy services and a list of the targets to be achieved by the consultant or consulting firm;
- (c) a list of the specific tasks or duties to be performed;

- (d) a schedule of the deliverables or the outputs for the assignment and the timelines for submission of the deliverables or outputs, against which the achievements of the consultancy services are to be measured;
- (e) the management and reporting lines of the consultant or consulting firm, to the procuring and disposing entity and the specific administrative arrangements and reporting requirements to apply;
- (f) the duration of the assignment and the timetable for implementing the assignment;
- (g) the industry standards applicable to the assignment, if any; and
- (h) the required key personnel and their minimum qualifications.

**37. Details to be included in request for proposals.**

- (1) A request for proposals shall—
  - (a) where the quality and cost based selection method is to be used, state—
    - (i) the technical evaluation criteria to be used and the maximum scores for each criterion;
    - (ii) the qualifying score of the technical proposal; and
    - (iii) the relative weights to be allocated to the technical and the financial proposals at evaluation;
  - (b) where the quality based selection method is used, state—
    - (i) the technical evaluation criteria to be used and the maximum scores for each criteria; and
    - (ii) the qualifying score of the technical proposal;

- (c) where the fixed budget selection method is to be used, state—
  - (i) the technical evaluation criteria to be used and the maximum scores for each criterion;
  - (ii) the qualifying score of the technical proposal; and
  - (iii) the budget for the assignment;
- (d) where the least cost selection method is to be used, state—
  - (i) the technical evaluation criteria to be used and the maximum scores for each criteria; and
  - (ii) the qualifying score of the proposal;
- (e) where the consultants qualification selection method is used, state—
  - (i) the technical evaluation criteria to be used and the maximum scores for each criteria; and
  - (ii) the qualifying score of the proposal.

(2) For the purposes of subregulation (1) (a) (iii) the weight for the financial score shall not be less than ten points and not more than thirty points of the total of one hundred points for the technical and financial proposals.

**38. Evaluation criteria to be included in request for proposals.**

(1) The evaluation criteria to be used shall be stated in the request for proposal and the evaluation shall be conducted in accordance with the criteria without any amendment to the criteria.

(2) The request for proposals shall state the technical evaluation criteria, which shall consist of a number of main criteria and which may be divided into sub criteria.



(3) The request for proposals shall state that the total of the points for all the criteria shall be one hundred and shall state the maximum number of points for each main criterion.

(4) The main criteria and maximum number of points specified in this subregulation are indicative and may be adjusted to the specific circumstances of the procurement requirement—

	<i>Criteria</i>	<i>Range of points</i>
(a)	Specific experience	5 to 10 points
(b)	Methodology proposed	20 to 50 points
(c)	Key personnel	30 to 60 points
(d)	Transfer of knowledge	0 to 10 points
(e)	Participation by nationals	0 to 10 points
	<b>Total</b>	<b>100 points</b>

(5) Where an evaluation is complex or where a detailed evaluation by sub criteria is required, each criterion shall be scored out of one hundred points and the scores of each criterion weighted to obtain a maximum total of one hundred points.

**39. Availability of staff.**

(1) A procuring and disposing entity shall, where appropriate, in the request for proposals request a consulting firm to—

- (a) confirm the availability of the key professional staff, whose curriculum vitae are to be included in the proposal and which shall be evaluated; and
- (b) provide signed statements of availability from the key professional staff.

(2) A procuring and disposing entity may, where necessary, allow a consulting firm to substitute the key professional staff of the consulting firm and where the procuring and disposing entity allows this, the substitute staff shall have equivalent or superior qualifications and experience.

**40. Considerations in respect to taxes.**

A request for proposals shall state the taxes to be included in the proposal.

**41. Insurance and indemnity for consultancy services.**

(1) A procuring and disposing entity shall in the request for proposal require the consultants or consulting firms —

- (a) to indemnify or cause to be indemnified, the procurement requirements for the consultancy services—
  - (i) against damage, loss or injury to person or property arising from the services provided; and
  - (ii) against any actions, suits, claims, demands, costs and expenses occasioned by negligent or breach of statutory duty by a consultant or consulting firm; and
- (b) to have and maintain adequate professional liability and insurance coverage against negligent performance.

(2) A procuring and disposing entity shall state the insurance and indemnity required for the procurement of consultancy services in the request for proposals and shall require the consultants or the consulting firms to include in the proposal, the costs of the insurance and indemnity.

**42. Period for preparation of proposals for consultancy services.**

(1) The period for preparation of proposals for consultancy services shall start on the date the consultants or consulting firms are invited to submit proposals and end on the date of the deadline for submission of proposals.

(2) A procuring and disposing entity shall determine the period in subregulation (1), taking into consideration the following factors—

- (a) the time necessary for the consultants or consulting firm to prepare the proposals, taking into account the level of detail required and the complexity of proposals and the requirement to authenticate the legal documents, where these are required;
- (b) the location of consultants or consulting firms invited to submit proposals and the time required to deliver the request for proposals to the procuring and disposing entity; and
- (c) the anticipated duration of the procurement process.

(3) The minimum bidding period shall be—

- (a) ten working days in the case of consultants; and
- (b) fifteen working days, in the case of consulting firms.

(4) Subregulation (3) shall not apply in an emergency situation or where a consultant or consulting firm, as the case may be, is invited under the direct procurement method.

#### PART V—BIDDING

### **43. Issue of request for proposals.**

(1) A request for proposals shall be issued to all the consultants and consulting firms that are invited to submit proposals, on the same day.

(2) A procuring and disposing entity shall obtain a signed receipt or other form of confirmation of receipt of the request for proposal from the consultant or consulting firm that is issued with a request for proposal.

(3) A procuring and disposing entity shall only receive proposals from consultants and consulting firms that are invited to submit proposals.

(4) A procuring and disposing entity shall record the issuance of the request for proposals using Form 20 in the Schedule.

**44. Clarification and amendment of request for proposals.**

(1) Where a consultant or a consulting firm makes a request for clarification, the procuring and disposing entity shall in writing, provide the clarification and send a copy of the clarification to all the consultants and consulting firms that are invited to submit proposals.

(2) The clarification shall describe the request made, but shall not identify the consultant or consulting firm that makes the request.

(3) At any time, prior to the deadline for submission of proposals, a procuring and disposing entity may, at its own initiative or in response to a request for clarification from a consultant or consulting firm, amend the request for proposals by issuing an addendum.

(4) Where a procuring and disposing entity amends the request for proposals by issuing an addendum, the procuring and disposing entity may where necessary, extend the period for preparation of proposals, as may be appropriate.

(5) The addendum and the extension to the period of submission of proposals, shall be issued to all the consultants or consulting firms, as the case may be, that are invited to submit proposals.

(6) An addendum to a request for proposals shall be approved by the Contracts Committee prior to its issuance to the consultants and consulting firms.

(7) The clarifications and amendments to the request for proposals issued under this regulation shall be binding on the consultants and consulting firms.

**45. Pre-proposal meetings.**

(1) A procuring and disposing entity may hold a pre-proposal meeting to allow the consultants and consulting firms that are issued

with the request for proposals to seek clarification on the requirements of the procuring and disposing entity.

(2) A pre-proposal meeting shall be managed by the Procurement and Disposal Unit and a person nominated by the user department shall attend the meeting.

(3) To allow the consultants or consulting firms, as the case may be, to take into account any additional information in the preparation of the proposals, the pre-proposal meeting shall be held within sufficient time before the deadline for submission of proposals.

(4) A procuring and disposing entity shall give the consultants or consulting firm sufficient notice of the meeting.

(5) The minutes of a pre-proposal meeting shall be recorded using Form 21 in the Schedule and copies of the minutes shall be provided to all the consultants who are issued the request for proposals.

**46. Period of validity of proposals and extension of period of validity.**

(1) The period of validity of a proposal shall start from the date of closing of submission of the proposal and end on the last day of the period of validity of the proposal.

(2) A procuring and disposing entity shall determine the period of validity of a proposal taking into consideration the following—

- (a) the time needed by the procuring and disposing entity to undertake the technical and financial evaluation and negotiations, as appropriate;
- (b) the time needed by the Contracts Committee to adjudicate the award of contract recommendation; and
- (c) the time needed by the Procurement and Disposal Unit to prepare the contract and to obtain the required approvals.

(3) Where it is necessary, for purposes of completing the requirements specified in subregulation (2), to extend the period of validity of a proposal, the consultant or the consulting firm, as the case may be, shall be requested in writing, before the expiry of the validity of the proposal of the consultant or the consulting firm, to extend the period of validity of the proposal.

(4) A consultant or consulting firm shall not, in extending the period of validity of a proposal, change the price or any other item of the proposal.

(5) A consultant or a consulting firm may refuse to extend the period of validity of the proposal and where the consultant or consulting firm refuses, the proposal securing declaration shall not be executed.

**47. Proposal securing declaration.**

(1) A procuring and disposing entity may require a consultant or a consulting firm to provide a proposal securing declaration in respect of the proposal submitted.

(2) A proposal securing declaration shall be—

(a) in a format provided in the request for proposals; and

(b) valid until the date prescribed in the request for proposals.

(3) Where a consultant or consulting firm breaches the proposal securing declaration, the procuring and disposing entity shall immediately notify the Authority.

(4) The Authority may in accordance with Section 94 of the Act, suspend a consultant or consulting firm who breaches a proposal securing declaration.

**48. Methods for submission of proposals.**

(1) A procuring and disposing entity shall use one of the following methods of submission of proposals—

- (a) the one stage-two envelope method where the proposal is submitted in an outer sealed envelope containing two separately sealed envelopes labelled “technical proposal” and “financial proposal”, respectively;
- (b) the one stage-single envelope method where a proposal is submitted in one sealed envelope; or
- (c) two stage method where, at the first stage only the technical proposal is submitted and at the second stage, a revised technical proposal and a financial proposal are submitted.

(2) The method of submission of proposals shall be used for the respective methods of procurement and shall be based on the following—

- (a) the one stage-two envelope method shall be used where, the quality and cost based selection method, the quality based selection method, the least cost selection method or the fixed budget selection method is used and may be used for the quality based selection method;
- (b) the one stage-single envelope method shall be used for the direct procurement method or the consultants’ qualifications selection method; and
- (c) the two stage method shall be used for the quality based selection method.

**49. Withdrawal, modification and replacement of proposals.**

(1) A consultant or a consulting firm shall withdraw or modify a proposal by writing a letter, notifying the procuring and disposing entity of the withdrawal or modification, as the case may be.

(2) The letter to withdraw a proposal shall be contained in an envelope clearly marked, “WITHDRAWAL” and shall be submitted in the same way as a proposal.

(3) A consultant or consulting firm that withdraws a proposal may submit a replacement proposal which shall be submitted in an envelope clearly marked “REPLACEMENT”.

(4) A consultant or consulting firm may modify part of a proposal by submitting another proposal in respect of the part to be modified with a covering letter in an envelope clearly marked, “MODIFICATION”.

(5) The proposal submitted under subregulation (4) and the covering letter shall indicate the part of the proposal to which the modification relates.

#### *Receipt and opening of proposals*

### **50. Methods of receipt of proposals.**

(1) A proposal shall be received by a procuring and disposing entity where—

- (a) the proposal is received by a member of the Procurement and Disposal Unit; or
- (b) the proposal is deposited in the proposal box.

(2) A procuring and disposing entity shall not be held liable for risk of loss or delay in delivery of a proposal delivered by courier.

### **51. Receipt of proposals in person and closing of submission of proposals.**

(1) A member of the Procurement and Disposal Unit shall be available at the location for submission of proposals, for a reasonable period of time before the deadline for submission, to receive proposals and to issue receipts.

(2) The Procurement and Disposal Unit shall issue a receipt for each proposal received, stating the date and time the proposal is received.



(3) A procuring and disposing entity shall maintain a record of the proposals received using Form 22 in the Schedule which shall indicate the name of the consultant or consulting firm, the date and time the proposal is received and name of the member of staff of the Procurement and Disposal Unit who receives the proposal.

(4) The process of submission of proposals shall be closed at the deadline for submitting proposals.

(5) A proposal that is brought to the location of submission of proposals after the deadline for submission shall not be accepted or received by the procuring and disposing entity.

(6) A proposal that is submitted after the deadline for submission of proposals shall be labelled "LATE", and shall be returned unopened to the consultant or the consulting firm or shall be destroyed where the proposal is not labelled with the name of the consultant or the consulting firm.

(7) The closure of the process of submission of proposals shall be managed by at least one member of the Procurement and Disposal Unit and shall be witnessed by a member of the Contracts Committee or a person nominated by the user department.

(8) The persons referred to in subregulation (7) shall fill and sign Form 22 in the Schedule to confirm that selection closed at the deadline for submission of proposals.

(9) Immediately after the closure of the process of submission of proposals, the proposals received shall be moved to the location where the proposals are to be opened.

## **52. Receipt of proposals by box and closing of submission of proposals.**

(1) A Procurement and Disposal Unit shall provide a box for submission of proposals which shall be accessible to a consultant or consulting firms during working hours, until the deadline for submission of proposals.

(2) A Procurement and Disposal Unit may issue a receipt for each proposal received, stating the date and time the proposal was received, before it is placed in the box and record the receipt of the proposal using Form 22 in the Schedule.

(3) Where a proposal is too large to be placed in the box, a member of the Procurement and Disposal Unit shall receive the proposal and issue a receipt.

(4) The process of submission of proposals shall be closed at the deadline for submission of proposals, by sealing the box.

(5) A proposal that is brought to the location for submission of proposals after the deadline for submission shall not be placed in the box or accepted in any other way.

(6) The closure of the process of submission of proposals shall be managed by at least one member of the Procurement and Disposal Unit and shall be witnessed by a member of the Contracts Committee or a person nominated by the user department.

(7) The persons referred to in subregulation (6) shall sign Form 22 in the Schedule to confirm that selection was closed at the deadline for submission of proposals.

(8) Immediately after the closure of the process of submission of proposals, the proposals received shall be moved to the location where the proposals are to be opened.

### **53. Representation of consultants and consulting firms at public opening.**

(1) A consultant or a consulting firm or a representative of the consultant or consulting firm may attend the public opening session.

(2) A consultant or a consulting firm or a representative of the consultant or consulting firm shall be requested to confirm that the

proposal is as it was submitted but shall not be permitted to make any addition, deletion or modification to the exterior or the contents of the proposal.

(3) A consultant or a consulting firm or a representative of the consultant or consulting firm may ask questions after the proposals are opened but a procuring and disposing entity shall not enter into a discussion with the consultant or a consulting firm or a representative of the consultant or consulting firm, on the specific details of any proposal.

**54. Information to be read out at technical opening session.**

The Procurement and Disposal Unit shall at the technical opening session notify the consultants or consulting firms, as the case may be, of—

- (a) the consultants or consulting firms that submit proposals;
- (b) a consultant or consulting firm that did not submit a proposal securing declaration, where this was requested for;
- (c) the consultant or consulting firm that submitted separately sealed financial proposals, where this was required; and
- (d) any other information that is required to be stated at the public opening as indicated in the request for proposals.

**55. Procedure for public opening of technical proposals.**

(1) The public opening of the technical proposals shall be managed by the Procurement and Disposal Unit and shall be witnessed by a member of the Contracts Committee or a person nominated by the User Department.

(2) At the public opening, the Procurement and Disposal Unit shall first manage the envelopes marked “WITHDRAWAL” by reading out the names of the consultants or consulting firms, as the case may be, as indicated on the envelopes and returning the sealed envelopes to the consultants or consulting firms.

(3) A proposal shall be accepted as withdrawn where the withdrawal notice is in accordance with the instructions for withdrawal of proposals stated in the request for proposals.

(4) The Procurement and Disposal Unit shall open all the other envelopes including the envelopes marked “REPLACEMENT” and “MODIFICATION” and read out the information that is required by the request for proposal to be read out at the public opening session.

(5) The financial proposals shall not be opened at the public opening session.

(6) A replacement proposal shall be recorded as such in the record of the proposal opening session.

(7) The signed pages of the technical proposal and any other pages as may be determined by the person who chairs the public opening session to be the important pages of the technical proposals shall be endorsed with the stamp of the procuring and disposing entity and signed or initialled by that person.

(8) The procuring and disposing entity shall, in the record of the proposal opening session, note the proposal securing declarations received.

(9) A copy of the record of the opening session shall be made available to a consultant or consulting firm or a representative of the consultant or consulting firm, upon request.

(10) A copy of the record shall be posted on the procurement and disposal notice board of the procuring and disposing entity, three working days after the public opening session is held and shall be displayed for a minimum of one week.

(11) The public opening of the technical proposals and expressions of interest shall be recorded using Form 23 in the Schedule.

*Selection of consultants and consulting firms and  
evaluation of proposals*

**56. Methods of selection of consultants and consulting firms.**

(1) The evaluation of proposals by consultants and consulting firms shall be made using any of the following selection methods—

- (a) the quality and cost based selection method;
- (b) the quality based selection method;
- (c) the fixed budget selection method;
- (d) the least cost selection method; or
- (e) the consultants qualifications selection method.

(2) A request for proposals shall indicate the selection method to be used by the procuring and disposing entity.

(3) A procuring and disposing entity shall for the procurement of consultancy services, use the quality and cost based selection method to select consultants or consulting firms, except for the circumstances specified in subregulation (4), where other selection methods may be used.

(4) A procuring and disposing entity may for the following circumstances use other selection methods—

- (a) the quality based selection method, for—
  - (i) highly specialised assignments, where it is difficult to develop precise terms of reference or to determine the required input and for which a procuring and disposing entity expects consultants or consulting firms to demonstrate innovation in the proposal;
  - (ii) assignments that have a high downstream impact and in which, the objective is to have the best consultants or consulting firms; and

- (iii) assignments that can be carried out in several different ways, where a proposal is therefore not comparable and where the value of the consultancy services depends on the quality of the proposals submitted;
  - (b) the fixed budget selection method, for assignments that are simple, can be precisely defined, and where the budget is fixed;
  - (c) the least cost based selection method, for consultancy services that are of a standard or routine nature and where well established practices and standards exist; and
  - (d) the consultant qualification's selection method, for low value assignments for which the need for preparing and evaluating competitive proposals is not justifiable.
- (5) The Procurement and Disposal Unit shall, for purposes of subregulation (4)—
- (i) prepare the terms of reference and request for applications from consultants or consulting firms; and
  - (ii) develop a short list of consultants or consulting firms and select the consultant or consulting firm with the most appropriate qualifications and references.

## **57. Evaluation of proposals.**

(1) An Evaluation Committee shall evaluate the proposals for provision of consultancy services using the method and criteria stated in the request for proposals.

(2) The technical proposals shall be evaluated within twenty working days from the date of the opening of the technical proposals.

(3) The financial proposals shall be evaluated within three working days from the date of the opening of the financial proposals.

**58. Request for clarification of proposals.**

(1) Notwithstanding regulation 35, an Evaluation Committee may at any stage of the evaluation, request a consultant or consulting firm to clarify the information provided in the proposal or to submit additional documentation to clarify the information provided.

(2) An Evaluation Committee shall make a request under subregulation (1) where there is nonconformity or an omission in the proposal, which is not a material deviation as specified in regulation 59 (3).

(3) A request for clarification or submission shall not be made with the intention of—

- (a) altering or amending the price of the proposal;
- (b) changing the substance of the terms and conditions of the proposal; or
- (c) substantially altering anything which forms a crucial or deciding factor in the evaluation of the proposal.

(4) A consultant or consulting firm shall not be permitted to make a clarification or submission which—

- (a) alters or amends the price of a proposal;
- (b) changes the substance of the terms and conditions of the proposal; or
- (c) substantially alters anything which forms a crucial or deciding factor in the evaluation of the proposal.

(5) A request to a consultant or consulting firm shall be signed by the chairperson of the Evaluation Committee.

(6) Where a consultant or consulting firm does not respond to a request, the Evaluation Committee may disqualify the consultant or consulting firm.

(7) A request to clarify the information provided in the proposal or to submit additional documentation shall not become negotiations.

## PART VI—EVALUATION

### *Evaluation of technical proposals*

#### **59. Preliminary examination.**

(1) An Evaluation Committee shall at the preliminary examination determine whether the proposal is administratively compliant.

(2) A proposal shall be administratively compliant where the proposal conforms to the instructions, requirements and the terms and conditions of the request for proposals without any non-conformity or omission.

(3) A proposal shall be administratively compliant where—

- (a) the proposal is submitted in the required format;
- (b) the financial proposal is submitted separately;
- (c) the signature and authorisation to submit proposals is in accordance with the instructions in the request for proposals;
- (d) a proposal securing declaration, if required, is submitted in the correct format;
- (e) the validity of the proposal is correct; and
- (f) the additional documentation that is required is submitted.

(4) The preliminary examination shall be conducted on a pass or fail basis and a proposal that is not administratively compliant and responsive to the request for proposals, shall be rejected at the preliminary examination stage of evaluation.



(5) Notwithstanding subregulation (4), where a proposal is not administratively compliant but the non-compliance does not constitute a material deviation the Evaluation Committee may waive, clarify or correct the deviation.

**60. Detailed evaluation.**

(1) An Evaluation Committee shall using the evaluation criteria in the request for proposals and based on the contents of a proposal, conduct a detailed evaluation of a proposal that passes the preliminary examination.

(2) The detailed evaluation shall compare the details of the proposal with the criteria stated in the request for proposals.

(3) The detailed evaluation of proposals shall use a merit point evaluation system as specified in the request for proposals.

(4) A proposal which does not achieve the minimum score required in the request for proposal shall be rejected at the detailed evaluation stage.

**61. Procedure for conducting merit point evaluation.**

(1) The following procedure shall apply to the conduct of the merit point evaluation—

- (a) the members of the Evaluation Committee shall at a meeting of the Evaluation Committee discuss the criteria and any sub-criteria and the relative importance of each criteria and sub-criteria;
- (b) each member of the Evaluation Committee shall independently conduct an evaluation by considering each proposal and awarding scores for the set criterion and record the scores in the score sheet;
- (c) the evaluation committee shall at its meeting compile the scores awarded by each member of the Evaluation Committee, to produce a score sheet for each proposal,

from which the average score for each proposal shall be calculated and where a weighted score is used, the weightings shall be applied prior to calculating the average score;

- (d) the members of the Evaluation Committee shall compare the scores of each member of the Evaluation Committee for each proposal to determine whether there was consistency of approach to the evaluation and a common understanding of the criteria and of each proposal, by all the members of the Evaluation Committee;
- (e) the Evaluation Committee shall note any significant deviation from the average score or any inconsistencies in scoring and these shall be discussed and each member of the Evaluation Committee, shall explain and justify the scores awarded, where required; and
- (f) where the Evaluation Committee agrees that a member of the Evaluation Committee was not consistent in the approach or did not understand the evaluation criterion of the proposal, the member shall be permitted to adjust the scores awarded but shall not be obliged to make the adjustments.

(2) The average score in subregulation (1) (c) shall be the total technical score of the proposal.

(3) For the purposes of subregulation (1) (f), an adjustment shall only be permitted to the extent necessary to correct an inconsistency in the approach or where a member of the Evaluation Committee did not understand the evaluation criterion or the proposal.

(4) An adjustment shall not be made where it is not permitted by the Evaluation Committee.

(5) Where a score is adjusted, the original score sheet shall be kept as part of the record of the evaluation and the adjusted score shall be recorded on a new score sheet.

(6) The Evaluation Committee shall, in the evaluation report, indicate the strengths and weaknesses of each proposal.

**62. Technical evaluation report.**

(1) The Procurement and Disposal Unit shall submit the technical evaluation report to the Contracts Committee, for approval, before the financial proposals are opened.

(2) The technical evaluation report shall be signed by all the members of the Evaluation Committee and a member who is not able to sign the report shall give a written explanation for not signing the report.

(3) The technical evaluation report shall contain—

(a) a summary of the preliminary examination;

(b) the results of the technical evaluation, including the scores allocated to each proposal, a narrative on the strengths and weaknesses of each proposal and the ranking of the proposals as may be required by the selection method;

(c) the non-conformity or omissions, if any, relating to the technical method used by the consultant or consulting firm or regarding the staffing or required experience; and

(d) recommendations on the proposals that should be evaluated at the financial comparison stage.

(4) The technical evaluation report shall be prepared using Form 24 in the Schedule.

**63. Notification to consultants and consulting firms not recommended for financial evaluation.**

(1) After the approval of the technical evaluation report by the Contracts Committee and before the financial proposals are open, the consultants or consulting firms whose proposals are disqualified at the technical evaluation stage and which are not recommended for financial evaluation shall be informed.

(2) The procuring and disposing entity shall, on request, provide a consultant or consulting firm whose proposal is disqualified at the technical evaluation stage and which is not recommended for financial evaluation with a debrief which shall state the score awarded to the proposal at the technical evaluation, the reasons for the disqualification of the proposal and the weaknesses of the proposal against the evaluation criteria.

(3) The debrief under this regulation shall be unique to the consultant or consulting firm who makes a request and shall not provide details on any other proposal, other than the information that is otherwise publicly available.

(4) The debrief shall be provided within two working days of a request by a consultant or consulting firm.

(5) A financial proposal that is not evaluated shall be returned to the consultant or consulting firm, unopened, after the contract is awarded.

#### **64. Evaluation of proposals of single consultants and sole source consultants.**

(1) The Evaluation Committee shall make a recommendation for award of contract, to a single consultant or sole source consultant where the proposal of the consultant achieves the minimum technical score.

(2) Where the technical proposal of a single consultant or a sole source consultant is not administratively compliant or does not achieve the minimum technical score, the Evaluation Committee shall recommend to the Contracts Committee to reject the proposal and to invite another consultant to submit a proposal.

(3) The Procurement and Disposal Unit shall submit the report of the Evaluation Committee to the Contracts Committee for approval.

- (4) The evaluation report shall state—
  - (a) the results of the preliminary examination;
  - (b) the technical scores awarded by each member of the Evaluation Committee;
  - (c) the total technical score for the proposal;
  - (d) a description of the relative strengths and weaknesses of the proposal;
  - (e) the price of the financial proposal read out at the proposal opening session;
  - (f) the results of the assessment of responsiveness to the terms and conditions of the request for proposals;
  - (g) the evaluated price of the proposal;
  - (h) a recommendation to award the contract to the consultant or where the proposal is rejected, the reasons for the rejection; and
  - (i) the issues that require negotiations, if any.

(5) The evaluation report shall be signed by all the members of the Evaluation Committee and a member who is not able to sign the report shall give a written explanation for not signing the report.

(6) The evaluation report shall be prepared using Form 24 in the Schedule.

#### *Evaluation of financial proposals*

### **65. Notification of public opening of financial proposals.**

(1) A procuring and disposing entity shall notify the consultants whose technical proposals qualify for financial comparison and invite the consultants to the session for opening the financial proposals.

- (2) The notification shall indicate—
  - (a) the date and time of the opening of the financial proposals, which date shall be three days after the notification;
  - (b) the location of the opening session; and
  - (c) the information to be read out and recorded at the opening session.

(3) The session for opening the financial proposals shall be open to the public.

**66. Procedure for opening of financial proposals.**

(1) The opening of the financial proposals shall be managed by the Procurement and Disposal Unit and shall be witnessed by a member of the Contracts Committee or a person nominated by the user department.

(2) The Procurement and Disposal Unit shall open all the financial proposals and read out the information that is required by the request for proposals, to be read out at the public opening session.

(3) The Procurement and Disposal Unit shall at the financial proposal opening session notify the consultants or consulting firms, as the case may be—

- (a) of the consultants or consulting firms that submitted proposals;
- (b) of the technical score obtained by each consultant or consulting firm;
- (c) of the total price of each financial proposal, including the currency and the amount; and
- (d) of any other information that is required to be stated at the public opening, as indicated in the request for proposals.

(4) The important pages of the financial proposals shall be endorsed with the stamp of the procuring and disposing entity and signed or initialled by the person who chairs the public opening session.

(5) For purposes of subregulation (4), the important pages of a financial proposal shall be the signed pages of the financial proposal, the proposal submission sheet and all the pages containing financial information.

(6) The procuring and disposing entity shall, in the record of the proposal opening session, note any inconsistencies or omissions in the proposals submitted.

(7) A copy of the record of the proposal opening session shall be posted on the procurement and disposal notice board of the procuring and disposing entity, a day after the public opening session is held and shall be displayed for a minimum of four weeks.

(8) The public opening of the financial proposals shall be recorded using Form 25 in the Schedule.

**67. Representation of consultants and consulting firms at opening session of financial proposals.**

(1) A procuring and disposing entity shall allow a consultant or a consulting firm or a representative of the consultant or consulting firm, whose financial proposal is to be opened, to attend the public opening session but the consultant or consulting firm or a representative of the consultant or consulting firm shall not participate in the opening of the proposals.

(2) A consultant or a consulting firm or a representative of the consultant or consulting firm shall be requested to confirm that the proposal is as it was submitted but shall not be permitted to make any addition, deletion or modification to the exterior or the contents of the proposal.

**68. Financial comparison.**

(1) An Evaluation Committee shall conduct a financial comparison of the proposals by examining and comparing the financial proposals and determining the best evaluated proposal.

(2) A financial proposal shall be evaluated using the selection method specified in the request for proposals and in regulation 56.

(3) An Evaluation Committee shall evaluate the financial proposals of the corresponding technical proposals that attained the minimum qualifying score under the detailed evaluation of the technical proposals.

(4) The financial proposals shall be opened and the financial evaluation conducted, after approval of the technical evaluation report by the Contracts Committee.

(5) The financial comparison shall only be conducted on the proposals that are opened at the session for opening financial proposal.

(6) The financial comparison shall—

(a) assess whether a proposal conforms to the terms and conditions of the request for proposals, without material deviation;

(b) determine the proposal price;

(c) determine whether a financial proposal is complete and where a proposal is not complete, disqualify the proposal from the evaluation process;

(d) convert the currencies of the proposals into a single currency for purposes of comparison, where required;

(e) apply any margin of preference in accordance with the procedure specified in the request for proposals;



- (f) determine the total evaluated price of each proposal;
- (g) award a financial score to each proposal or rank the proposals, in accordance with the requirements of the selection method used; and
- (h) determine the best evaluated proposal using the method and criteria specified in the request for proposals.

(7) A financial proposal shall be determined to be complete where the price of the inputs and items required is indicated and included in the technical proposal.

(8) For the avoidance of doubt, an Evaluation Committee shall not correct any arithmetical error and a bid that has an arithmetical error shall be disqualified from the evaluation process.

**69. Costs to be included in financial comparison.**

The costs to be taken into account in the financial comparison shall be provided in the proposal document and may include—

- (a) fee rates, based on either a fixed or estimated total input quantity;
- (b) reimbursable costs, such as costs for travel, translation, printing and dispatching report, communication and secretarial services;
- (c) costs for office accommodation, investigations and surveys;
- (d) costs of rental and freight for any equipment to be provided by the consultant or consulting firm;
- (e) taxes; and
- (f) contingencies.

**70. Evaluation of financial proposals under the quality and cost based evaluation method and determining the best evaluated proposal.**

(1) The financial proposal with the lowest evaluated price shall be given a financial score of 100 and the other proposals shall each be given a financial score that is inversely proportional to the lowest evaluated price.

(2) Notwithstanding subregulation (1), financial scores may be allocated using another method, where this is provided in the request for proposals.

(3) For the purposes of determining the best evaluated proposal—

- (a) the score of the technical and financial proposals shall be weighted, using the weights stated in the request for proposals; and
- (b) the total score of a proposal shall be obtained by adding the weighted score of the technical and financial proposals.

(4) The consultant or consulting firm who obtains the highest total score under subregulation (3) shall, be recommended for award of contract.

(5) The Evaluation Committee shall prepare an evaluation report which shall indicate—

- (a) the total price of the proposal of each consultant or consulting firm and technical score of each consultant or consulting firm as read out at the public opening of the financial proposals;
- (b) the results of the administrative compliance of the proposals to the terms and conditions of the request for proposals and the reasons for the rejection of the proposals that are rejected;

- (c) the evaluated price of each proposal, following any corrections or adjustments to the price and the conversion to a single currency;
- (d) the score of each financial proposal;
- (e) the weighting of the technical and financial scores;
- (f) the total score for each proposal; and
- (g) the recommendation to award the contract to the consultant or consulting firm who obtains the highest total score under subregulation (3).

(6) The Procurement and Disposal Unit shall submit the report of the Evaluation Committee to the Contracts Committee for approval.

(7) The evaluation report shall be prepared using Form 26 in the Schedule.

**71. Evaluation of financial proposals under quality based evaluation method.**

(1) The consultant or consulting firm who obtains the highest qualifying score under the detailed evaluation shall be recommended for award of contract.

(2) The Evaluation Committee shall prepare an evaluation report which shall indicate—

- (a) the price of the financial proposal of the consultant or consulting firm, following any adjustments to the price and the technical score of the consultant or consulting firm as read out at the public opening of the financial proposals;
- (b) the results of the administrative compliance of the proposal to the terms and conditions of the request for proposals; and

- (c) the recommendation to award the contract to the consultant or consulting firm who obtained the highest qualifying score under the detailed evaluation.

(3) The evaluation report shall be signed by all the members of the Evaluation Committee and shall be submitted to the Procurement and Disposal Unit.

(4) The Procurement and Disposal Unit shall not make any changes to the report submitted under subregulation (3) and shall submit the report to the Contracts Committee for consideration.

(5) The evaluation report shall be prepared using Form 26 in the Schedule.

## **72. Evaluation of financial proposals under fixed budget evaluation method.**

(1) A proposal which exceeds the budget indicated in the request for proposals shall be rejected.

(2) The proposals that are within the budget of the procuring and disposing entity shall be ranked according to their technical scores and the consultant or consulting firm who submitted the highest ranked, of the technical proposals that are within the budget, shall be recommended for award of contract.

(3) The Evaluation Committee shall prepare an evaluation report which shall indicate—

- (a) the total price of the proposal of each consultant or consulting firm and technical score of each consultant or consulting firm as read out at the public opening of the financial proposals;
- (b) the results of the administrative compliance of the proposals to the terms and conditions of the request for proposals and the reasons for the rejection of the proposals that are rejected;

- (c) the evaluated price of each proposal, following any adjustments to the price and the conversion to a single currency;
- (d) the proposals that were rejected for exceeding the budget;
- (e) the ranking of the proposals that are within the budget, using the score of the technical proposals;
- (f) a recommendation to award the contract to the consultant or consulting firm who obtains the highest technical score, that is within the budget; and
- (g) where appropriate, a recommendation for negotiation and the issues for negotiations.

(4) The evaluation report shall be signed by all the members of the Evaluation Committee and shall be submitted to the Procurement and Disposal Unit.

(5) The Procurement and Disposal Unit shall not make any changes to the report submitted under subregulation (3) and shall submit the report to the Contracts Committee for consideration.

(6) The evaluation report shall be prepared using Form 26 in the Schedule.

**73. Evaluation of financial proposals under least cost evaluation method.**

(1) The financial proposals under the least cost evaluation method shall be ranked according to the total prices.

(2) The consultant or consulting firm who submits the lowest priced proposal, which meets the minimum qualifying score under the detailed evaluation shall be recommended for award of contract.

(3) The Evaluation Committee shall prepare an evaluation report which shall indicate—

- (a) the total price of each proposal and the technical score of each proposal as read out at the public opening of the financial proposals;
- (b) the results of the administrative compliance of the proposals to the terms and conditions of the request for proposals and the reasons for the rejection of the proposals that are rejected;
- (c) the evaluated price of each proposal, following any corrections or adjustments to the price and the conversion to a single currency;
- (d) the ranking of the proposals, according to their total proposal price;
- (e) a recommendation to award the contract to the consultant or consulting firm with the lowest proposal price, which meets the minimum qualifying technical mark; and
- (f) where appropriate, a recommendation for negotiation and the issues for negotiations.

(4) The evaluation report shall be signed by all the members of the Evaluation Committee and shall be submitted to the Procurement and Disposal Unit.

(5) The Procurement and Disposal Unit shall not make any changes to the report submitted under subregulation (3) and shall submit the report to the Contracts Committee for consideration.

(6) The evaluation report shall be prepared using Form 24 in the Schedule.

*Selection of consultants and consulting firms*

**74. Selection of consultants and consulting firms.**

(1) An Evaluation Committee shall select the consultant or consulting firm with the best evaluated proposal.

(2) The selection shall be conducted using the criteria stated in the request for proposals.

(3) The Evaluation Committee shall during the selection—

(a) verify that a consultant or consulting firm meets the eligibility criteria stated in the notice;

(b) assess the skills, qualifications and experience of a consultant or consulting firm in relation to the requirements of the terms of reference and criteria stated in the request for proposal;

(c) reject a consultant or consulting firm who does not substantially meet the requirements of the procuring and disposing entity, as defined in the terms of reference; and

(d) rank the consultants or consulting firms that meet the requirements of the procuring and disposing entity according to the technical scores of their proposals.

(4) Where it is stated in the request for proposal, the evaluation shall—

(a) take into account references; or

(b) use interviews to assess the skills, qualifications and experience of a consultant or consulting firm.

(5) Where an interview is to be conducted, it shall be after the evaluation of the other criteria with the consultant or consulting firm with the best proposal.

(6) An interview may be conducted by telephone or other appropriate means of communication.

(7) An interview shall be conducted by at least three members of the Evaluation Committee who shall prepare a plan for the interview, for the approval of the Contracts Committee, prior to the interview.

(8) The minutes of the interview shall form part of the evaluation report.

(9) Subject to the requirement for an interview in this regulation, the Evaluation Committee shall recommend to the Contracts Committee to award the contract to the consultant or consulting firm with the best proposal.

(10) The evaluation report shall contain—

- (a) the results of the assessment of responsiveness to the request for proposal;
- (b) the score for the proposal, awarded by each member of the Evaluation Committee;
- (c) the total score for the proposal;
- (d) the evaluated price of the proposal;
- (e) a recommendation to award the contract to the consultant or consulting firm with the best evaluated proposal; and
- (f) a recommendation for negotiations, where necessary.

(11) The evaluation report shall be signed by all the members of the Evaluation Committee.

(12) The evaluation report shall be submitted to the Contracts Committee for approval.

(13) The evaluation report shall be prepared using Form 26 in the Schedule.

## PART VII—CONTRACTS

### **75. Types of contracts for consultancy services.**

(1) A procuring and disposing entity shall use the following types of contracts as shall be necessary—



- (a) a lump sum contract shall be used where the content of the required consultancy service, the duration of the consultancy service, and the required output are clearly defined and are all in the control of the consultant or consulting firm;
- (b) a time-based contract shall be used where it is difficult to define the scope and duration of the required consultancy service, where the consultancy service is related to an activity performed by another consultant or consulting firm for which the completion period may vary or where the input required to attain the objectives is difficult to assess;
- (c) a framework contract shall be used—
  - (i) for regularly required professional services or technical advice, such as audit services, legal advice or advice on procurement matters;
  - (ii) where there is a need to have consultancy services “on call” and the extent and timing of the requirement cannot be defined in advance; or
  - (iii) for requirements which are needed repeatedly or continuously over a period of time and having the requirement available on a “call off” basis would reduce procurement costs or reduce lead times;
- (d) a percentage based contract shall be used where it is appropriate to relate the fee to be paid directly to the estimated or actual cost of the subject of the contract, such as the construction cost of the project or the cost of goods procured, auctioned or inspected such as architectural services, third party procurement, auctions or inspection services; and
- (e) a retainer contract shall be used where a procuring and disposing entity intends to retain a specialised consultant

or consulting firm over a prescribed period of time, but where the level and amount of services required cannot be defined or where advisers are to be retained for the implementation of a complex project or for technical troubleshooting.

(2) The Public Procurement and Disposal of Public Assets (Contracts) Regulations, 2023 shall, with the necessary modifications, apply to the contracts for the procurement of consultancy services entered into under these Regulations.

**76. Evaluated price and contract price.**

(1) The price of the best evaluated proposal shall be used only as a basis for evaluating a proposal and shall not necessarily be the price of the resulting contract.

(2) The following elements of a financial evaluation shall not be included in the proposed contract price—

- (a) any margin of preference that is allocated to the consultant or consulting firm during evaluation;
- (b) any conversion to a common currency; and
- (c) any weightings applied to the financial proposals.

(3) For the avoidance of doubt, the amount of the taxes, duties and levies originally included in the proposal price shall be included in the components of the proposed contract price.

**77. Negotiations with consultants and consulting firms.**

(1) A procuring and disposing entity may, before award of contract, conduct negotiations with a consultant or a consulting firm for whom or for which an award decision is made by the Contracts Committee.

(2) The negotiations shall be in accordance with the Public Procurement and Disposal of Public Assets (Negotiations) Regulations, 2023.

PART VIII—REVOCATION

**78. Revocation and transition.**

(1) The Public Procurement and Disposal of Public Assets (Procurement of Consultancy Services) Regulations, 2014, are revoked.

(2) A procurement process that had commenced under the Public Procurement and Disposal of Public Assets (Procurement of Consultancy Services) Regulations, 2014 and the Local Governments (Public Procurement and Disposal of Public Assets) Regulations, 2006 shall be continued and completed under these Regulations.

**FORM 18**

*Regulation 3(1), 13(3), 17(4),  
20(3), 24(2) 27(10), 32(7)*

THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003

**REQUEST FOR APPROVAL OF PROCUREMENT**

**PART I: REQUEST BY USER DEPARTMENT FOR APPROVAL OF PROCUREMENT**

<b>Procurement Reference Number</b>		
Code of Procuring and Disposing Entity	Consultancy Services	Financial year
		Sequence number

<b>Particulars of Procurement</b>	
Subject of Procurement	
Procurement Plan Reference	
Location for Delivery	
Date Required	

Item No.	Description <i>(Attach terms of reference)</i>	Market Price of the Procurement
Estimated Total Cost: _____ Currency: _____		

**(1) Request for Procurement**  
(Member of user department)

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**(2) Confirmation of Request**  
(Head of user department)

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Availability of funds to be confirmed prior to approval by Accounting Officer**

Vote/head No	Programme	Sub-programme	Item	Balance Remaining

Signature is required below to certify that the funds are available/budgeted for the requirement and that approval for the procurement is granted.

**(3) Confirmation of Funding and Approval to Procure**  
(Accounting Officer)

Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Signature: \_\_\_\_\_  
 Date: \_\_\_\_\_

**PART II: REQUEST BY PROCUREMENT AND DISPOSAL UNIT FOR APPROVAL OF PROCUREMENT METHOD-**

	Submission by the Procurement and Disposal Unit	Decision of the Contracts Committee	Conditions/ Justification for Decision
	<b>Date of Submission to Contracts Committee:</b>	<b>Date/Reference of Contracts Committee Meeting</b>	
1.	Recommended method of procurement and justification		
2.	Names of shortlisted consultants/ sole or single consultant where applicable and justification for selection		
3.	Request for Proposal Document/ Expression of Interest Notice. Persons involved in preparation of Request for Proposal Document/ Expression of Interest Notice ( <i>Names and positions</i> )		
4.	Names of persons recommended to constitute the Evaluation Committee and the justification ( <i>Names and positions</i> )		
5.	Cost of the bidding document, if any		
6.	Any other information		

**Documents attached:**

1. Request for Proposal Document/ Expression of Interest Notice
2. Bidding document

**Declaration by Procurement and Disposal Unit**

The information contained in this form and the attached documents is complete, true and accurate and in accordance with the Public Procurement and Disposal of Public Assets Act, 2003.

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Position: \_\_\_\_\_  
Date: \_\_\_\_\_

**Declaration by Contracts Committee**

The information contained in this form is a true and accurate record of the decision of the Contracts Committee meeting held on the above date.

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Position: **Chairperson Contracts Committee**  
Date: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Position: **Secretary Contracts Committee**  
Date: \_\_\_\_\_



**FORM 19**

*Regulation 29(12)*

THE PUBLIC PROCUREMENT AND DISPOSAL OF  
PUBLIC ASSETS ACT, 2003

**EVALUATION REPORT FOR EXPRESSIONS OF INTEREST FOR CONSULTANCY SERVICES**

Procurement Reference Number		
Code of Procuring and Disposing Entity	Consultancy Services	Financial Year
		Sequence Number

**1. Introduction**

(1) *{For expression of interest}*

(a) The requirement is for [subject of procurement].

(b) The procurement method used and approved by the Contracts Committee was through publication of a notice inviting expression of interest and developing a shortlist.

(2) *{For pre-qualification}*

The pre-qualification is for [subject of procurement].

**2. Details of invitation**

*{For expression of interest}*

(1) The expression of interest notice was approved by the Contracts Committee on [date].

(2) The expression of interest notice was advertised on the [date] in [name of publication].

*{For pre-qualification}*

- (1) The pre-qualification notice and document was approved by the Contracts Committee on [date].
- (2) The pre-qualification notice was advertised on the [date] in [*name of publication*].
- (3) The list of consultants requesting the pre-qualification document was recorded using Form 20 which is attached.

**3. Details of expression of interest/pre-qualification closing**

- (1) Submission of expressions of interest/ pre-qualification applications closed on [date] at [time] at [location].
- (2) The receipt of expressions of interest/ pre-qualification applications was recorded using Form 22 which is attached

**4. Details of expression of interest/pre-qualification opening**

A public opening was held at [location] on [date] at [time]. The expression of interest/pre-qualification opening and attendance was recorded using Form 23 which is attached.

**5. Details of Evaluation Committee**

The evaluation committee approved by the Contracts Committee on [date] comprised:

- [Name]      [*Title and department*]  
[Name]      [*Title and department*]  
[Name]      [*Title and department*]

**6. Details of the evaluation**

*{For expression of interest}*

- (1) All expressions of interest submissions received were evaluated against the criteria stated in the expression of interest notice.  
[*Brief narrative on the result of the evaluation and detailed justification with reasons why an expression of interest, if any, was declared non responsive.*]

- (2) On the basis of the expression of interest criteria stated, [number] consultants are pre-qualified and [number] are not pre-qualified.  
See the attached table, which summarises the evaluation.

**7. Recommendation**

(1) *{For expression of interest for single requirements}*

It is recommended that the following consultants be invited to submit proposals:

- (i) .....
- (ii) .....
- (iii) .....

(2) *{For pre-qualification}*

- (1) All pre-qualification applications received were evaluated against the criteria stated in the pre-qualification document.  
*[Brief narrative on the result of the evaluation and detailed justification with reasons why an application, if any, was declared non responsive.]*
- (2) On the basis of the pre-qualification criteria stated, [number] consultants are pre-qualified and [number] are not pre-qualified.

See the attached table, which summarises the evaluation.

**8. Recommendation**

It is recommended that [number] consultants be retained on file as pre-qualified and used on future shortlists for *[subject of procurement]*.

**9. Disagreement by the Evaluation Committee** *{delete if not applicable}*

The Evaluation Committee could not reach a unanimous decision on the expression of interest/ pre-qualification and this report details the view of the majority of the team.

[Give details of the issues where the team disagreed, the discussions held, the alternative views and the names of those with alternative views].

**10. Signed by the Evaluation Committee:**

We confirm that this expression of interest/ pre-qualification evaluation report gives a complete and accurate report of the expression of interest conducted:

Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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**Annexes: {amend as appropriate}**

Form 20 - Record of issue of expression of interest/request for proposals/addenda

Form 22- Record of receipt of expression of interest/proposals

Form 23 - Record of opening of expression of interest

Summary of expression of interest evaluation

**Documents available from the Procurement and Disposal Unit: {amend as appropriate}**

Copy of the expression of interest notice.

Copy of all expression of interest submissions.

Copy of the pre-qualification document.

Copy of all pre-qualification applications.

**SUMMARY OF EXPRESSION OF INTEREST EVALUATION**

<b>Consultant's Name</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
<b>Expression of interest criteria</b> <i>{List all criteria in accordance with the expression of interest notice. Criteria shown are examples only}</i> .						
Experience/performance on similar contracts in the country/region/internationally	Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ
Qualifications and experience of personnel	Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ
Local facilities or representation	Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ
Available capacity	Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ
<b>Recommendation</b>	<b>Q/NQ</b>	<b>Q/NQ</b>	<b>Q/NQ</b>	<b>Q/NQ</b>	<b>Q/NQ</b>	<b>Q/NQ</b>

**KEY: Q = Qualified NQ = Not Qualified** *{delete that which is not applicable in the table above}*

As a result of this expression of interest evaluation, \_\_\_\_\_ consultants were declared qualified and \_\_\_\_\_ consultants were declared not qualified.

Name: \_\_\_\_\_ Position: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

*On behalf of the Evaluation Committee*

**SUMMARY OF PRE-QUALIFICATION EVALUATION**

<b>Consultant's Name</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
<b>Expression of interest criteria</b> <i>{List all criteria in accordance with the document. Criteria shown are examples only}</i> .						
Experience/performance on similar contracts in the country/region/internationally	Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ
Qualifications and experience of personnel	Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ
Local facilities or representation	Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ
Available capacity	Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ
<b>Recommendation</b>	<b>Q/NQ</b>	<b>Q/NQ</b>	<b>Q/NQ</b>	<b>Q/NQ</b>	<b>Q/NQ</b>	<b>Q/NQ</b>

**KEY: Q = Qualified    NQ = Not Qualified** *{delete that which is not applicable in the table above}*

As a result of this pre-qualification evaluation, \_\_\_\_\_ consultants were declared qualified and \_\_\_\_\_ consultants were declared not qualified.

Name: \_\_\_\_\_ Position: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

*On behalf of the Evaluation Committee*

**FORM 20**

*Regulation 43(4)*

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003**

**RECORD OF ISSUE OF REQUEST FOR PROPOSALS OR ADDENDA**

<b>Procurement Reference Number</b>			
<b>Code of Procuring and Disposing Entity</b>	<b>Consultancy Services</b>	<b>Financial Year</b>	<b>Sequence Number</b>

<b>Particulars of Procurement</b>	
<b>Subject of Procurement</b>	
<b>Date of publication of invitation to bid</b>	
<b>Date request for proposal or addenda is available</b>	
<b>Addendum number</b>	

**Particulars of Request for Proposals or Addenda**

No.	Name and Address of Consultant or Consulting firm	Date of Application for the Document	Fee Paid	Date and Time of Issue of Document	Name and Address of Person issued with the Document	Signature of Person issued with Document	Name and Signature of Officer Issuing Document

I hereby certify that the above is a true and accurate record of the issue of bidding documents:

Name: \_\_\_\_\_ Position: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_



**FORM 21**

*Regulation 45(5)*

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003**

**RECORD OF MINUTES OF PRE-PROPOSAL MEETING**

<b>Procurement Reference Number</b>			
Code of Procuring and Disposing Entity	Consultancy Services	Financial Year	Sequence Number

<b>Particulars of Procurement</b>	
Subject of Procurement	
Location of Pre-proposal Meeting	
Date and Time of Meeting	

<b>RECORD OF PRE-PROPOSAL MEETING MINUTES</b>	
Question Asked	Response Given

**Certification of minutes as a true record of the proceedings of the meeting:**

Name: \_\_\_\_\_ Position: **Chairperson of the meeting**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

<b>RECORD OF ATTENDANCE</b>				
<b>No</b>	<b>Name and Address</b>	<b>Title</b>	<b>Company or Department</b>	<b>Signature</b>

**FORM 22**

*Regulations 51(3), (8), 52(2), (7)*

THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003

**RECORD OF RECEIPT OF EXPRESSION OF INTEREST/ PRE-QUALIFICATION APPLICATIONS / PROPOSALS**

<b>Procurement Reference Number</b>			
Code of Procuring and Disposing Entity	Consultancy Services	Financial Year	Sequence Number

<b>Particulars of Procurement</b>	
Subject of Procurement	
Deadline for Bid Submission [ <i>Date and Time</i> ]	
Location for Closing	



**FORM 23**

*Regulation 55(11)*

THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003

**RECORD OF OPENING OF TECHNICAL PROPOSALS**

<b>Procurement Reference Number</b>			
Code of Procuring and Disposing Entity	Consultancy Services	Financial Year	Sequence Number

<b>Particulars of Procurement</b>	
Subject of Procurement:	
Date and Time of Proposal Opening	
Location for Proposal Opening	

<b>Particulars of Proposal Opening</b>				
<b>RECORD OF PROPOSALS OPENED AND DETAILS READ OUT (amend details recorded as appropriate)</b>				
No.	Name and Address of the Consultant or Consulting Firm	Proposal Securing Declaration Received (Y/N)	Number of Copies of Proposals (including Original)	Power of Attorney

**All proposals received on time were opened, read out and recorded:**

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**RECORD OF ATTENDANCE**

<b>No</b>	<b>Name and Address of Person</b>	<b>Title</b>	<b>Company or Department</b>	<b>Signature</b>

**FORM 24**

*Regulations 62(4), 64(6)*

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003  
TECHNICAL EVALUATION REPORT FOR CONSULTANCY SERVICES**

<b>Procurement Reference Number</b>			
Code of Procuring and Disposing Entity	Consultancy Services	Financial Year	Sequence Number

**\*\*Please read the guidance notes for preparing evaluation report at end of this Form.**

**BACKGROUND AND TECHNICAL EVALUATION**

**1. Introduction**

- (1) The requirement is for the provision of consultancy services for [subject of procurement].
- (2) The procurement method used and approved by the Contracts Committee was [open domestic bidding/ open international bidding/ restricted domestic bidding/ restricted international bidding/ quotation method/ direct procurement or open domestic or international bidding with publication of a notice inviting expression of interest]

**2A. Details for Open Domestic Bidding or Open International Bidding or Open domestic or international bidding with publication of a notice inviting expression of interest**

- (1) The Request for Proposals or expression of interest notice was approved by the Contracts Committee on [date] \_\_\_\_\_



- (2) The notice was advertised on the [date] \_\_\_\_\_ in \_\_\_\_\_ [name] \_\_\_\_\_ of publication].
- (3) The request for proposals [RFP], evaluation of expressions of interest and shortlist were approved by the Contracts Committee on [date] \_\_\_\_\_.
- (4) The list of consultants who were issued with the proposal documents was recorded using Form 20 which is attached.

**2B. Details for Restricted Domestic or Restricted International Bidding or Quotation Method**

- (a) The request for proposals (RFP) document and shortlist were approved by the Contracts Committee on [date] \_\_\_\_\_.
- (b) The consultants who were issued with the proposal documents/ request for proposals were recorded using Form 20 which is attached.

**2C. Details for Direct Procurement**

- (1) The proposal document and proposed single/sole consultant were approved by the Contracts Committee on [date] \_\_\_\_\_.
- (2) The proposal document was issued on [date] \_\_\_\_\_.

**3A. Addenda to proposal document**

*{For addenda}*

- (a) [Number] addendum/addenda was/were approved by the Contracts Committee on [date(s)] \_\_\_\_\_ and issued.
- (b) The issue of the addendum/addenda was recorded using Form 20: which is attached.

**3B. Where there is no addenda**

No addenda to the proposal document were required or issued.

4. **Pre-proposal meeting** *{delete if not applicable}*
  - (1) A pre-proposal meeting was held at [location] on [date] \_\_\_\_\_.
  - (2) The meeting was recorded using Form 21 which is attached.
  
5. **Deadline for submission of proposals**

*{For publication of a notice inviting expression of interest and developing a shortlist and for development of a shortlist without publication of a notice inviting expression of interest}*

Bidding was closed on [date] \_\_\_\_\_ at [time] \_\_\_\_\_. The receipt of proposals was recorded using Form 22 which is attached.

*[For invitation of a single or sole consultant]*

The sealed proposal was received on [date].
  
6. **Details of proposal opening**
  - (1) A public proposal opening was held at [location] \_\_\_\_\_ on [date] \_\_\_\_\_ at [time] \_\_\_\_\_.
  - (2) The outer envelopes were opened and checks were made to ensure that the envelopes contained two separately sealed envelopes of technical and financial proposals.
  - (3) Only the technical proposals only were opened, stamped and signed by the Chairperson.
  - (4) The financial proposals were not opened and were put into secure storage. The proposal opening and attendance was recorded using Form 23 which is attached.

**7. Details of Evaluation Committee**

The Evaluation Committee approved by the Contracts Committee on [date] \_\_\_\_\_ comprised:

[Name] \_\_\_\_\_ [designation and department] \_\_\_\_\_

[Name] \_\_\_\_\_ [designation and department] \_\_\_\_\_

[Name] \_\_\_\_\_ [designation and department] \_\_\_\_\_

*{For quality and cost based selection}*

**8A. Details of evaluation method**

The evaluation method being used is the quality and cost based selection method which involves the following procedure:

- (a) preliminary examination on a pass/fail basis to determine the eligibility of the consultants and assess their administrative compliance to the Invitation. Non eligible and non compliant proposals were eliminated from further evaluation.
- (b) detailed evaluation to assess the technical quality of proposals against the criteria in the Terms of Reference in the invitation and determine their total technical score using a merit point system. Each proposal was compared to the minimum technical qualifying mark stated in the invitation and those not meeting the minimum mark were eliminated from further evaluation.
- (c) financial proposals of those consultants who were substantially responsive and met the minimum qualifying mark will be opened and a financial comparison carried out to examine financial proposals and determine the financial score of each proposal; and
- (d) technical and financial scores will be combined, using the weightings given in the invitation, to give a total score for each proposal. The consultant with the highest total score will be ranked first and recommended for contract award, subject to any negotiations required.

**9A. Preliminary examination**

[Brief narrative on the result of the preliminary examination and detailed justification with reasons why any proposals were declared non eligible or non compliant].

See Table 1, which summarises the preliminary examination.

**10A. Detailed technical evaluation (of the eligible, compliant proposals)**

[Brief narrative on the results of the detailed technical evaluation, including strong and weak points of each proposal and reasons for any large differences in scores between evaluators. State how many proposals reached the minimum qualifying mark and how many failed to reach it].

The strengths and weaknesses of each proposal are highlighted below in the Table below:

Number	Name of Consultant or Consulting Firm	Strengths	Weaknesses
1.			
2.			
3.			

A summary of the technical scores is given in Table 2, indicating which proposals reached the minimum qualifying mark. The score sheets for each proposal, showing the scores given by each evaluator against each of the criterion and the average scores are also included as Table 2A and the individual evaluators' score sheets as Table 2B.

**11A. Recommendation** *{amend as appropriate}*

On the basis of the detailed evaluation criteria and the minimum technical qualifying mark of [minimum qualifying mark] stated in the invitation, it is recommended that the financial proposals of the following \_\_\_\_\_ [number] consultants in the Table below be opened:

Proposal Number	Name of Consultant or Consulting Firm	Technical Score

*{For quality based selection}*

**8B. Details of evaluation method**

The evaluation method being used is quality based selection method, using a one-stage, two-envelope submission method, which involves the following procedure:

- (a) Preliminary examination on a pass/fail basis to determine the eligibility of the consultants and assess their administrative compliance to the Invitation. Non eligible and non compliant proposals were eliminated from further evaluation;
- (b) Detailed evaluation to assess the technical quality of proposals against the criteria in the Terms of Reference in the invitation and determine their total technical score using a merit point system. Proposals that were substantially responsive were ranked according to technical score; and
- (c) The financial proposal of the consultant with the highest technical mark will be opened and a financial comparison carried out to examine the financial proposal. The consultant will be recommended for contract award subject to any negotiations required.

**9B. Preliminary examination**

[Brief narrative on the result of the preliminary examination and detailed justification with reasons why any proposals were declared non eligible or non compliant.]  
See Table 1, which summarises the preliminary examination.

**10B. Detailed technical evaluation (of the eligible, compliant proposals)**

[Brief narrative on the results of the detailed technical evaluation, including strong and weak points of each proposal and reasons for any large differences in scores between evaluators. State which proposal obtained the highest technical score.]

The strengths and weaknesses of each proposal are highlighted in the Table below:

Serial number	Name of consultant or consulting firm	Strengths	Weaknesses
1.			
2.			
3.			

A summary of the technical scores is given in Table 2, indicating which proposals reached the minimum qualifying mark. The score sheets for each proposal, showing the scores given by each evaluator against each of the criterion and the average scores are also included as Table 2A and the individual evaluators' score sheets as Table 2B.

**11B. Recommendation** *{amend as appropriate}*

On the basis of the detailed evaluation criteria stated in the invitation, it is recommended that the financial proposal of [name of consultant] be opened and preparations be made for negotiations.

*{For least cost selection}*

**8C. Details of evaluation method**

The evaluation method being used is least cost selection, which involves the following procedure:

- (a) Preliminary examination on a pass/fail basis to determine the eligibility of the consultants and assess their administrative compliance to the Invitation. Non eligible and non compliant proposals were eliminated from further evaluation;
- (b) Detailed evaluation to assess the technical quality of proposals against the criteria in the Terms of Reference in the invitation and determine their total technical score using a merit point system. Each proposal was compared to the minimum technical qualifying mark stated in the invitation and those not meeting the minimum mark were eliminated from further evaluation; and
- (c) Financial proposals of those consultants who were substantially responsive and met the minimum qualifying mark will be opened and a financial comparison carried out to examine financial proposals and rank the proposals according to price. The consultant submitting the lowest priced proposal will be ranked first and recommended for contract award, subject to any negotiations required.

**9C. Preliminary examination**

[Brief narrative on the result of the preliminary examination and detailed justification with reasons why any proposals were declared non eligible or non compliant.]

See Table 1, which summarises the preliminary examination.

**10C. Detailed technical evaluation (of the eligible, compliant proposals)**

[Brief narrative on the results of the detailed technical evaluation, including strong and weak points of each proposal and reasons for any large differences in scores between evaluators. State how many proposals reached the minimum qualifying mark and how many failed to reach it.]

The strengths and weaknesses of each proposal are highlighted in the Table below:

Number	Name of Consultant	Strengths	Weaknesses
1.			
2.			
3.			

A summary of the technical scores is given in Table 2, indicating which proposals reached the minimum qualifying mark. The score sheets for each proposal, showing the scores given by each evaluator against each of the criterion and the average scores are also included as Table 2A and the individual evaluators' score sheets as Table 2B.

**11C. Recommendation** *{amend as appropriate}*

On the basis of the detailed evaluation criteria and the minimum technical qualifying mark of [minimum qualifying mark] stated in the invitation, it is recommended that the financial proposals of the following \_\_\_\_\_ [number] consultants in the Table below be opened:



Proposal Number	Name of Consultant	Technical Score

*{For fixed budget selection}*

**8D.**

**Details of evaluation method**

The evaluation method being used is fixed budget selection which involves the following procedure:

- (a) preliminary examination on a pass/fail basis to determine the eligibility of the consultants and assess their administrative compliance to the Invitation. Non eligible and non compliant proposals were eliminated from further evaluation;
- (b) detailed evaluation to assess the technical quality of proposals against the criteria in the Terms of Reference in the invitation and determine their total technical score using a merit point system. Each proposal was compared to the minimum technical qualifying mark stated in the invitation and those not meeting the minimum mark were eliminated from further evaluation; and

(c) financial proposals of those consultants who were substantially responsive and met the minimum qualifying mark will be opened and a financial comparison carried out to examine financial proposals and reject any proposals which exceed the budget. The consultant submitting the highest ranked technical proposal among those within the budget will be recommended for contract award, subject to any negotiations required.

**9D. Preliminary examination**

[Brief narrative on the result of the preliminary examination and detailed justification with reasons why any proposals were declared non eligible or non compliant.]  
 Refer to Table 1, which summarises the preliminary examination.

**10D. Detailed technical evaluation (of the eligible, compliant proposals)**

[A brief narrative on the results of the detailed technical evaluation, including strong and weak points of each proposal and reasons for any large differences in scores between evaluators. State how many proposals reached the minimum qualifying mark and how many failed to reach it].  
 The strengths and weaknesses of each proposal are highlighted below:

Number	Name of Consultant	Strengths	Weaknesses
1.			
2.			
3.			

A summary of the technical scores is given in Table 2, indicating which proposals reached the minimum qualifying mark. The score sheets for each proposal, showing the scores given by each evaluator against each of the criterion and the average scores are also included as Table 2A and the individual evaluators' score sheets as Table 2B.

**11D. Recommendation** *{amend as appropriate}*

On the basis of the detailed evaluation criteria and the minimum technical qualifying mark of [minimum qualifying mark] stated in the invitation, it is recommended that the financial proposals of the following \_\_\_\_\_ [number] consultants be opened:

*{For single consultants and sole source consultants}*

**8E. Details of evaluation method.**

The evaluation of the single proposal involves the following procedure:

- (a) preliminary examination to determine administrative compliance to the request for proposals;
- (b) detailed evaluation to assess the technical quality of the proposal against the criteria in the Terms of Reference in the RFP and determine its technical score using a merit point system; and
- (c) financial comparison to examine the financial aspects of the proposal and determine its total price.

**9E. Preliminary examination**

[Brief narrative on the result of the preliminary examination. Where the proposal is non compliant, detailed justification must be provided and the Evaluation Committee should amend later sections of this report to make appropriate recommendations.]

Refer to Table 1, which summarises the preliminary examination.

**10E. Detailed technical evaluation**

[Brief narrative on the results of the detailed evaluation

Where the proposal is non responsive, detailed justification must be provided and the Evaluation Committee should amend later sections of this report to make appropriate recommendations. Include details of any nonmaterial nonconformities, errors or omissions waived or rectified by the evaluation committee. Include details of all clarifications requested and received from the consultant.]

The strengths and weaknesses of each proposal are highlighted in the Table below:

Number	Name of Consultant	Strengths	Weaknesses
1.			
2.			

The technical scores are given in Table 3, showing the scores given by each evaluator against each of the criterion and the average score.

**11E. Recommendations** *{amend as appropriate}*

On the basis of the evaluation methodology and criteria stated in the request for proposals, it is recommended that-

- (a) the best evaluated proposal for the procurement of [list all items the recommendation relates to] is from [name of consultant] with a total evaluated price of [currency and amount];
- (b) negotiations are/are not required;
- (c) the total proposed contract price is [currency and amount]; and

(d) the total acquisition cost for the requirement is estimated to be [currency and amount], including [state all incidental costs included in the estimate].

**12. Proposed negotiations** *{delete if not applicable}*

Negotiations are required because [justification for negotiations in line with the Public Procurement and Disposal of Public Assets Act].

The proposed negotiations plan is outlined in Table 3.

The proposed negotiations team is comprised of the following officials:

[Name] \_\_\_\_\_ [position and department] \_\_\_\_\_ (*Chairperson of the negotiations team*)

[Name] \_\_\_\_\_ [position and department] \_\_\_\_\_

[Name] \_\_\_\_\_ [position and department] \_\_\_\_\_

**13. Disagreement by the Evaluation Committee** *{delete if not applicable}*

The Evaluation Committee could not reach a unanimous decision on the evaluation and this evaluation report details the view of the majority of the team.

[Give details of the issues where the team disagreed, the discussions held, the alternative views and the names of those with alternative views].

**14. Signed by the Evaluation Committee:**

I confirm that this evaluation report gives a complete and accurate report of the evaluation conducted:

Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Annexes: {amend as appropriate}**

Form 20 - Record of issue of expression of interest/request for proposals/addenda

Form 21- Record of minutes of pre-proposal meeting

Form 22- Record of proposals

Form 23- Record of opening of expression of interest /technical proposals

Table 1: Preliminary examination

Table 2: Summary of detailed technical evaluation

Table 2A: Detailed technical evaluation of proposal (one in respect of each consultant)

Table 2B: Score sheet for technical evaluation (one for each evaluator)

Table 3: Negotiation Plan

**Documents available from the Procurement and Disposal Unit: {amend as appropriate}**

Copy of the proposal document.

Copy of all technical proposals.



**TABLE 2 – SUMMARY OF DETAILED TECHNICAL EVALUATION**

<b>Evaluation Criteria</b>		<b>Maximum Score</b>	<i>{ Enter the average scores using Table 2.A }</i>					
<i>{Complete criteria and maximum scores as listed in proposal document}</i>			<b>Consultant 1</b>	<b>Consultant 2</b>	<b>Consultant 3</b>	<b>Consultant 4</b>	<b>Consultant 5</b>	<b>Consultant 6</b>
<b>A</b>	<b>Main Criteria</b>							
A	Sub-criteria							
A2								
A3								
<b>B</b>	<b>Main Criteria</b>							
B1	Sub-criteria							
B2								
B3								
<b>C</b>	<b>Main Criteria</b>							
C1	Sub-criteria							
C2								
C3								
<b>D</b>	<b>Main Criteria</b>							
D1	Sub-criteria							
D2								
D3								
<b>E</b>	<b>Main Criteria</b>							
E1	Sub-criteria							
E2								
E3								
<b>Totals</b>		<b>100</b>						
<b>Minimum qualifying mark</b>		<b>Pass/Fail</b>	<b>Pass/Fail</b>	<b>Pass/Fail</b>	<b>Pass/Fail</b>	<b>Pass/Fail</b>	<b>Pass/Fail</b>	<b>Pass/Fail</b>



**TABLE 2A – DETAILED TECHNICAL EVALUATION OF PROPOSAL**

**NAME OF EVALUATOR**

Evaluation Criteria	Maximum Score	<i>{Enter the scores awarded by each evaluator using Table 2B}</i>					Average
<i>{Complete criteria and maximum scores as listed in the proposal document}</i>		Evaluator 1	Evaluator 2	Evaluator 3	Evaluator 4	Evaluator 5	
<b>A</b>	<b>Main Criteria</b>						
A1	Sub-criteria						
A2							
A3							
<b>B</b>	<b>Main Criteria</b>						
B1	Sub-criteria						
B2							
B3							
<b>C</b>	<b>Main Criteria</b>						
C1	Sub-criteria						
C2							
C3							
<b>D</b>	<b>Main Criteria</b>						
D1	Sub-criteria						
D2							
D3							
<b>E</b>	<b>Main Criteria</b>						
E1	Sub-criteria						
E2							
E3							
	<b>Totals</b>						

**TABLE 2B – EVALUATOR’S SCORE SHEET FOR DETAILED TECHNICAL EVALUATION**

<b>Evaluation Criteria</b>	<b>Max Score</b>						
<i>{Complete criteria and maximum scores as listed in the proposal document}</i>							
<b>A</b>	<b>Main Criteria</b>						
A1	Sub-criteria						
A2							
A3							
<b>B</b>	<b>Main Criteria</b>						
B1	Sub-criteria						
B2							
B3							
<b>C</b>	<b>Main Criteria</b>						
C1	Sub-criteria						
C2							
C3							
<b>D</b>	<b>Main Criteria</b>						
D1	Sub-criteria						
D2							
D3							
<b>E</b>	<b>Main Criteria</b>						
E1	Sub-criteria						
E2							
E3							
<b>Totals</b>							

**TABLE 3 – NEGOTIATION PLAN**

Subject of Procurement:	
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Name of Consultant:	
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ISSUE	OBJECTIVES	NEGOTIATION PARAMETERS

*\*\* This form shall be used by the Evaluation Committee to prepare an evaluation report for consultancy services. It is appropriate for all the methods of procurement for consultancy services. The content should be amended as appropriate.*

*Italic text in {} brackets indicates either an instruction for preparing the report, which should be deleted from the final report or a section included for a possible option, where the whole section should be deleted if not appropriate. Normal text in [] brackets indicates data which should be completed for each evaluation.*

**FORM 25**

*Regulation 66(8)*

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003**

**RECORD OF FINANCIAL PROPOSAL OPENING**

<b>Procurement Reference Number</b>			
Code of Procuring and Disposing Entity	Consultancy Services	Financial Year	Sequence Number

<b>Particulars of Procurement</b>	
Subject of Procurement	
Date and Time of Proposal Opening	
Location of Proposal Opening	

<b>PART 1: Record of Proposals opened and details read out</b>			
<i>No</i>	<i>Name and Address of the Consultant or Consulting Firm</i>	<i>Currency and Price of Financial Proposal</i>	<i>Remarks</i>

All proposals were received on time in response to the proposal documents and were opened, read out and recorded:

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 Name: \_\_\_\_\_ Title: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Date: \_\_\_\_\_

<b>Record of Attendance</b>				
<b>No</b>	<b>Name and Address of Person</b>	<b>Title</b>	<b>Company or Department</b>	<b>Signature</b>

**FORM 26**

*Regulations 72(6), 73(6), 74(13)*

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003**

**EVALUATION REPORT FOR CONSULTANCY SERVICES**

<b>Procurement Reference Number</b>		
Code of Procuring and Disposing Entity	Consultancy Services	Financial Year
		Sequence Number

**\*\*Please read the guidance notes for preparing evaluation report at the end of this Form**

**FINANCIAL COMPARISON**

**1. Introduction**

(1) On..... [date], the Contracts Committee approved the technical evaluation report and the opening of financial bids of the following consultant(s):

<b>S/No.</b>	<b>Name of Consultant or Consulting Firms</b>	<b>Technical Score</b>

(2) A copy of the technical evaluation report is attached.

**2. Details of financial proposal opening**

- (1) A public opening of financial proposals was held at [location] on [date] at [time].
- (2) The financial proposal was opened, stamped and signed by the Chairperson.
- (3) The price and technical score were read out.
- (4) The proposal opening and attendance was recorded using Form 25 which is attached.

*{For quality and cost based selection}*

**3A. Financial comparison**

*[Describe the correction of any arithmetic errors, application of any discounts, adjustments made for any nonmaterial nonconformities, errors or omissions, conversion to a common currency and application of any margin of preference.]*

The proposal with the lowest evaluated price was given a score of 100 and the other proposals were given financial scores that were inversely proportional to the lowest priced proposal.

*{Or describe other methodology for allocating financial scores, in accordance with the invitation.}*

Refer to Table 1 which summarises the financial comparison.

**3B. Total technical and financial score**

- (1) A total score was obtained by weighting the technical and financial scores, using the weights stated in the invitation, and adding them together.
- (2) The technical weight was [technical weight] % and the financial weight was [financial weight] %.
- (3) The proposals were ranked according to total score, with the highest total score being ranked first.

Refer to Table 2 which summarises the technical and financial scores and weightings and the total scores and rankings.

*{For quality based selection}*

**4A. Financial comparison**

[Describe the correction of any arithmetic errors.]

Refer to Table 1 which summarises the financial comparison.

*{For least cost selection}*

**5A. Financial comparison**

[Describe the correction of any arithmetic errors, application of any discounts, adjustments made for any nonmaterial nonconformities, errors or omissions, conversion to a common currency and application of any margin of preference.]

All proposals were ranked, with the lowest priced being ranked first.

Refer to Table 1 which summarises the financial comparison.

*{For fixed budget selection}*

**6A. Financial comparison**

[Describe the correction of any arithmetic errors, application of any discounts, adjustments made for any nonmaterial nonconformities, errors or omissions, conversion to a common currency, application of any margin of preference and the rejection of any proposals exceeding the budget.]

All proposals that were within the budget were ranked according to their technical score, with the highest technical score being ranked first.

Refer to Table 1 which summarises the financial comparison.

**7. Recommendations** *{amend as appropriate}*

On the basis of the evaluation methodology and criteria stated in the invitation, it is recommended that-

- (1) the best evaluated proposal for the procurement of [*list all items the recommendation relates to*] is from [*name of consultant*] with a total evaluated price of [*currency and amount*].
- (2) negotiations are/are not required, where required, the negotiation plan is attached as Table 3 for approval.



- (3) the total proposed contract price is [currency and amount].
- (4) the total acquisition cost for the requirement is estimated to be [currency and amount], including [state all incidental costs included in the estimate].

**8. Disagreement by the Evaluation Committee** *{delete if not applicable}*

The Evaluation Committee could not reach a unanimous decision on the evaluation and this evaluation report details the view of the majority of the team.  
*[Give details of the issues where the team disagreed, the discussions held, the alternative views and the names of those with alternative views].*

**9. Signed by the Evaluation Committee:**

We confirm that this Evaluation Report gives a complete and accurate report of the evaluation conducted:

Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Annexes: {amend as appropriate}**

- Technical evaluation report
- Form 25: Record of financial proposal opening
- Table 1: Summary of financial comparison
- Table 2: Technical and financial evaluation summary
- Table 3: Negotiation Plan

**Documents available from the Procurement and Disposal Unit: {amend as appropriate}**

Copy of all financial proposals.





**TABLE 3 – NEGOTIATIONS PLAN**

Subject of Procurement			
Name of Consultant			
ISSUE	OBJECTIVES	NEGOTIATION PARAMETERS	

*\*\* This form shall be used by the Evaluation Committee to prepare an evaluation report for consultancy services. It is appropriate for all the methods of procurement for consultancy services. The content should be amended as appropriate.*

*Italic text in {} brackets indicates either an instruction for preparing the report, which should be deleted from the final report or a section included for a possible option, where the whole section should be deleted if not appropriate.*

*Normal text in [] brackets indicates data which should be completed for each evaluation.*

**STATUTORY INSTRUMENTS SUPPLEMENT**

*to The Uganda Gazette No. 80 Volume CXVI, dated 8th December, 2023*

Printed by UPPC, Entebbe, by Order of the Government.

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**S T A T U T O R Y I N S T R U M E N T S**

**2023 No. 103.**

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS  
(EVALUATION) REGULATIONS, 2023.**

**ARRANGEMENT OF REGULATIONS**

*Regulation*

**PART I—PRELIMINARY**

1. Title and commencement.

**PART II—Evaluation Committee**

2. Evaluation Committee.
3. Chairperson of Evaluation Committee.
4. Meetings of Evaluation Committee.

**PART III—GENERAL PROVISIONS FOR EVALUATION USING  
TECHNICAL COMPLIANCE AND QUALITY AND COST  
BASED EVALUATION METHODS**

5. Evaluation criteria to be applied.
6. Request for information.
7. Correction of non-conformities and omissions.
8. Evaluation of alternative technical bids.
9. Discounts.
10. Cross discounts.
11. Post qualification evaluation.
12. Evaluation report.
13. Evaluated price and contract price.

PART IV—EVALUATION OF BIDS USING THE TECHNICAL  
COMPLIANCE EVALUATION METHOD

14. Application of Part.
15. Stages of evaluation using the technical compliance evaluation method.
16. Preliminary examination.
17. Eligibility of bidders
18. Administrative compliance.
19. Detailed evaluation.
20. Product demonstration.
21. Comparison of financial bids.

PART V—EVALUATION OF BIDS USING THE QUALITY  
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22. Application of Part
23. Preliminary examination.
24. Detailed evaluation.
25. Procedure for conducting merit point evaluation.
26. Technical evaluation report.
27. Notification to bidders not recommended for financial evaluation.
28. Public opening of financial bids.
29. Procedure for opening of financial bids.
30. Representation of bidders at opening session of financial bids.
31. Financial comparison.
32. Determination of best evaluated bid.

PART VI—REVOCATION AND TRANSITION

33. Revocation and transition.

**SCHEDULE—FORMS**

- Form 13 — Declaration to abide by Code of Ethical Conduct in Business
- Form 14 — Evaluation report under technical compliance method
- Form 15 — Financial Evaluation Report under quality and cost based evaluation method
- Form 16 — Technical Evaluation Report under quality and cost based evaluation method
- Form 17 — Record of financial bid opening

# STATUTORY INSTRUMENTS

2023 No. 103.

## **The Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023.**

*(Made under sections 96(1) and 96A of the Public Procurement and Disposal of Public Assets Act, 2003, Act No 1 of 2003).*

IN EXERCISE of the powers conferred upon the Minister responsible for finance by sections 96(1) and 96A of the Public Procurement and Disposal of Public Assets Act, 2003, in consultation with the Minister responsible for the Kampala Capital City Authority and the Minister responsible for local governments, and on the recommendation of the Authority, these Regulations are made, this 26<sup>th</sup> day of September, 2023.

### PART I—PRELIMINARY

#### **1 Title and commencement.**

(1) These Regulations may be cited as the Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023.

(2) These Regulations shall come into force on the 5<sup>th</sup> day of February, 2024.

### PART II—EVALUATION COMMITTEE

#### **2. Evaluation Committee.**

(1) A person appointed member of an Evaluation Committee shall have the technical skills and experience relevant for the evaluation of the procurement requirement.

(2) An Evaluation Committee shall have among its members—

- (a) a person representing the user department; and
- (b) a member of the Procurement and Disposal Unit.



(3) A member of a Contracts Committee of a Procuring and Disposing Entity shall not be a member of an Evaluation Committee of the procuring and disposing entity.

(4) A member of an Evaluation Committee shall declare that he or she does not have a conflict of interest in the procurement or disposal requirement, as the case may be, by signing Form 13 in the Schedule to these Regulations.

**3. Chairperson of Evaluation Committee.**

(1) The members of an Evaluation Committee shall select a chairperson, from amongst themselves.

(2) The chairperson of the Evaluation Committee shall be responsible for—

- (a) chairing all the meetings of the Evaluation Committee;
- (b) conducting the evaluation in accordance with the bidding document;
- (c) the security of the bids and the other documentation before the Evaluation Committee;
- (d) submitting the report of the Evaluation Committee to the Procurement and Disposal Unit within the time prescribed in regulation 4; and
- (e) communication between the Evaluation Committee and a bidder or any other person.

**4. Meetings of Evaluation Committee.**

(1) An evaluation shall be concluded within the time period specified in this regulation, for the type of procurement—

- (a) ten working days from the date of the opening of the bids, for the procurement of supplies or non-consultancy services;

- (b) fifteen working days from the date of the opening of the bids, for the evaluation of bids for the procurement of works;
- (c) twenty working days from the date of the opening of the bids, for technical evaluation of consultancy services; and
- (d) three working days from the date of the opening of the bids, for financial evaluation of consultancy services.

(2) Where an Evaluation Committee is not able to complete an evaluation exercise within the time specified in subregulation (1), the Evaluation Committee shall, in writing, explain to the Accounting Officer the reasons for this and request for extension of the time period for the evaluation exercise.

(3) A meeting of an Evaluation Committee shall not be held unless all the members of the Evaluation Committee are present.

(4) Notwithstanding subregulation (3), a meeting of the Evaluation Committee may be held where a member who is absent agrees to the holding of the meeting in his or her absence or where it is not possible or practical for all the members to be present at the meeting.

(5) A member who is absent from a meeting shall be informed of the proceedings and decisions of the meeting.

(6) Where a member who is absent from a meeting, does not agree with a decision taken at the meeting, the member shall inform the chairperson of the Evaluation Committee, who shall call a meeting to reconsider the decisions of the meeting.

(7) The evaluation of bids shall be conducted by the members of the Evaluation Committee, jointly, during a meeting of the Evaluation Committee.

(8) Notwithstanding subregulation (7), where an evaluation is complex or lengthy, the members of the Evaluation Committee may—

- (a) conduct the evaluation or part of the evaluation individually after which the Evaluation Committee, at its meeting, shall discuss the results of each member; or
- (b) request two or more members of the Evaluation Committee to carry out the evaluation and prepare recommendations, which shall be reviewed by the Evaluation Committee and adopted as the evaluation of the Evaluation Committee.

(9) A decision of an Evaluation Committee shall be unanimous except where the evaluation methodology requires individual scores or marks.

(10) Notwithstanding subregulation (9), where the Evaluation Committee is unable to reach a decision unanimously, the decision of the majority shall be the decision of the Evaluation Committee and shall be stated as such in the evaluation report.

(11) The minutes of a meeting of the Evaluation Committee shall be signed by all the members of the Evaluation Committee and shall form part of the records of the procurement for which the evaluation is conducted.

(12) The minutes of a meeting of the Evaluation Committee shall be an annex to the evaluation report.

(13) The evaluation report shall state the disagreements of the members, if any, including the reasons for the disagreement, the discussions held on the issue in disagreement and the views of the members of the Evaluation Committee on the matter.

(14) The evaluation report shall be signed by all the members of the Evaluation Committee.

(15) Where a member of the Evaluation Committee does not or is not able to sign the report, the member shall, in writing, give reasons why he or she did not or was not able to sign the report.

PART III—GENERAL PROVISIONS FOR EVALUATION  
OF BIDS USING TECHNICAL COMPLIANCE AND QUALITY  
AND COST BASED EVALUATION METHODS

**5. Evaluation criteria to be applied.**

(1) The evaluation of bids shall be conducted in accordance with the evaluation criteria specified in the bidding documents.

(2) An Evaluation Committee shall not, during an evaluation, make any amendment including any addition to the evaluation criteria stated in the bidding document, and shall not use any other criteria other than the criteria specified in the bidding document.

**6. Request for information.**

(1) An Evaluation Committee may at any stage of the evaluation, request a bidder to clarify the information provided in the bid or to submit additional information or documents within a period, which shall be indicated in the request, which shall be information or documents that were valid at the date of the deadline for bid submission.

(2) An Evaluation Committee shall only make a request for clarification of information or submission of documents under subregulation (1) where there is a nonconformity or an omission in the bid, which is not a material deviation as specified in regulation 7 (4).

(3) A request for clarification or submission shall not be made where the request—

- (a) changes the substance of the terms and conditions of the bid; or
- (b) substantially alters anything which forms a crucial or deciding factor in the evaluation of the bid.

(4) A bidder shall not be permitted to make a clarification or submission which—

- (a) changes the substance of the terms and conditions of the bid; or
- (b) substantially alters anything which forms a crucial or deciding factor in the evaluation of the bid.

(5) A request to a bidder shall be signed by the chairperson of the Evaluation Committee and may be communicated by a member of the Procurement and Disposal Unit who is not a member of the Evaluation Committee.

(6) A request to a bidder under subregulation (5) may be submitted electronically.

(7) Where a bidder does not respond to a request or respond within the time specified under subregulation (1), the Evaluation Committee shall disqualify the bidder.

(8) For the avoidance of doubt, a request for information made to a bidder under this regulation shall not be or considered to be negotiations.

## **7. Correction of non-conformities and omissions.**

(1) An Evaluation Committee may correct a non-conformity or an omission in a bid that does not constitute a material deviation.

(2) For the purposes of subregulation (1), an Evaluation Committee shall—

- (a) request the bidder to clarify the non-conformity or omission in accordance with regulation 6;
- (b) correct the non-conformity or omission using subregulation (3);
- (c) waive the non-conformity.

(3) For purposes of making a correction under sub regulation (2)(b), a non-conformity or an omission shall be quantified and expressed in monetary terms and the bid price shall, for evaluation purposes only, be adjusted, to reflect the price of the non-conforming or omitted item or component.

(4) For the purposes of this regulation a “material deviation” is a deviation that—

- (a) affects in a substantial way, the scope or quality of the supplies or services or the performance of the works to be procured;
- (b) affects the ability of the bidder to perform the proposed contract;
- (c) impacts the key factors of a procurement including cost, risk, time and quality and causes—
  - (i) unacceptable time schedules, where it is stated in the bidding document that time is of the essence;
  - (ii) unacceptable alternative technical details, such as design, materials, workmanship, specifications, standards or methodologies; or
  - (iii) unacceptable counter-bids with respect to key contract terms and conditions, such as payment terms, price adjustment, liquidated damages, sub-contracting or warranty.

## **8. Evaluation of alternative technical bids.**

(1) An alternative bid shall be evaluated using the methodology and criteria used to evaluate the main bid to which the alternative bid relates.

(2) For the purposes of evaluating an alternative bid, the detailed evaluation shall only take into account the objectives or performance requirements prescribed in the statement of requirements and shall not be required to conform precisely to the statement of requirements.

(3) An alternative bid shall be evaluated by the Evaluation Committee that evaluates the main bid and the skills required for the evaluation of the alternative bid shall be taken into account when proposing the membership of the Evaluation Committee.

(4) The Evaluation Committee may seek additional advice or assistance where required in order to conduct a fair and comprehensive evaluation of an alternative bid.

## **9. Discounts.**

Where a bidder offers a discount, the discount shall be reflected in the evaluation of bids and the original price of the bid shall at the financial comparison stage be modified by the discount offered.

## **10. Cross discounts.**

(1) Where a bidder offers a cross discount that is conditional on the simultaneous award of a contract for another lot, the cross discount shall only be considered at the financial comparison of the bids.

(2) A cross discount shall be included in a further financial comparison, using the methodology specified in the bidding document, once the ranking of each lot, which incorporates any individual discount, is determined.

(3) In evaluating a cross discount, the Evaluation Committee shall seek to obtain the best overall value for money for the procuring and disposing entity.

## **11. Post qualification evaluation.**

(1) An Evaluation Committee shall undertake a post qualification evaluation before award decision, to confirm whether the best evaluated bidder has the capacity and the resources to effectively execute the procurement.

(2) A post qualification evaluation shall be undertaken to determine—

- (a) the experience and performance of the bidder, with regard to similar assignments;
- (b) the capacity of the bidder with respect to equipment and facilities;
- (c) the qualifications and experience of the personnel of the bidder;
- (d) for a bid to procure non-consultancy services or works, that the bidder has the capacity to supervise or manage the performance of the non-consultancy services or works, as the case may be, based on the qualifications of the supervisory or management staff of the bidder and the number and deployment of the staff;
- (e) the financial capability of the bidder to execute the assignment;
- (f) the facilities or representation, at or near the location to be used for the performance of the assignment; and
- (g) any other relevant criteria.

(3) For the purpose of subregulation (2), the Evaluation Committee shall—

- (a) consider any material changes in the circumstances of the bidder after the submission of the information for pre-qualification; and
- (b) consider any information that becomes available after the pre-qualification which affects, materially, the capacity of the bidder to perform.

(4) The criteria used for post qualification evaluation shall be in accordance with the criteria in the bidding document.

(5) Where the best evaluated bidder does not meet the post qualification evaluation criteria, the Evaluation Committee shall record this in the evaluation report and the exercise shall be undertaken for the next best evaluated bidder.



(6) Where the Evaluation Committee determines that the best evaluated bidder no longer meets the pre-qualification requirements, it may recommend that the contract is not awarded to the best evaluated bidder.

(7) For purposes of post qualification evaluation, an Evaluation Committee may request a bidder for independent references and the results from the references may be used to determine the award decision.

## **12. Evaluation report.**

(1) The Evaluation Committee shall prepare an evaluation report which shall indicate—

- (a) the total price of the bid of each bidder and the technical score of each bidder as read out at the public opening of the financial bids;
- (b) the results of the administrative compliance of the bids to the terms and conditions of the bidding documents and the reasons for the rejection of the bids that are rejected;
- (c) the evaluated price of each bid, following any corrections or adjustments to the price and the conversion to a single currency;
- (d) the score of each financial bid;
- (e) the weighting of the technical and financial scores; and
- (f) the total score for each bid.

(2) The evaluation report shall contain the following recommendations—

- (a) the best evaluated bidder and the evaluated price of the best evaluated bidder;
- (b) where necessary, that the procuring and disposing entity may carry out negotiations with the best evaluated bidder and the issues for which negotiations should be carried out with the best evaluated bidder; or

(c) where necessary—

- (i) the cancellation of the procurement process; or
- (ii) the cancellation and recommencement of the procurement process.

(3) Every page of an evaluation report shall be signed by all the members of the Evaluation Committee.

(4) The Procurement and Disposal Unit may make comments on the evaluation report and shall submit the report within three working days of receipt.

(5) The evaluation report for the technical compliance evaluation method shall be prepared using Form 14 and for the quality and cost based evaluation method using Form 15 in the Schedule to these Regulations.

### **13. Evaluated price and contract price.**

(1) The evaluated price of the best evaluated bid may not be the contract price of the contract.

(2) The following elements of the financial evaluation shall not be included in the components of the proposed contract price—

- (a) the cost of any items that were missing from the bid and are added during evaluation;
- (b) the costs of adjustments made for deviations that are not material deviations;
- (c) the price of the margin of preference that is allocated to a bidder during evaluation; and
- (d) the gains of conversion of the currencies used in the bids to a common currency.

PART IV—EVALUATION OF BIDS USING THE TECHNICAL  
COMPLIANCE EVALUATION METHOD

**14. Application of Part.**

This Part shall apply to the evaluation of bids for the procurement of supplies, works and non-consultancy services.

**15. Stages of evaluation using technical compliance evaluation method.**

The evaluation of bids using the technical compliance evaluation method shall be conducted under the following four stages—

- (a) a preliminary examination to determine the eligibility of the bidders and the administrative compliance of the bids received;
- (b) a detailed evaluation of the bids that are responsive under paragraph (a) to determine the technical responsiveness of those bids;
- (c) a comparison of the financial bids that are responsive under paragraph (b); and
- (d) post qualification evaluation in accordance with regulation 11, to determine that the best evaluated bidder has the capacity and the resources to effectively execute the contract.

**16. Preliminary examination.**

(1) A preliminary examination shall be conducted to determine whether—

- (a) the bidder is eligible under regulation 17 and as specified in the bidding document; and
- (b) the bid is administratively compliant with the basic instructions and requirements specified in regulation 18 and in the bidding document.

(2) Eligibility and administrative compliance shall be determined on a pass or fail basis and a bid which is not eligible or administratively compliant shall be rejected at the preliminary stage of evaluation.

**17. Eligibility of bidders.**

(1) For the preliminary examination, the Evaluation Committee shall verify the accuracy, validity and authenticity of the documents submitted by a bidder.

(2) A bidder shall be eligible where—

- (a) the bidder has the legal capacity to enter into a contract with the procuring and disposing entity;
- (b) the bidder is not insolvent, in receivership, bankrupt or being wound up or a subject of legal proceedings for any of these circumstances;
- (c) the business activities of the bidder are not suspended under section 94 of the Act;
- (d) the bidder fulfilled the tax and social security obligations applicable in Uganda;
- (e) the bidder does not have a conflict of interest in relation to the subject of the procurement; and
- (f) the bidder is not a member of the procuring and disposing entity as defined in section 91U of the Act.

(3) For the purpose of subregulations (1) and (2) (a), (c) and (e), a bidder shall be required to submit the following documents, with the bid—

- (a) a copy of the trading licence of the bidder or its equivalent;
- (b) a copy of the certificate of registration of the bidder or its equivalent;

- (c) a signed statement indicating that the bidder does not have a conflict of interest in the subject of the procurement; and
- (d) any other documents or statements as may be stated in the bidding documents.

(4) Subregulations (3) (a) and (b) shall not apply to a bidder who is registered by the Authority on the register of providers or where the eligibility of the provider was verified at the pre-qualification stage.

(5) Where the bidder is a foreign provider and a document required specified in subregulation (3) is not available in the country of that foreign provider, the foreign provider shall submit an alternative document or a statement affirming that the document is not available in the country of the foreign provider.

(6) Where a bidder does not submit a document required under subregulation (3) the Evaluation Committee shall in accordance with regulation 6, request the bidder to submit the document and the bidder shall submit the document within two days from the date of the request.

(7) The document submitted under subregulation (6) shall be a document that was valid at the date of the deadline for bid submission.

## **18. Administrative compliance.**

(1) An Evaluation Committee shall determine the administrative compliance of a bidder to confirm that the bidder conforms satisfactorily to the basic instructions, requirements and the terms and conditions of the bidding documents without any material deviation or omission.

- (2) A bidder shall be administratively compliant where—
  - (a) the bidder submits a bid security, where this is required, in the correct form and amount and where the bid security is authentic;
  - (b) the bidder submits a bid securing declaration, where this is required, in the correct form;

- (c) the bidder submits the bid in the required format;
- (d) the authorisation and signature of the bids is in accordance with the instructions in the bidding document;
- (e) the bid validity is correct; and
- (f) the bidder submits additional documents or samples as may be required.

(3) The administrative compliance of a bid with the instructions in the bidding document and its responsiveness to the requirements of the procuring and disposing entity shall be determined based on the contents of the bid.

(4) A bid that is not administratively compliant to the bidding document, shall be rejected at the preliminary stage.

(5) Where a bid is administratively compliant, the Evaluation Committee shall waive any non-conformity or omission in the bid that does not constitute a material deviation.

## **19. Detailed evaluation.**

(1) An Evaluation Committee shall conduct a detailed evaluation of a bid that passes the preliminary examination to assess—

- (a) the responsiveness of the bid to the terms and conditions of the bidding document; and
- (b) the technical responsiveness of the bid to the statement of requirements.

(2) The detailed evaluation shall compare the details of a bid with the criteria stated in the bidding document.

(3) The detailed evaluation shall—

- (a) determine whether a bid conforms to the terms and conditions of the bidding document, without any material deviation;

- (b) determine whether a bid conforms to the statement of requirements without any material deviation;
- (c) for a bid for supplies, determine whether the bid complies with the minimum technical specification stated in the bidding document;
- (d) for a bid for works, determine whether—
  - (i) the bid adheres to the technical specifications and standards;
  - (ii) the proposed work plan and the completion schedule are adequate;
  - (iii) the work methods, including the safety precautions and measures proposed are adequate;
  - (iv) the documents submitted, including drawings, charts, calculations and data sheets are adequate; and
  - (v) the methods proposed for handling materials and the schedules and sources of the materials and equipment are suitable.

(4) A bid which is not substantially responsive to the minimum requirement of the detailed evaluation shall be rejected at the detailed evaluation stage.

## **20. Product demonstration.**

(1) Where it is necessary to assess the technical characteristics of supplies, a procuring and disposing entity may, as part of the detailed evaluation process, request for a demonstration of the product by the provider.

(2) The Evaluation Committee shall give a bidder who is requested to demonstrate a product, sufficient notice of the date, time and location of the demonstration.

(3) The Evaluation Committee shall prior to the demonstration of a product, agree on the requirements of the demonstration and the manner in which the demonstration is to be assessed and recorded.

(4) At least three members of the Evaluation Committee shall attend a demonstration of a product and the members who attend shall prepare a report of the demonstration.

(5) The report in subregulation (4) shall be part of the evaluation report.

## **21. Comparison of financial bids.**

(1) The financial bids, of the corresponding technical bids that are responsive under regulation 19 shall be examined and compared, to determine the best evaluated bid.

(2) In conducting a financial comparison of the bids, the Evaluation Committee shall—

- (a) apply any non-conditional discounts offered in a bid, using regulation 9;
- (b) determine whether the financial bids are complete;
- (c) make adjustments for any deviation that is not a material deviation, using regulation 7;
- (d) where required for purpose of comparison, convert all bids to a single currency;
- (e) where required, apply a margin of preference using the procedure specified in the bidding document;
- (f) determine the total evaluated price of each bid;
- (g) rank the bids using the total evaluated price; and
- (h) determine the best evaluated bid.



(3) Where a cross discount is offered, it shall be incorporated in accordance with regulation 10, in a further financial comparison prior to determining the best evaluated bid.

(4) A financial bid shall be determined to be complete if the prices of all the items required and included in the corresponding technical bid, are indicated in the financial bid.

(5) The best evaluated bid shall be the lowest priced bid which is eligible and administratively compliant to the technical requirements specified in the bidding document.

(6) An Evaluation Committee shall, for the best evaluated bid for works, assess whether the level of payment projected for the different stages of the assignment exceed the progress of the works and where the Evaluation Committee determines that the level of payment projected for the different stages of the assignment exceed the progress of the works, the bidder shall be requested to—

- (a) provide a detailed analysis of the price of any of the items of the bid, to demonstrate that the price is consistent with the construction methods and work schedules proposed in the bid; or
- (b) increase the amount of the performance security provided, where this is necessary to protect the procuring and disposing entity against default.

PART V—EVALUATION OF BIDS USING THE QUALITY  
AND COST BASED EVALUATION METHOD.

**22. Application of Part.**

This Part shall, notwithstanding regulation 14, apply to the evaluation of bids for the procurement of text books, information technology systems and for the evaluation of bids for design and build contracts.

### **23. Preliminary examination.**

(1) An Evaluation Committee shall at the preliminary examination determine whether a bid is administratively compliant.

(2) A bid shall be administratively compliant where the bid conforms to the instructions, requirements and the terms and conditions of the bidding documents without any non-conformity, or omission.

(3) A bid shall be administratively compliant where—

(a) the bid is submitted in the required format;

(b) the financial bid is submitted separately;

(c) the signature and authorisation to submit bids is in accordance with the instructions in the bidding documents;

(d) a bid securing declaration, if required, is submitted in the correct format;

(e) the validity of the bid is correct; and

(f) the additional documentation that is requested for, is submitted.

(4) The preliminary examination shall be conducted on a pass or fail basis and a bid that is not administratively compliant and responsive to the bidding documents, shall be rejected at the preliminary examination stage of evaluation.

(5) Notwithstanding sub regulation (4), where a bid is not administratively compliant but the non-compliance does not constitute a material deviation the Evaluation Committee may waive, clarify or correct the deviation.

### **24. Detailed evaluation.**

(1) An Evaluation Committee shall using the evaluation criteria in the bidding documents and based on the contents of a bid, conduct a detailed evaluation of a bid that passes the preliminary examination

(2) The detailed evaluation shall compare the details of the bid using a merit point evaluation system, as shall be specified in the bidding documents.

(3) A bid which does not achieve the minimum score required in the bidding document shall be rejected at the detailed evaluation stage.

**25. Procedure for conducting merit point evaluation.**

(1) The merit point evaluation shall be conducted using the procedure in this subregulation—

- (a) the members of the Evaluation Committee shall at a meeting of the Evaluation Committee discuss the criteria and any sub-criteria and the relative importance of each criteria and sub-criteria;
- (b) each member of the Evaluation Committee shall independently evaluate each bid and award a score for the set criterion and record the score in the score sheet;
- (c) the chairperson of the Evaluation Committee shall at a meeting of the Evaluation Committee collect the score sheets of the members and the scores awarded by each member of the evaluation team shall be compiled during the meeting, to produce a score sheet for each bid, from which the average score for each bid shall be calculated;
- (d) the members of the Evaluation Committee shall compare the scores of each member of the evaluation team, for each bid, to verify that there has been a consistency of approach to the evaluation and a common understanding of the criteria and of each bid, by all the members of the Evaluation Committee;
- (e) the Evaluation Committee shall note any significant deviation from the average score or any inconsistencies in scoring and these shall be discussed and each member

of the evaluation team shall, where required, explain and justify the scores awarded; and

- (f) where the Evaluation Committee agrees that a member of the Evaluation Committee was not consistent in the approach or did not understand the evaluation criterion or a bid, the member shall be permitted to adjust the scores awarded but shall not be obliged to make the adjustments.

(2) The average score in sub regulation (1) (c) shall be the total technical score of the bid and where a weighted score is used, the weightings shall be applied prior to calculating the average score.

(3) For the purposes of sub regulation (1) (f), an adjustment shall only be permitted to the extent necessary to correct an inconsistency in the approach or where a member of the Evaluation Committee did not understand the evaluation criterion or the bid.

(4) An adjustment shall not be made where it is not permitted by the Evaluation Committee.

(5) Where a score is adjusted, the original score sheet shall be kept as part of the record of the evaluation and the adjusted score shall be recorded on a separate score sheet.

## **26. Technical evaluation report.**

(1) The Evaluation Committee shall, using Form 16 in the Schedule to these Regulations prepare a technical evaluation report which shall indicate the strengths and weaknesses of each bid.

(2) The technical evaluation report shall be signed by all the members of the Evaluation Committee and shall submit the report to the Procurement and Disposal Unit.

(3) The Procurement and Disposal Unit shall not make any change to the technical evaluation report but may make comments in respect of the report and shall submit the technical evaluation report

to the Contracts Committee for approval, before the opening of the financial bids.

**27. Notification to bidders not recommended for financial evaluation.**

(1) After approval of the technical evaluation report by the Contracts Committee and before the opening of the financial bids, the bidders whose bids are disqualified at the technical evaluation stage and which are not recommended for financial evaluation shall be accordingly informed.

(2) The procuring and disposing entity shall, on request, provide a bidder whose bid is disqualified at the technical evaluation stage and which is not recommended for financial evaluation with a debrief which shall state the score awarded to the bid at the technical evaluation, the reasons for the disqualification of the bid and the shortcomings of the bid against the evaluation criteria.

(3) The debrief under this regulation shall be unique to the bidder who makes a request and shall not provide details on any other bid, other than the information that is otherwise publicly available.

(4) The scores for the technical bids shall be displayed on the procurement and disposal notice board of the procuring and disposing entity.

(5) The debrief shall be provided within two working days of a request by a bidder.

(6) A financial bid that is not evaluated shall be returned to the bidder, unopened, after the contract is signed.

**28. Public opening of financial bids.**

(1) A procuring and disposing entity shall notify the bidders whose technical bids qualify for financial comparison of the session for opening the financial bids.

- (2) The notification shall indicate—
  - (a) the date and time of the opening of the financial bids, which date shall be three working days after the notification;
  - (b) the location of the opening session; and
  - (c) the information to be read out and recorded at the opening session.

(3) The session for opening the financial bids shall be open to the public.

(4) The procuring and disposing entity shall make a record of the opening session and shall in the record, note any inconsistencies or omissions in the bids submitted.

(5) A copy of the record shall be posted on the procurement and disposal notice board of the procuring and disposing entity or where available, the website of the procuring and disposing entity, a day after the public opening session is held and shall be displayed for a minimum of four weeks.

(6) The financial bids shall be opened within three working days after approval of the technical evaluation report by the Contracts Committee.

(7) The public opening of the financial bids shall be recorded using Form 17 in Schedule 1 to these Regulations.

## **29. Procedure for opening of financial bids.**

(1) The opening of the financial bids shall be managed by the Procurement and Disposal Unit and shall be witnessed by a member of the Contracts Committee or a person nominated by the user department.

(2) The Procurement and Disposal Unit shall open all the financial bids and read out the information that is required to be read out, as specified in the bidding document, to be read out at the public opening session.

(3) The Procurement and Disposal Unit shall at the financial bid opening session notify the bidders—

- (a) of the bidders who submitted bids;
- (b) of the technical score obtained by each bidder;
- (c) of the total price of each financial bid, including the currency and the amount; and
- (d) of any other information that is required to be stated at the public opening as indicated in the bidding documents.

(4) All the important pages of the financial bids which include; the signed pages of the financial bid, the bid submission sheet and all the pages containing the financial information, shall be endorsed with the stamp of the procuring and disposing entity and signed or initialled by the person who chairs the public opening session.

**30. Representation of bidders at opening session of financial bids.**

(1) A procuring and disposing entity shall allow a bidder or a representative of the bidder whose financial bid is to be opened, to attend the public opening session.

(2) At a public opening session, a bidder or a representative of the bidder—

- (a) shall be requested to confirm that the bid is as it was submitted;
- (b) shall not be permitted to make any addition, deletion or modification to the exterior or the contents of the bid;
- (c) may ask questions after the bids are opened but a procuring and disposing entity shall not enter into a discussion with the bidder or the representative of the bidder, on the specific details of any bid.

### **31. Financial comparison.**

(1) For the purposes of evaluating financial bids of the corresponding technical bids that adhered to the minimum qualifying score under the detailed technical evaluation of the technical bids, an Evaluation Committee shall conduct a financial comparison of the bids by examining and comparing the financial bids and determining the best evaluated bid.

(2) The financial comparison shall—

- (a) assess whether a bid conforms to the terms and conditions of the bidding documents, without material deviation;
- (b) determine the bid price;
- (c) determine whether a financial bid is complete and where a financial bid is not complete, disqualify the bid;
- (e) make adjustments for a non-conformity or an omission in a bid that does not constitute a material deviation in accordance with subregulation (3);
- (f) convert the currencies of the bids into a single currency for purposes of comparison, where required;
- (g) apply any margin of preference in accordance with the procedure specified in the bidding documents;
- (h) determine the total evaluated price of each bid; and
- (i) award a financial score to each bid or rank the bids, in accordance with the requirements of the selection method used.

(3) For the purposes of sub regulation (2) (e), an adjustment for a non-conformity or an omission in a bid that does not constitute a material deviation shall be made using the following rules—

- (a) the price of an input or item that is described in the technical bid but which is not priced, shall be assumed to be included in the prices of the other inputs or items; and



- (b) where the quantification of an input or item in the financial bid is different from the quantification in the technical bid the Evaluation Committee shall—
  - (i) where a time-based contract is to be used, correct the quantification in the financial bid to make it consistent with the quantification in the technical bid by applying the relevant unit price to the corrected quantity and correcting the total financial price; and
  - (ii) shall not make any adjustment to the financial bid where a lump sum contract is used.

(4) A financial bid shall be complete where the inputs and items indicated in the technical bid are priced in the financial bid.

(5) The financial bid with the lowest evaluated price shall be given a financial score of 100 and the other bids shall each be given a financial score that is inversely proportional to the lowest evaluated price.

(6) Notwithstanding sub regulation (1), another method, where this is provided in the bidding documents, may be used to allocate scores for the cost.

### **32. Determination of best evaluated bid.**

- (1) For the purposes of determining the best evaluated bid—
  - (a) the score of the technical and financial bids shall be weighted, using the weights stated in the bidding documents; and
  - (b) the total score of a bid shall be obtained by adding the weighted score of the technical and financial bids.

(2) The bidder who obtains the highest total score under paragraph (b) shall be recommended for award of contract.

**33. Revocation and transition.**

(1) The Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2014 are revoked.

(2) An evaluation process that had commenced under the Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2014 and the Local Governments (Public Procurement and Disposal of Public Assets) Regulations, 2006 shall be continued and completed under these Regulations.

**FORM 13**

*Regulation 2(4)*

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003**

**DECLARATION TO ABIDE BY THE CODE OF ETHICAL  
CONDUCT IN BUSINESS**

<b>Procurement Reference Number</b>			
Code of Procuring and Disposing Entity	Supplies/Works/ Non-consultancy Services	Financial Year	Sequence Number

Date	
Subject of Procurement	

I hereby declare that I have read the Code of Ethical Conduct in Business in Schedule 5 to the Public Procurement and Disposal of Public Assets Act, 2003 and that I will execute my responsibilities of a member of the Evaluation Committee in accordance with the Code and I have no personal interest that may impinge or might reasonably be deemed by others to impinge upon the execution of my duties in evaluation of the bids for the procurement/disposal.

No	Name	Title and Department	Position on Evaluation Committee <i>Chairperson/Member/Secretary</i>	Signature

**FORM 14**

*Regulation 12(5)*

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003**

**EVALUATION REPORT UNDER THE TECHNICAL COMPLIANCE EVALUATION METHOD**

Procurement Reference Number			
Code of Procuring and Disposing Entity	Supplies/Works/ Non-consultancy Services	Financial Year	Sequence Number

**1. Introduction**

- (1) The requirement is for the [supply, delivery/installation/commissioning] \_\_\_\_\_ of [subject of procurement]\_\_\_\_\_.
- (2) The procurement method used and approved by the Contracts Committee was [open domestic bidding/open international bidding/restricted domestic bidding/restricted international bidding/quotations/direct procurement] \_\_\_\_\_

## 2. Details of invitation

*{For open bidding without pre-qualification}*

- (1) The bidding document was approved by the Contracts Committee on [date]\_\_\_\_\_.
- (2) The bid notice was advertised on the [date]\_\_\_\_\_ in [name of publications]\_\_\_\_\_.
- (3) The list of bidders issued with the bidding document was recorded using Form 8 which is attached.

*{For open bidding with pre-qualification}*

- (1) The invitation to bid, pre-qualification evaluation and shortlist were approved by the Contracts Committee on [date]\_\_\_\_\_.
- (2) The list of bidders who were issued with the bidding documents/Request for quotation was recorded using Form 8 which is attached.

*{For restricted bidding or quotation procurement method}*

- (1) The invitation to bid/request for quotations document and the shortlist were approved by the Contracts Committee on [date]\_\_\_\_\_.
- (2) The bidders who were issued with the bidding documents/ request for quotations were recorded using Form 8 which is attached.

*{For direct procurement}*

- (1) The bidding document and proposed bidder were approved by the Contracts Committee on [date] \_\_\_\_\_.
- (2) The bidding document was issued on [date] \_\_\_\_\_.

**3. Addenda to bidding document**

*{For addenda}*

- (1) [Number] \_\_\_\_\_ addendum/addenda was/were approved by the Contracts Committee on [date(s)] \_\_\_\_\_ and issued.
- (2) The issue of the addendum/addenda was recorded using Form 8 which is attached.

*{For no addenda}*

- (1) No addenda to the bidding document were required or issued.

**4. Pre-bid meeting *{delete if not applicable}***

- (1) A pre-bid meeting was held at [location] \_\_\_\_\_ on [date] \_\_\_\_\_.
- (2) The minutes were recorded using Form 10 which is attached.

**5. Details of bid closing**

*{For open bidding, restricted bidding and quotation procurement}*

- (1) Bidding was closed on [date] \_\_\_\_\_ at [time] \_\_\_\_\_ at [location] \_\_\_\_\_.
- (2) The receipt of bids was recorded using Form 11 which is attached.

*{For direct procurement}*

The sealed bid was received on [date].

**6. Details of bid opening**

- (1) A public bid opening was held at [location] \_\_\_\_\_ on [date] \_\_\_\_\_ at [time] \_\_\_\_\_.
- (2) The bid opening session and the attendance was recorded using Form 12 which is attached.

**7. Details of membership of the Evaluation Committee**

The Evaluation Committee approved by the Contracts Committee on [date] comprised:

- [Name] \_\_\_\_\_ [designation and department] \_\_\_\_\_
- [Name] \_\_\_\_\_ [designation and department] \_\_\_\_\_
- [Name] \_\_\_\_\_ [designation and department] \_\_\_\_\_



## **8. Details of evaluation methodology**

The evaluation methodology used was technical compliance evaluation method, which involved the following four stage procedure:

- a. Preliminary examination on a pass/fail basis to determine the eligibility of the bidders and assess their administrative compliance to the Invitation. Non eligible and non compliant bids were eliminated from further evaluation.
- b. Detailed evaluation to determine the technical responsiveness of eligible, compliant bids to the technical specification and terms and conditions in the invitation. Bids that were not substantially responsive were eliminated from further evaluation.
- c. Financial comparison to examine and rank financial bids. The lowest price eligible, compliant, substantially responsive bid was ranked first and declared the best evaluated bid.
- d. Post qualification evaluation to determine whether the best evaluated bidder has the capacity and the resources to effectively execute the procurement for the procuring and disposing entity.

## **9. Preliminary examination**

[Brief narrative on the result of the preliminary examination and detailed justification with reasons why any bid was declared non eligible or non compliant.]

Refer Table 1 which summarises the preliminary examination.

## **10. Detailed evaluation**

*[Brief narrative on the results of the detailed evaluation and detailed justification with reasons why any bids were declared non responsive. Include details of any nonmaterial nonconformities, errors or*

*omissions waived or rectified by the evaluation committee and the way in which they were quantified for inclusion in the financial comparison. Include details of all clarifications requested and received from bidders].*

Refer to Table 2 which summarises the detailed evaluation.

#### **11. Financial comparison**

*[Describe the correction of any arithmetic errors, application of any discounts, adjustments made for any nonmaterial nonconformities, errors or omissions, conversion to a common currency and application of any margin of preference].*

All bids that were eligible, compliant and substantially responsive were ranked, with the lowest priced being ranked first.

Refer Table 3 which summarises the financial comparison.

#### **12. Evaluation of multiple lots {delete if not applicable}**

A second stage of the financial comparison was undertaken to apply discounts, which were conditional on the simultaneous award of more than one lot.

See the attached spreadsheet which details the application of the conditional discounts.

**13. Post-qualification** *(if required)*

[*Name of bidder*] was evaluated against the post-qualification criteria stated in the bidding document. [Brief narrative on the result of the post-qualification evaluation and detailed justification with reasons if the bidder was found not qualified against any criteria.]

On the basis of the post-qualification criteria stated, [name of bidder] \_\_\_\_\_ is qualified/not qualified *{delete as applicable}*.

See record that summarises the post-qualification evaluation.

**14. Recommendations** *{to be amended as appropriate}*

On the basis of the evaluation methodology and criteria stated in the invitation, it is recommended that-

- (1) the best evaluated bid for the procurement of [*list all items the recommendation relates to*] is from [*name of bidder*] with a total evaluated price of [*currency and amount*] \_\_\_\_\_.
- (2) negotiations are/are not required.
- (3) the total proposed contract price is [*currency and amount*] \_\_\_\_\_.
- (4) the total acquisition cost for the requirement is estimated to be [*currency and amount*] \_\_\_\_\_, including [*state all incidental costs included in the estimate*]

*{Repeat these recommendations for split awards or multiple lots}*

**15. Disagreement by the Evaluation Committee** *{delete if not applicable}*

The Evaluation Committee did not reach a unanimous decision on the evaluation and this evaluation report details the view of the majority of the team. [Give details of the issues where the team disagreed, the discussions held, the alternative views and the names of those with alternative views].

**16. Signed by the Evaluation Committee:**

We confirm that this evaluation report gives a complete and accurate report of the evaluation conducted:

Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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**Annexes: {amend as appropriate}**

Form 8: Record of sale or issue of bidding documents

Form 10: Record of minutes of pre-bid meeting

Form 11: Record of bids received

Form 12: Record of bid opening

Table 1: Preliminary examination

Table 2: Summary of detailed evaluation

Table 3: Summary of financial comparison

Spreadsheets detailing line-item comparisons for partial or split awards

Spreadsheets showing the application of conditional discounts

Minutes of the meeting of the evaluation committee

**Documents available from the Procurement and Disposal Unit: {to be amended as appropriate}**

Copy of the bidding document.

Copy of all bids.

**TABLE 1 – PRELIMINARY EXAMINATION AND ASSESSMENT OF ELIGIBILITY**

	1	2	3	4	5
<b>Name of Bidder</b>					
<b>Eligibility criteria</b>					
<i>{Complete criteria as per bidding document}</i>	C/NC	C/NC	C/NC	C/NC	C/NC
	C/NC	C/NC	C/NC	C/NC	C/NC
	C/NC	C/NC	C/NC	C/NC	C/NC
	C/NC	C/NC	C/NC	C/NC	C/NC
	C/NC	C/NC	C/NC	C/NC	C/NC
	C/NC	C/NC	C/NC	C/NC	C/NC
	C/NC	C/NC	C/NC	C/NC	C/NC
<b>Administrative compliance criteria</b>					
<i>{Complete criteria as per bidding document}</i>	C/NC	C/NC	C/NC	C/NC	C/NC
	C/NC	C/NC	C/NC	C/NC	C/NC
	C/NC	C/NC	C/NC	C/NC	C/NC
	C/NC	C/NC	C/NC	C/NC	C/NC
	C/NC	C/NC	C/NC	C/NC	C/NC
	C/NC	C/NC	C/NC	C/NC	C/NC
	C/NC	C/NC	C/NC	C/NC	C/NC
	C/NC	C/NC	C/NC	C/NC	C/NC
<b>Conclusion</b>	C/NC	C/NC	C/NC	C/NC	C/NC

**KEY: C = Compliant NC = Non-Compliant** *{delete that which is not applicable in the table above}*

This preliminary examination eliminated *[number]* bidders, *[names of bidders]*.

**TABLE 2 – SUMMARY OF DETAILED TECHNICAL EVALUATION  
(ONLY BIDS THAT ARE ELIGIBLE AND COMPLIANT)**

<b>Procurement Reference Number</b>				
<b>Code of Procuring and Disposing Entity</b>	<b>Supplies/Works/Non-consultancy Services</b>	<b>Financial Year</b>	<b>Sequence Number</b>	
<b>No.</b>	<b>Name of Bidder</b>	<b>Technical Responsiveness</b>	<b>Reasons for the responsiveness/non responsiveness. State any nonmaterial nonconformities, errors and omissions accepted and the way in which they were quantified</b>	
		R/NR		
		R/NR		
		R/NR		
		R/NR		

**KEY: R = Responsive NR = Non-Responsive** {delete that which is not applicable in the table above}

This examination eliminated [number] bidders, [Names of bidders].

**TABLE 3 – SUMMARY OF FINANCIAL COMPARISON  
(ONLY BIDS THAT ARE ELIGIBLE, COMPLIANT AND SUBSTANTIALLY RESPONSIVE)**

Procurement Reference Number			
Code of Procuring and Disposing Entity	Supplies/Works/Non-consultancy Services	Financial Year	Sequence Number

**EVALUATION CURRENCY:** \_\_\_\_\_

No.	Name of Bidder	Bid Currency	Bid Total	Corrections made	Discounts	Adjustments made	Corrected Amount	Exchange Rate	Converted Total	Margin of Preference	Evaluated Total	Rank



No.	Name of Bidder	Bid Currency	Bid Total	Corrections made	Discounts	Adjustments made	Corrected Amount	Exchange Rate	Converted Total	Margin of Preference	Evaluated Total	Rank

*{Attach working spreadsheets detailing line-item comparisons for partial or split awards or detailing the application of conditional discounts for multiple lots}.*

**FORM 15**

*Regulations 12(5)*

THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003

**COMBINED TECHNICAL AND FINANCIAL EVALUATION REPORT UNDER QUALITY AND COST BASED EVALUATION METHOD**

PROCUREMENT REFERENCE NUMBER			
Code of Procuring and Disposing Entity	Supplies/Works/Non-consultancy Services	Financial Year	Sequence Number

**\*\*Please read the guidance notes for preparing evaluation report at the end of this Form**

**1. Introduction**

(1) On..... (Date), the Contracts Committee approved the technical evaluation report and the opening of financial bids of the following bidders:

S/No.	Name of Bidder	Technical Score

(2) A copy of the technical evaluation report is attached as Annex 1.

## FINANCIAL COMPARISON

### 2. Details of financial bid opening

- (1) A public opening of financial bids was held at [location] on [date] at [time].
- (2) The financial bid was opened, stamped and signed by the Chairperson. The price and technical score read out.
- (3) The bid opening and attendance was recorded using Form 17: Record of financial bid opening which is attached.

*{For quality and cost based selection}*

### 3. Financial comparison

*{Describe the correction of any arithmetic errors, application of any discounts, adjustments made for any nonmaterial nonconformities, errors or omissions, conversion to a common currency and application of any margin of preference.}*

The bid with the lowest evaluated price was given a score of 100 and the other bids were given financial scores that were inversely proportional to the lowest priced proposal.

*{Or describe other methodology for allocating financial scores, in accordance with the invitation.}*

Refer to Table 1, which summarises the financial comparison.

### 4. Total technical and financial score

- (1) A total score was obtained by weighting the technical and financial scores, using the weights stated in the invitation, and adding them together.
- (2) The technical weight was [technical weight] % and the financial weight was [financial weight] %.

(3) The bids were ranked according to total score, with the highest total score being ranked first. Refer to Table 2, which summarises the technical and financial scores and weightings and the total scores and rankings.

**5. Post-qualification (if required)**

- (1) [Name of bidder] was evaluated against the qualification criteria stated in the bidding document.
- (2) [Brief narrative on the result of the post-qualification evaluation and detailed justification with reasons if the bidder was found not qualified against any criteria.]
- (3) On the basis of the qualification criteria stated, [name of bidder] is qualified/not qualified {delete as applicable}.

See record that summarises the post-qualification evaluation.

**6. Recommendations {amend as appropriate}**

On the basis of the evaluation methodology and criteria stated in the invitation, it is recommended that-

- (1) the best evaluated bid for the procurement of [list all items the recommendation relates to] is from [name of bidder] with a total evaluated price of [currency and amount].
- (2) negotiations are/are not required.
- (3) the total proposed contract price is [currency and amount].
- (4) the total acquisition cost for the requirement is estimated to be [currency and amount], including [state all incidental costs included in the estimate].

**7. Disagreement by the Evaluation Committee** *{delete if not applicable}*

The Evaluation Committee could not reach a unanimous decision on the evaluation and this evaluation report details the view of the majority of the team.

[Give details of the issues where the team disagreed, the discussions held, the alternative views and the names of those with alternative views].

**8. Signed by the Evaluation Committee:**

We confirm that this Evaluation Report gives a complete and accurate report of the evaluation conducted:

Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Annexes:**

- Technical evaluation report under quality and cost based evaluation method
- Form 17: Record of financial bid opening
- Table 1: Summary of financial comparison
- Table 2: Technical and financial evaluation summary
- Minutes of the meeting of the evaluation committee

**Documents available from the Procurement and Disposal Unit:** *{amend as appropriate}*

Copy of all financial bids.





**FORM 16**

*Regulation 26(1)*

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003**

**TECHNICAL EVALUATION REPORT UNDER QUALITY AND COST  
BASED EVALUATION METHOD**

<b>Procurement Reference Number</b>			
Code of Procuring and Disposing Entity	Supplies/Works/ Non-consultancy Services	Financial Year	Sequence Number

**\*\*Please Read the Guidance notes for preparing evaluation report at the end of this Form**

**BACKGROUND**

**1. Introduction**

- (1) The requirement is for the provision of [*subject of procurement*].
- (2) The procurement method used and approved by the Contracts Committee was [*open domestic bidding/open international bidding/restricted domestic bidding/restricted international bidding/quotation/direct procurement*].



**2. Details of invitation**

*{For open bidding without pre-qualification}*

- (1) The bid document/request for quotations (RFQ) was approved by the Contracts Committee on [date] \_\_\_\_\_.
- (2) The bid notice was advertised on the [date] \_\_\_\_\_ in [name of publications].
- (3) The list of bidders who purchased or were issued with the bid documents was recorded using Form 8 which is attached.

*{For open bidding with pre-qualification}*

- (1) The invitation to bid/request for quotations (RFQ), evaluation of expressions of interest and shortlist were approved by the Contracts Committee on [date] \_\_\_\_\_.
- (2) The list of bidders who were issued with the bid documents was recorded using Form 8 which is attached.

*{For restricted bidding or proposals procurement}*

- (1) The invitation to bid/request for quotations (RFQ) document and shortlist were approved by the Contracts Committee on [date] \_\_\_\_\_.
- (2) The bidders who were issued with the bid documents/RFP was recorded using Form 8 which is attached.

*{For Direct procurement}*

- (1) The bidding document and proposed bidder were approved by the Contracts Committee on [date] \_\_\_\_\_.
- (2) The bidding document was issued on [date] \_\_\_\_\_.

**3. Addenda to bidding document**

*{For addenda}*

- (1) [Number] addendum/addenda was/were approved by the Contracts Committee on [date(s)] \_\_\_\_\_ and issued.
- (2) The issue of the addendum/addenda was recorded using Form 8 which is attached.

*{For no addenda}*

No addenda to the bidding document were required or issued.

**4. Pre-bid meeting *{delete if not applicable}***

- (1) A pre-bid meeting was held at [location] \_\_\_\_\_ on [date] \_\_\_\_\_.
- (2) The meeting was recorded using Form 10 which is attached.

**5. Deadline for submission of proposals**

*{For open bidding, restricted bidding and quotation method}*

- (1) Bidding was closed on [date] \_\_\_\_\_ at [time] \_\_\_\_\_ at [location] \_\_\_\_\_.
- (2) The receipt of bids was recorded using Form 11 which is attached.

*{For direct procurement}*

The sealed bid was received on [date] \_\_\_\_\_.

**6. Details of bid opening**

- (1) A public bid opening was held at [*location*] \_\_\_\_\_ on [*date*] \_\_\_\_\_ at [*time*] \_\_\_\_\_.
- (2) The outer envelopes were opened and checks were made to ensure that the envelopes contained two separately sealed envelopes of technical and financial bids.
- (3) Only the technical bids only were opened, stamped and signed by the Chairperson.
- (4) The financial bids were not opened and were put into secure storage.
- (5) The bid opening and attendance was recorded using Form 12 which is attached.

**7. Details of Evaluation Committee**

The Evaluation Committee approved by the Contracts Committee on [*date*] \_\_\_\_\_ comprised:

- [*Name*] \_\_\_\_\_ [*designation and department*] \_\_\_\_\_
- [*Name*] \_\_\_\_\_ [*designation and department*] \_\_\_\_\_
- [*Name*] \_\_\_\_\_ [*designation and department*] \_\_\_\_\_
- [*Name*] \_\_\_\_\_ [*designation and department*] \_\_\_\_\_

## **PART 1: TECHNICAL EVALUATION**

### **8. Details of evaluation method.**

The evaluation method being used is the quality and cost based selection method which involves the following procedure:

- (a) preliminary examination on a pass/fail basis to determine the eligibility of the bidders and assess their administrative compliance to the Invitation. Non eligible and non compliant bids were eliminated from further evaluation;
- (b) detailed evaluation to assess the technical quality of bids against the criteria in the Terms of Reference in the invitation and determine their total technical score using a merit point system. Each bid was compared to the minimum technical qualifying mark stated in the invitation and those not meeting the minimum mark were eliminated from further evaluation;
- (c) Financial bids of those bidders who were substantially responsive and met the minimum qualifying mark will be opened and a financial comparison carried out to examine financial bids and determine the financial score of each bid;
- (d) Technical and financial scores will be combined, using the weightings given in the invitation, to give a total score for each bid. The bidder with the highest total score will be ranked first and recommended for contract award, subject to any negotiations required.

### **9. Preliminary examination**

Brief narrative on the result of the preliminary examination and detailed justification with reasons why any proposals were declared non eligible or non compliant].

Refer to Table 1, which summarises the preliminary examination.

**10. Detailed technical evaluation (of the eligible, compliant proposals)**

*[Brief narrative on the results of the detailed technical evaluation, including strong and weak points of each bid and reasons for any large differences in scores between evaluators. State how many bids reached the minimum qualifying mark and how many failed to reach it].*

The strengths and weaknesses of each proposal are highlighted below:

<b>Number</b>	<b>Name of Consultant</b>	<b>Strengths</b>	<b>Weaknesses</b>
1.			
2.			
3.			

A summary of the technical scores is given in Table 2, indicating which bids reached the minimum qualifying mark. The score sheets for each bid, showing the scores given by each evaluator against each of the criterion and the average scores are also included as Table 2A and the individual evaluators' score sheets as Table 2B.

**11. Recommendation** *{amend as appropriate}*

On the basis of the detailed evaluation criteria and the minimum technical qualifying mark of *[minimum qualifying mark]* stated in the invitation, it is recommended that the financial bids of the following *[number]* bidders be opened:

Bid Number	Name of Bidder	Technical Score

**12. Disagreement by the Evaluation Committee** *{delete if not applicable}*

The evaluation committee could not reach a unanimous decision on the evaluation and this evaluation report details the view of the majority of the team.

[Give details of the issues where the team disagreed, the discussions held, the alternative views and the names of those with alternative views].

**13. Signed by the Evaluation Committee**

I confirm that this evaluation report gives a complete and accurate report of the evaluation conducted:

Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Annexes: {amend as appropriate}**

Form 8 - Record of sale or issue of bidding documents

Form 10 - Record of minutes of pre-bid meeting

Form 11 - Record of bids received

Form 12 - Record of opening of technical bids

Table 1: Preliminary examination

Table 2: Summary of detailed technical evaluation

Table 2A: Detailed technical evaluation of bid (one in respect of each bidder)

Table 2B: Score sheet for technical evaluation (one for each evaluator)

Minutes of the meeting of the evaluation committee

**Documents available from the Procurement and Disposal Unit: {amend as appropriate}**

Copy of the bidding document.

Copy of all technical bids.





**TABLE 2 – SUMMARY OF DETAILED TECHNICAL EVALUATION**

Evaluation criteria	Maximum score	<i>{ Enter the average scores using Table 2A }</i>					
<i>{Complete criteria and maximum scores as listed in bidding document}</i>		Bidder 1	Bidder 2	Bidder 3	Bidder 4	Bidder 5	Bidder 6
<b>A</b>	<b>Main Criteria</b>						
A	Sub-criteria						
A2							
A3							
A4							
<b>B</b>	<b>Main Criteria</b>						
B1	Sub-criteria						
B2							
B3							
B4							
<b>C</b>	<b>Main Criteria</b>						
C1	Sub-criteria						
C2							



**TABLE 2A – DETAILED TECHNICAL EVALUATION OF PROPOSAL**

**NAME OF BIDDER:** \_\_\_\_\_

Evaluation Criteria		Maximum Score	<i>{Enter the scores awarded by each evaluator using Table 2B}</i>					Average
<i>{Complete criteria and maximum scores as listed in the bidding document}</i>			Evaluator 1	Evaluator 2	Evaluator 3	Evaluator 4	Evaluator 5	Average
<b>A</b>	<b>Main Criteria</b>							
	Sub-criteria							
	A2							
	A3							
	A4							
<b>B</b>	<b>Main Criteria</b>							
	Sub-criteria							
	B2							
	B3							
	B4							
<b>C</b>	<b>Main Criteria</b>							



**TABLE 2B – EVALUATOR’S SCORE SHEET FOR DETAILED TECHNICAL EVALUATION**

NAME OF EVALUATOR: \_\_\_\_\_

Evaluation Criteria		M a x Score						
<i>{Complete criteria and maximum scores as listed in the bidding document}</i>			Bidder 1	Bidder 2	Bidder 3	Bidder 4	Bidder 5	Bidder 6
<b>A</b>	<b>Main Criteria</b>							
A1	Sub-criteria							
A2								
A3								
A4								
<b>B</b>	<b>Main Criteria</b>							
B1	Sub-criteria							
B2								
B3								
B4								
<b>C</b>	<b>Main Criteria</b>							
C1	Sub-criteria							
C2								
C3								



**FORM 17**

*Regulation 28(7)*

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003**

**RECORD OF FINANCIAL BID OPENING**

<b>Procurement Reference Number</b>			
Code of Procuring and Disposing Entity	Supplies/Works/Non-consultancy Services	Financial Year	Sequence Number

<b>Particulars of Procurement</b>	
Subject of Procurement	
Date and Time of Bid Opening	

Location of Bid Opening
-------------------------

**PART 1: Record of Bids Opened and Details Read Out**

No	Name and Address of the Bidder	Technical Score	Currency and Price of Financial Bid	Remarks

All bids were received on time in response to the bid documents and were opened, read out and recorded:

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_



**RECORD OF ATTENDANCE**

<b>No</b>	<b>Name and Address</b>	<b>Position/Title</b>	<b>Bidder/ Staff</b>	<b>Signature</b>

**MATIA KASAIJA,**  
*Minister of Finance, Planning and Economic Development.*

**STATUTORY INSTRUMENTS SUPPLEMENT**

*to The Uganda Gazette No. 80 Volume CXVI, dated 8th December, 2023*

Printed by UPPC, Entebbe, by Order of the Government.

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**S T A T U T O R Y I N S T R U M E N T S**

**2023 No. 98.**

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS  
(PROCURING AND DISPOSING ENTITIES) REGULATIONS, 2023.**

**ARRANGEMENT OF REGULATIONS**

*Regulation*

1. Title and commencement.
2. Interpretation.
3. Membership of Contracts Committee.
4. Appointment of members of Contracts Committee.
5. Termination of office of member of Contracts Committee.
6. Member of Contracts Committee to declare personal interests.
7. Conduct of meetings of Contracts Committee.
8. Records of Contracts Committee meetings.
9. Co-opting of advisers to meetings of the Contracts Committee.
10. Performance of functions by Contracts Committee.
11. Submissions to Contracts Committees.
12. Disagreement between Accounting Officer and Contracts Committee.
13. Management of procurement and disposal process by Procurement and Disposal Unit.

## *Regulation*

14. Cancellation of procurement or disposal process.
15. Annual and monthly reports on procurement.
16. Delegation of procurement and disposal functions by Accounting Officer.
17. Procurement and disposal notice board of procuring and disposing entity.
18. Contracting out of procurement or disposal function to another procuring and disposing entity.
19. Conditions for contracting out procurement or disposal function to another procuring and disposal entity.
20. Engagement of third party procurement and disposal services to perform functions of procuring and disposing entity.
21. Contract for third party procurement and disposal services.
22. Procurement with another procuring and disposing entity of items used in common.
23. Procedure for applying for a deviation from use of standard documents.
24. Procedure for applying for accreditation of alternative procurement and disposal systems.
25. Customisation of standard documents.
26. Due diligence.
27. Role of internal audit department.
28. Revocation and transition.

## **SCHEDULE**

- Form 1 — Letter of Appointment to the Contracts Committee
- Form 2 — Monthly Report on Procurement
- Form 3 — Delegation of Procurement Functions by Accounting Officer
- Form 4 — Delegation of Disposal Functions by Accounting Officer

# STATUTORY INSTRUMENTS

2023 No. 98.

## **The Public Procurement and Disposal of Public Assets (Procuring and Disposing Entities) Regulations, 2023**

*(Made under sections 96(1) and 96A of the Public Procurement and Disposal of Public Assets Act, 2003, Act No 1 of 2003).*

IN EXERCISE of the powers conferred upon the Minister responsible for finance by sections 96(1) and 96A of the Public Procurement and Disposal of Public Assets Act, 2003, in consultation with the Minister responsible for the Kampala Capital City Authority and the Minister responsible for local governments, and on the recommendation of the Authority, these Regulations are made, this 26<sup>th</sup> day of September, 2023.

### **1. Title and commencement.**

(1) These Regulations may be cited as the Public Procurement and Disposal of Public Assets (Procuring and Disposing Entities) Regulations, 2023.

(2) These Regulations shall come into force on the 5<sup>th</sup> day of February, 2024.

### **2. Interpretation.**

In these Regulations, “Act” means the Public Procurement and Disposal of Public Assets Act, 2003.

### **3. Membership of Contracts Committee.**

(1) A person shall be a member of a Contracts Committee in his or her individual capacity, and not by virtue of his or her position or designation.

(2) A member of a Contracts Committee who is not able to attend a meeting of the Contracts Committee shall not nominate a representative or proxy, for purposes of the meeting.

(3) Where a procuring and disposing entity has a governing body, a member of the governing body shall not be a member of the Contracts Committee of the procuring and disposing entity.

**4. Appointment of members of Contracts Committee.**

(1) An Accounting Officer shall, using the format in Form 1 of the Schedule, appoint a member of the Contracts Committee of the procuring and disposing entity.

(2) The appointment under subregulation (1) shall be after the approval of the member, by the Secretary to the Treasury.

(3) A person appointed member of the Contracts Committee shall be a member of the procuring and disposing entity, or where this is not possible, a member of another procuring and disposing entity.

(4) A person appointed under subregulation (3) shall, have a proven track record of sound judgment and be at an appropriate level of seniority and have experience in decision-making.

(5) A Contracts Committee shall have among its members—

(a) a person with experience in the functions of the procuring and disposing entity; and

(b) a person with experience in public procurement and disposal.

(6) A Contracts Committee shall not have more than two of its members from the same department.

(7) The head of the Procurement and Disposal Unit shall not be a member or the Secretary, of the Contracts Committee.

(8) In reappointing members to the Contracts Committee, the Accounting Officer shall take into account the need for continuity of the membership of the Contracts Committee.

(9) An Accounting Officer may during the subsistence of the tenure of a member of a Contracts Committee, change the designation of the member, without the requirement to seek the approval of the Secretary to the Treasury.

(10) Any changes to the composition of the Contracts Committee shall be submitted to the Secretary to the Treasury and the Authority for information.

**5. Termination of office of member of the Contracts Committee.**

(1) The Accounting Officer may only terminate the appointment of a member of the Contracts Committee—

- (a) for abuse of office;
- (b) for corruption;
- (c) for incompetence;
- (d) for physical or mental incapacity which renders the member incapable of performing his or her duties;
- (e) for failure to attend three consecutive scheduled meetings without reasonable grounds;
- (f) for conviction of an offence involving moral turpitude;
- (g) where the member is declared a bankrupt by a court of law; or
- (h) for any other justifiable reason.

(2) The termination of the appointment of a member of a Contracts Committee by an Accounting Officer shall be subject to prior approval of the Secretary to the Treasury.

**6. Member of Contracts Committee to declare conflict of interest.**

(1) Where a member of a Contracts Committee has any pecuniary or other interest that may conflict with the performance of the functions of the member, the member shall disclose the conflict of interest at the meeting.

(2) Where a member has or discloses conflict of interest in any matter before the Contracts Committee, that member shall not take part in the proceedings or exercise of any powers by the committee relating to the item or the matter in which the member has conflict of interest.

**7. Conduct of meetings of Contracts Committee.**

(1) The chairperson shall chair the meetings of the Contracts Committee and in the absence of the chairperson, the members shall elect from amongst themselves a member to chair the meeting.

(2) The quorum for a meeting of the Contracts Committee shall be any three members present at a meeting.

(3) The Contracts Committee shall within ten working days, issue a decision on any matter or request submitted to it by the Procurement and Disposal Unit.

(4) Where the Contracts Committee is not able to issue a decision within the time period prescribed in subregulation (3), the Contracts Committee shall, in writing, give an explanation for the delay to the Accounting Officer and request for extension of the time.

**8. Records of Contracts Committee meetings.**

(1) The secretary of a Contracts Committee shall record the minutes of a meeting of the Contracts Committee.

(2) The minutes of a meeting of a Contracts Committee shall include—

- (a) a register of attendance signed by the members and the advisers, which shall indicate whether attendance by a member was for the entire meeting or for only part of the meeting and where a member attended only part of the meeting, indicate the items on the agenda in which the member participated;
- (b) the discussion in relation to each item on the agenda, including any advice given by an adviser and any disagreement between the members; and
- (c) the decisions made for each item on the agenda including, the conditions, if any, given for a request that is approved, or the reasons for rejecting a request, which shall be recorded in the relevant Forms.

**9. Co-opting of advisers to meetings of the Contracts Committee.**

(1) Where a Contracts Committee co-opts an adviser to assist it in the discharge of its functions, the adviser shall not take part in the decisions of the Contracts Committee or vote and shall only attend the part of the meeting where the matter on which advice is required, is considered.

(2) A Contracts Committee may request a member of User Department, an Evaluation Committee or a negotiation team to attend a meeting of the Contracts Committee, as an adviser, to offer clarification on a submission.

(3) An adviser who attends a Contracts Committee meeting shall sign the register of attendance.

**10. Performance of functions by Contracts Committee.**

In the performance of its functions, a Contracts Committee shall confirm that—

- (a) a statement of requirements is complete and suitable for the procurement or disposal;
- (b) the proposed evaluation methodology and criteria contained in the bidding documents are appropriate and applicable to the procurement or disposal requirement;
- (c) the type of contract proposed for the procurement or disposal is appropriate;
- (d) the special conditions of the contract proposed in respect of a contract are appropriate; and
- (e) the proposed bidding period is reasonable, having regard to the complexity of the procurement process and the requirement of the Public Procurement and Disposal



of Public Assets (Rules and Methods for Procurement of Supplies, Works and Non-Consultancy Services) Regulations, 2023, the Public Procurement and Disposal of Public Assets (Procurement of Consultancy Services) Regulations, 2023 and the Public Procurement and Disposal of Public Assets (Procurement of Medicines and Medical Supplies) Regulations, 2014, as the case may be.

#### **11. Submissions to Contracts Committees.**

(1) A request by a Procurement and Disposal Unit to the Contracts Committee shall be made using the appropriate Forms specified in the Regulations made under the Act.

(2) A Contracts Committee shall consider each request based on the information contained in the Form submitted and the supporting documents, and may approve or reject the request.

(3) Where a Contracts Committee rejects a request, the Contracts Committee shall indicate the reasons for rejecting the request.

(4) A Contracts Committee may give conditional approval to a submission, where there is a correction to be effected.

(5) A decision of a Contracts Committee shall be unanimous but, where unanimity cannot be achieved, the decision shall be by a simple majority of the members present.

#### **12. Disagreement between Accounting Officer and Contracts Committee.**

(1) Where the Accounting Officer does not agree with a decision of the Contracts Committee in respect of the application or interpretation of a procurement or disposal process or method, the Accounting Officer shall return the decision, with reasons for the rejection, to the Contracts Committee for review.

(2) Where the Contract Committee does not agree with the decision of the Accounting Officer made under subregulation (1), the decision of the Accounting Officer, on the matter shall be binding on the procuring and disposing entity.

### **13. Management of procurement and disposal process by Procurement and Disposal Unit.**

(1) A Procurement and Disposal Unit shall manage the procurement or disposal process up to the point of contract placement.

(2) For each procurement or disposal requirement, a User Department shall nominate an official who shall work with the Procurement and Disposal Unit on all matters relating to that procurement or disposal requirement.

(3) Unless otherwise indicated by a user department, the officer who signs a Form specified in this subregulation, for or on behalf of the user department, shall be the officer nominated for the purposes of this Regulation—

- (i) Part 1 of Form 5 of the Public Procurement and Disposal of Public Assets (Rules and Methods for Procurement of Supplies, Works and Non-Consultancy Services) Regulations, 2023;
- (ii) Part 1 of Form 18 of the Public Procurement and Disposal of Public Assets (Procurement of Consultancy Services) Regulations, 2023; or
- (iii) Form 28 of the Public Procurement and Disposal of Public Assets (Disposal of Public Assets) Regulations, 2023.

### **14. Cancellation of procurement or disposal process.**

(1) A Procurement and Disposal Unit may, on its own initiative, or a user department, shall make a recommendation to a Contracts Committee, for cancellation of a procurement or disposal process.

(2) A recommendation for cancellation of a procurement or disposal process in sub-regulation (1) shall indicate—

- (a) the reference number and the subject of the procurement or disposal;
- (b) detailed reasons for the recommendation to cancel the procurement or disposal;
- (c) the status of the procurement or disposal process;
- (d) the alternative procurement or disposal process recommended, if any; and
- (e) any other relevant information.

(3) Subject to subregulation 2(b), in case of a procurement, the reasons for cancellation shall be—

- (a) lack of adequate funding;
- (b) a significant change in the technical details of the procurement requirement; or
- (c) a significant change in the circumstances of the procurement requirement.

(4) A procuring and disposing entity shall not cancel a procurement or disposal process, prior to obtaining the approval of a Contracts Committee.

(5) A procuring and disposing entity shall cancel a procurement process or a disposal process, at any time, before a contract is awarded to the best evaluated bidder.

## **15. Annual and monthly reports on procurement.**

(1) A procuring and disposing entity shall for each month, using the format of Form 2 of the Schedule, submit to the Authority, by the fifteenth day of the following month, a report on the procurement activities undertaken by the procuring and disposing entity in the month

which shall include information on the providers who undertook the procurement.

(2) The Authority shall for each financial year submit to the Minister, a report on the procurements of each procuring and disposing entity.

**16. Delegation of procurement and disposal functions by Accounting Officer.**

(1) An Accounting Officer may delegate a procurement function or a disposal function of the Accounting Officer, Contracts Committee or the Procurement and Disposal Unit of the procuring and disposing entity to a subdivision of the procuring and disposing entity or a member of staff of the procuring and disposing entity.

(2) The Contracts Committee or the Procurement and Disposal Unit may request the Accounting Officer to delegate a procurement or disposal function of the Contracts Committee or of the Procurement and Disposal Unit, respectively.

(3) A request for delegation of a procurement function shall be made using Part I of Form 3 in the Schedule and Part I of Form 4 in the Schedule for delegation of a disposal function.

(4) On receipt of a request for delegation of function, the Accounting Officer shall issue his or her decision within ten working days using Part II of Form 3 in the Schedule for delegation of a procurement function and Part II of Form 4 in the Schedule for delegation of a disposal function.

(5) An Accounting Officer may at his or her own initiative or following a written recommendation by the Contracts Committee or the Procurement and Disposal Unit, revoke a delegation of functions.

(6) A delegation of functions shall be revoked through written instructions to the person to whom the delegation was made and shall have immediate effect unless otherwise stated.

**17. Procurement and disposal notice board of procuring and disposing entity.**

(1) A procuring and disposing entity shall position its procurement and disposal notice board at a location within its premises, which is freely accessible to members of the public.

(2) The procuring and disposing entity shall display on the procurement and disposal notice board the following information—

- (a) the annual procurement plan of the procuring and disposing entity;
- (b) the pre-qualification notices, where applicable;
- (c) the bid notices;
- (d) shortlists for the pre-qualified providers;
- (e) records of the bid opening processes; and
- (f) notices of the best evaluated bidders.

(3) Where a procuring and disposing entity has a website, it may in addition to displaying the information in subregulation (2), on the procurement and disposal notice board, post the information on the website.

(4) The use of a notice board or website shall not relieve a procuring and disposing entity of its responsibility to publish a relevant notice publicly in the media or on the website of the Authority where this is required under the Act or regulations made under the Act.

**18. Contracting out of procurement or disposal function to another procuring and disposing entity.**

(1) An Accounting Officer may contract out a procurement function or a disposal function of the Contracts Committee, the Procurement and Disposal Unit or the user department to another procuring and disposing entity.

(2) Where a procurement or a disposal function of the Procuring and Disposing Entity is contracted out to another procuring and disposing entity, the Accounting Officers of the two procuring and disposing entities shall, in writing, agree on—

- (a) the functions to be contracted out;
- (b) the mechanisms for implementation of the procurement or disposal function;
- (c) the mode of payment;
- (d) the procedures for reporting and monitoring;
- (e) the procedure for approving the procurement or disposal function;
- (f) the limitations or exceptions to the contract, if any; and
- (g) the costs to be paid, if any.

(3) Notwithstanding subregulation (2), the Accounting Officer of the procuring and disposing entity whose function is contracted out to another procuring and disposing entity, shall be accountable for the decisions taken by the procuring and disposing entity to which a procurement or disposal function is contracted out.

**19. Conditions for contracting out procurement or disposal function to another procuring and disposing entity.**

A procurement or a disposal function of a procuring and disposing entity may be contracted out to another procuring and disposing entity—

- (a) where that other procuring and disposing entity has specialised knowledge, expertise or experience in the subject matter of the procurement or disposal;
- (b) where the procurement or disposal is common to both procuring and disposing entities;
- (c) where a project is implemented by both procuring and disposing entities jointly;

- (d) where it would be more economical or efficient to contract out a procurement of disposal function; or
- (e) for any other justifiable reason.

**20. Engagement of third party procurement and disposal services to perform functions of procuring and disposing entity.**

(1) Where there is lack of technical capacity an Accounting Officer may engage third party procurement and disposal services to perform the functions of a procuring and disposing entity.

(2) Where an Accounting Officer is to engage third party procurement and disposal services, the Accounting Officer shall select the third party from the providers pre-qualified by the Authority.

(3) The contracting out of a procurement or disposal function to a third party shall be in accordance with the procurement rules and methods in the Act, regulations made under the Act and the relevant guidelines.

(4) Notwithstanding subregulation (2), where none of the providers pre-qualified by the Authority is competent to provide the required procurement or disposal function, a procuring and disposing entity may contract another person to provide the required procurement or disposal function.

(5) The procuring and disposing entity shall, before contracting another person to provide the required procurement or disposal function, make an application to the Authority requesting the Authority to pre-qualify that person as a provider.

(6) The third party contracted under this regulation shall submit a report of the procurement or disposal function undertaken, to the Accounting Officer.

**21. Contract for third party procurement and disposal services.**

Where an Accounting Officer engages third party procurement and disposal services, the Accounting Officer shall enter into a contract with the provider, which shall state—

- (a) the procurement or disposal function to be undertaken by the third party which may be defined by value, type, procurement or disposal method or any other criteria;
- (b) that the procurement or disposal function to be undertaken by the third party shall be in accordance with the Act, regulations made under the Act and the relevant guidelines;
- (c) the fee or unit rate to be paid for the services of the third party by the procuring and disposing entity;
- (d) whether a function may be sub-contracted by the third party and where this is allowed the requirement for the prior written approval of the Accounting Officer;
- (e) that the records of the procurement or disposal are the property of the procuring and disposing entity;
- (f) the procedural arrangements for implementing the procurement or disposal function; and
- (g) any other appropriate contract provisions, based on the standard solicitation document for services.

**22. Procurement with another procuring and disposing entity of items used in common.**

(1) A procuring and disposing entity may undertake procurement with another procuring and disposing entity for supplies, works or services which are used in common with that other procuring and disposing entity.

(2) The procuring and disposing entities that undertake procurement under subregulation (1) shall make an agreement on—



- (a) the funds available for the procurement;
- (b) the mode of payment for the requirements;
- (c) the reimbursement of the costs of the procurement including the advertising costs, photocopying costs and the cost of the personnel, to the procuring and disposing entity that conducts the procurement; and
- (d) the appropriate contract, including the delivery arrangements.

**23. Procedure for applying for a deviation from use of standard documents.**

(1) A procuring and disposing entity may, where the standard bidding documents, procedural forms or any other attendant documents are not suitable for a procurement or disposal process, apply to the Authority, in writing, for approval to deviate from the use of these documents.

- (2) An application for deviation shall—
  - (a) indicate the standard bidding document, procedural form or other attendant document for which a procuring and disposing entity requests for a deviation;
  - (b) state the reasons for requesting for a deviation, including an explanation of the relevant specialised requirements, market conditions and industry standards, which affect the requirement;
  - (c) indicate the proposed alternative document, and how the alternative document differs from the standard bidding document, procedural form or other attendant document and the advantages of using the proposed alternative document; and
  - (d) indicate whether the deviation is required for a single procurement or disposal requirement or for a number of procurement or disposal requirements of the same class, over a period of time.

**24. Procedure for applying for accreditation of alternative procurement and disposal system.**

(1) A procuring and disposing entity which is not able to comply with a particular procurement or disposal procedure required for the procurement or disposal under the Act, shall, in writing, apply to the Authority for authorisation to use an alternative system.

(2) The application under subregulation (1) shall—

- (a) state the procurement or disposal procedure that the procuring and disposing entity is not able to comply with;
- (b) state the alternative system sought by the procuring and disposing entity; and
- (c) include an analysis of how the alternative system sought, differs from the relevant procurement and disposal procedure required under the Act.

(3) The Authority may authorise a procuring and disposing entity to use an alternative system.

**25. Customisation of standard documents.**

(1) Subject to subregulation (2), a procuring and disposing entity may customize a standard bidding document or any other document issued by the Authority.

(2) The customisation of a standard bidding document or any other document issued by the Authority shall be limited to—

- (a) the entry of the contact details of a procuring and disposing entity such as, the name and address of the procuring and disposing entity; and
- (b) the addition of a logo or any other form of identification of a procuring and disposing entity.

(3) A procuring and disposing entity shall not, when customising a standard bidding document or any other document

issued by the Authority, alter or amend the content or substance of the document, without the prior approval, in writing, of the Authority.

**26. Due diligence.**

(1) A procuring and disposing entity may undertake due diligence on a bid, at any time, from the commencement of the evaluation process to before the signing of the contract.

(2) A due diligence test shall cover any area of operation of a provider or any area of the bid that the procuring and disposing entity determines requires verification or checking, in exercising due care in a procurement or disposal process.

**27. Role of internal audit department.**

The internal audit department of a procuring and disposing entity shall audit—

- (a) the method used for a procurement and the payment made to establish whether the supplies, works or services are properly ordered, received, verified and paid for in accordance with the Public Finance Management Act, 2015 and the other applicable laws; and
- (b) the method used for a disposal to establish whether the disposal was appropriate and that where applicable, payment to the procuring and disposing entity was effected.

**28. Revocation and transition.**

(1) The Public Procurement and Disposal of Public Assets (Procuring and Disposing Entities) Regulations, 2014 are revoked.

(2) A process that had commenced under the Public Procurement and Disposal of Public Assets (Procuring and Disposing Entities) Regulations, 2014 and the Local Governments (Public Procurement and Disposal of Public Assets) Regulations, 2006 shall be continued and completed under these Regulations.

SCHEDULE

FORMS

**FORM 1**

*Regulation 4 (1)*

THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS  
ACT, 2003

**LETTER OF APPOINTMENT TO THE CONTRACTS COMMITTEE**

Date:

[*Name of person appointed to Contracts Committee*]

[*Position on the Contract Committee - Chairperson/Member/Secretary*]

**APPOINTMENT TO CONTRACTS COMMITTEE**

I confirm your appointment as the [*Chairperson /Member/Secretary*] of the Contracts Committee for [*Name of Procuring and Disposing Entity*] following the approval of your nomination by the Secretary to the Treasury dated.....

The terms of reference for this appointment shall be in accordance with the Public Procurement and Disposal of Public Assets Act, 2003.

If you accept this appointment, please sign this letter in the space availed below and a copy of the Code of Ethical Conduct in Business and return the copies to these documents to the undersigned.

The term of this appointment shall be three years effective from .....

[Name]

Accounting Officer

I accept the appointment:

.....Date:.....

[*Signature*]

c.c.: Permanent Secretary/Secretary to Treasury, Ministry of Finance,  
Planning and Economic Development

c.c.: Executive Director, Public Procurement and Disposal of Public Assets  
Authority

## FORM 2

*Regulation 15(1)*

### THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003

#### MONTHLY REPORT ON PROCUREMENT

*(Insert Name of Procuring and Disposing Entity)*

<b>Month of Reporting</b>	
<b>Financial Year</b>	

<b>PART I A: CONTRACTS AWARDED (except Micro Procurement)</b>										
Procurement Reference Number	Subject of Procurement	Method of Procurement	Provider	Reservation/ Preference Schemes (Yes/ No)	Category of Provider (Foreign/ National/ Resident)	Date of Award	Market Price of the Procurement	Bid price at Opening	Contract value (Currency and Amount)	Beneficial Ownership (Names and Address)
<b>TOTAL</b>										

**PART IB: CONTRACT AWARDS TO TARGET GROUPS (WOMEN, YOUTH, PERSONS WITH DISABILITY) (except Micro Procurement)**

Procurement Reference Number	Subject of Procurement	Method of Procurement	Provider	Target Group (Women/ Youth/ Persons with Disability)	Date of Award	Market Price of the Procurement	Contract value (Currency and Amount)	Beneficial Ownership (Names and Address)
<b>TOTAL</b>								

**PART II: CONTRACTS AMENDED**

<b>Procurement Reference Number</b>	<b>Subject of Procurement</b>	<b>Provider</b>	<b>Date of Amendment</b>	<b>Value of Amendment (Currency and Amount if Applicable)</b>	<b>Revised Contract Value and Currency if Applicable)</b>

**PART III: CONTRACTS COMPLETED**

Procurement Reference Number	Subject of Procurement	Provider	Reservation or Preference Schemes (Yes/No)	Category of Provider (Foreign or National Resident)	Date of Completion	Total amount Paid and Currency	Contract Value (Currency and Amount)
<b>TOTAL</b>							



**PART IV A: MICRO PROCUREMENTS**

No	Procurement Reference Number	Subject of Procurement	Provider	Preference/Reservation Scheme	Category of Provider (Foreign or National or Resident)	Invoice and Date of Completion	Contract Value (Currency and amount)	Beneficial Ownership (Names and Address)
<b>TOTAL</b>								

**PART IV B: MICRO PROCUREMENTS TO TARGET GROUPS (WOMEN, YOUTH, PERSONS WITH DISABILITY)**

Procurement Reference Number	Subject of Procurement	Method of Procurement	Provider	Target Group (Women, Youth or Persons with Disability)	Date of Award	Market Price of the Procurement	Contract Value (Currency and Amount)	Beneficial Ownership (Names and Address)
<b>TOTAL</b>								

**DECLARATION**

I hereby certify that the above information is a true and accurate record of the procurements undertaken by the Entity within the month.

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Accounting Officer**

Attach relevant minutes of the Contracts Committee

Copy: Contracts Committee

**FORM 3**

*Regulation 16(3) and (4)*

THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS  
ACT, 2003

**DELEGATION OF PROCUREMENT FUNCTIONS BY  
ACCOUNTING OFFICER\_**

**PART I: REQUEST OF CONTRACTS COMMITTEE/  
PROCUREMENT AND DISPOSAL UNIT**

A request for the delegation of a procurement function of the Contracts Committee or Procurement and Disposal Unit to a sub-division or member of staff of the procuring and disposing entity indicated below:

Sub-division/member of staff \_\_\_\_\_

Commencement date of delegation: \_\_\_\_\_

Duration of delegation: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Type of Procurement Function to be delegated	Yes/No	Value Limitation	Other limitations*
Entire procurement function			
Approval of procurement method			
Approval of bidding document			
Approval of evaluation report			

**Reporting requirements and any other requirements, conditions or limitations\*:**

Signature:

\_\_\_\_\_  
Chairperson Contracts  
Committee/ Head Procurement  
and Disposal Unit

Date:

\_\_\_\_\_

- \*1. If necessary, provide details on separate pages and attach.*
- 2. All attachments must be signed in the same way as this form.*

**PART II: DECISION OF ACCOUNTING OFFICER**

**DECISION** of Accounting Officer

*(State reasons if request is rejected. State name of sub-division/member of staff to which/whom delegation is made, if request is approved).*

Authority is delegated to you in the attached Part 1 of this form. No further delegation of this authority is permitted.

You are required to comply with the Public Procurement and Disposal of Public Assets Act, 2003 and to notify the Contracts Committee immediately when you become unable to comply with the delegation.

This delegation of authority may be revoked at any time in writing.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
**(Accounting Officer)**

**FORM 4**

*Regulation 16(3) and (4)*

THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS  
ACT, 2003

**DELEGATION OF DISPOSAL FUNCTIONS BY ACCOUNTING  
OFFICER**

**PART I: REQUEST BY CONTRACTS COMMITTEE/  
PROCUREMENT OR DISPOSAL UNIT**

A request for the delegation of a disposal function of the Contracts Committee/Procurement and Disposal Unit to a sub-division / member of staff of the procuring and disposing entity indicated below:

Sub-division/member of \_\_\_\_\_  
staff:

Commencement date of \_\_\_\_\_  
delegation:

Duration of delegation: \_\_\_\_\_

<b>Type of disposal function to be delegated</b>	<b>Yes/No</b>	<b>Value limitation</b>	<b>Other limitations*</b>
Entire disposal function			
Approval of disposal method			
Approval of auctioneer			
Approval of bidding document			
Approval of evaluation report			

Approval of Transfer Agreement			
Signature: _____ Date: _____			
<i>Chairperson Contracts Committee/ Head Procurement and Disposal Unit</i>			

**PART II: DECISION OF ACCOUNTING OFFICER**

**DECISION** of Accounting Officer

*(State reasons if request is rejected. State name of sub-division/member of staff to which/whom delegation is made, if request is approved).*

Authority is delegated to you in the attached Part 1 of this form. No further delegation of this authority is permitted.

You are required to comply with the Public Procurement and Disposal of Public Assets Act, 2003 and to notify the Contracts Committee immediately when you become unable to comply with the delegation.

This delegation of authority may be revoked at any time in writing



Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**(Accounting Officer)**

- \*1. *If necessary provide details on separate pages and attach.*
2. *All attachments must be signed in the same way as this form*

MATIA KASAIJA  
*Minister of Finance, Planning and Economic Development*

**STATUTORY INSTRUMENTS SUPPLEMENT**

*to The Uganda Gazette No. 80 Volume CXVI, dated 8th December, 2023*

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**S T A T U T O R Y   I N S T R U M E N T S**

**2023 No. 104.**

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS  
(NEGOTIATIONS) REGULATIONS, 2023**

**ARRANGEMENT OF REGULATIONS**

*Regulation*

1. Title and commencement.
2. Membership of negotiations team.
3. Preparations for negotiations.
4. Minutes of negotiations.



# STATUTORY INSTRUMENTS

2023 No. 104.

## **The Public Procurement and Disposal of Public Assets (Negotiations) Regulations, 2023**

*(Made under sections 96(1) and 96A of the Public Procurement and Disposal of Public Assets Act, 2003)*

IN EXERCISE of the powers conferred upon the Minister responsible for finance by sections 96(1) and 96A of the Public Procurement and Disposal of Public Assets Act, 2003, in consultation with the Minister responsible for the Kampala Capital City Authority and the Minister responsible for local governments, and on the recommendation of the Authority, these Regulations are made, this 26<sup>th</sup> day of September, 2023.

### **1. Title and Commencement.**

(1) These Regulations shall be cited as the Public Procurement and Disposal of Public Assets (Negotiations) Regulations, 2023.

(2) These Regulations shall come into force on the 5<sup>th</sup> day of February, 2024.

### **2. Membership of negotiations team.**

(1) The Procurement and Disposal Unit shall recommend to the Contracts Committee, for approval, the membership of a negotiations team.

(2) The number of the members of a negotiations team shall depend on the value and complexity of the procurement requirement, but shall in all cases be a minimum of three members.

(3) The members of a negotiations team shall be of an appropriate level of seniority, experience and skills, appropriate for the value and complexity of the procurement requirement.

(4) A member of the user department and a member of the Evaluation Committee that evaluated the bid for which negotiations are to be carried out may be a member of the negotiations team.

(5) The Accounting Officer and a member of the Contracts Committee of the procuring and disposing entity that intends to carry out negotiations with a bidder shall not be members of the negotiations team.

(6) A member of the negotiations team may be external to the procuring and disposing entity, where the required skill or experience is not available within the procuring and disposing entity, or where a person who would be a member has a conflict of interest in the procurement for which negotiations are to be carried out.

(7) For the purposes of subregulation (3), the skills shall include—

- (a) negotiation skills;
- (b) procurement and contracting skills;
- (c) financial management skills; and
- (d) technical skills relevant to the subject of the procurement.

(8) Every member of the negotiations team shall sign the Code of Ethical Conduct specified in Schedule 5 to the Act.

(9) The members of the negotiations team shall select from amongst themselves a chairperson who shall—

- (a) chair the meetings of the negotiations and carry out the negotiations in accordance with these Regulations;
- (b) manage the communication between the negotiations team and the bidder or any other person or body;
- (c) cause the preparation of the report of the negotiations.

### **3. Preparations for negotiations.**

(1) Where the Evaluation Committee recommends that the procuring and disposing entity may carry out negotiations with the

bidder with the best evaluated bid, the Evaluation Committee shall prepare a negotiations plan, which shall—

- (a) specify the issues for which negotiations are to be held and the objectives to be achieved; and
- (b) wherever possible, quantify the objectives and set the limits within which negotiations team is permitted to hold negotiations with the bidder.

(2) For the purposes of subregulation (1) (a), where a competitive procurement method is used, the negotiations shall be carried out for purposes of—

- (a) minor alterations of the technical details of statements of requirements;
- (b) reduction of quantities of the procurement requirement;
- (c) minor amendments to the special conditions of a contract;
- (d) agreement of the delivery or works schedules;
- (e) the proposed methodology or proposed staffing; or
- (f) the inputs required from the procuring and disposing entity.

(3) For the purposes of subregulation (1) (a), where the direct procurement method or the Quality Based Selection evaluation method is used, the negotiations shall be carried out for purposes of—

- (a) alterations to the technical details of the statement of requirements;
- (b) reduction of scope of quantities of the procurement requirement;
- (c) amendments to the special conditions of a contract;
- (d) agreement of the delivery or works schedules;
- (e) the proposed methodology or proposed staffing;
- (f) the inputs required from the procuring and disposing entity; or

(g) the total bid price and its constituent costs.

(4) Where the direct procurement method is used and only one bid is received, negotiations with the single bidder shall only be conducted where the Contracts Committee approves the recommendation of the Evaluation Committee for contract award to the single bidder, subject to negotiations being carried out.

(5) For the purposes of subregulation (4), the procuring and disposing entity shall request the single bidder to provide the financial or administrative basis for pricing, which may include a detailed breakdown of all costs and the basis for the pricing.

(6) The Contracts Committee shall approve the negotiations plan prior to the negotiations.

(7) Negotiations with the bidder with the best evaluated bid shall only be conducted after the Contracts Committee approves the recommendation, of the Evaluation Committee, of the bidder with the best evaluated bid and the recommendation that negotiations may be carried out with the bidder with the best evaluated bid.

(8) The Procurement and Disposal Unit shall, in writing, notify the bidder of the following—

- (a) the date, time and venue of the negotiations and request the bidder to confirm attendance;
- (b) the objective of the negotiations;
- (c) the profiles of the personnel of the bidder to attend the negotiations and that that the bidder is to bear the costs to be incurred by the bidder, for the duration of the negotiations;
- (d) that the bidder is to confirm the impartiality of the negotiations team and that there is no conflict of interest between the bidder and a member of the negotiations team.

(9) For the purposes of subregulation (8) (c), the bidder may appoint a representative to attend the negotiations or may request the procuring and disposing entity that the negotiations may be carried out using electronic means of communication.

#### **4. Minutes of negotiations.**

(1) The negotiations team shall prepare a record of the meeting of the negotiations, which shall be signed by the bidder or the authorised representative of the bidder and which shall be submitted to the Procurement and Disposal Unit.

(2) The record shall indicate whether the objectives of the negotiations plan have been substantially achieved or not.

(3) The negotiations team may in the record of the negotiations, recommend that the procuring and disposing entity should reject the best evaluated bid.

(4) The Procurement and Disposal Unit shall submit the recommendation of the negotiations team to the Contracts Committee for consideration.

(5) The Contracts Committee may approve the recommendation of the Evaluation Committee or reject the recommendation.

(6) Where the Contracts Committee rejects the recommendation of the negotiations team, the Contracts Committee may—

- (a) request the Procurement and Disposal Unit to revise the objectives of the negotiations and the negotiations team to hold further negotiations with the bidder, based on the revised objectives; or
- (b) request further negotiations on specific objectives.



(7) Where negotiations are held under subregulation (9), the procuring and disposing entity shall inform the bidder of the reasons for the termination of the negotiations.

(8) The record of the negotiation shall not commit the procuring and disposing entity to any arrangements or agreements.

MATIA KASAIJA,  
*Minister of Finance, Planning and Economic Development.*

**STATUTORY INSTRUMENTS SUPPLEMENT**

*to The Uganda Gazette No. 80 Volume CXVI, dated 8th December, 2023*

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**S T A T U T O R Y   I N S T R U M E N T S**

**2023 No. 106.**

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS  
(ADMINISTRATIVE REVIEW) REGULATIONS, 2023**

**ARRANGEMENT OF REGULATIONS**

*Regulation*

1. Title and commencement.
2. Application.
3. Interpretation.
4. Complaints to Accounting Officer.
5. Suspension of procurement or disposal process.
6. Review by the Accounting Officer.
7. Dismissal of complaint by Accounting Officer.
8. Decision of Accounting Officer.
9. Application to Tribunal.
10. Fees for administrative review.
11. Revocation and transition.

**SCHEDULE**

# STATUTORY INSTRUMENTS

2023 No. 106.

## **The Public Procurement and Disposal of Public Assets (Administrative Review) Regulations, 2023**

*(Made under sections 96(1) and 96A of the Public Procurement and Disposal of Public Assets Act, 2003, Act No 1 of 2003)*

IN EXERCISE of the powers conferred upon the Minister responsible for finance by sections 96(1) and 96A of the Public Procurement and Disposal of Public Assets Act, 2003, in consultation with the Minister responsible for the Kampala Capital City Authority and the Minister responsible for local governments, and on the recommendation of the Authority, these Regulations are made, this 26<sup>th</sup> day of September, 2023.

### **1. Title and commencement.**

(1) These Regulations may be cited as the Public Procurement and Disposal of Public Assets (Administrative Review) Regulations, 2023.

(2) These Regulations shall come into force on the 5<sup>th</sup> day of February, 2024.

### **2. Application.**

These Regulations shall not apply where a procuring and disposing entity has entered into a contract, for procurement or disposal, with a bidder or where the period prescribed for seeking administrative review under section 89 (3) (b) of the Act expires.

### **3. Interpretation.**

In these Regulations, “Act” means the Public Procurement and Disposal of Public Assets Act, 2003.

#### **4. Complaint to Accounting Officer.**

(1) A bidder who is aggrieved by a decision of a procuring and disposing entity may make a complaint in writing, to the Accounting Officer of the procuring and disposing entity.

(2) A bidder may seek administrative review of any omission or breach by a procuring and disposing entity, of the provisions of the Act, regulations or guidelines made under the Act or any provision of the bidding documents.

(3) The complaint made under these Regulations shall indicate—

- (a) the name and contact details of the bidder or the person representing the bidder;
- (b) the procurement or disposal requirement to which the complaint relates;
- (c) the substantive and factual grounds of the complaint, including—
  - (i) the provision of the Act or of regulations or guidelines made under the Act which is the subject of the breach or omission by the procuring and disposing entity; and
  - (ii) where known, the names of the person involved in the subject of the complaint, the events and the facts that constitute the complaint;
- (d) the corrective measures, requested by the bidder in accordance with the law;
- (e) the documentary evidence and any other evidence, relevant to the complaint, that is in the possession of the bidder; and
- (f) any other information relevant to the complaint.

(4) A complaint against a procuring and disposing entity shall be made within ten working days after the date the bidder first becomes aware or ought to have become aware of the circumstances that gave rise to the complaint.

(5) The procuring and disposing entity against which a complaint is made shall on request provide the bidder with a report indicating the reasons for the rejection of the bidder and the stage at which the bidder was rejected and the report shall be used only for the administrative review process.

**5. Suspension of procurement or disposal process.**

(1) The Accounting Officer shall, on receiving the complaint, immediately suspend the procurement or disposal process, as the case may be.

(2) Where bid validity or the bid security is to expire before the expiry of the period prescribed in section 89 (7), for communicating a decision of the administrative review process, the Accounting Officer shall request the bidders to extend the period of the bid validity and bid security for the duration of the suspension.

**6. Review by Accounting Officer.**

The Accounting Officer shall investigate a complaint filed under regulation 4 by considering—

- (a) the information and evidence contained in the complaint;
- (b) the records of the procurement or disposal, kept by the procuring and disposing entity;
- (c) information provided by the staff of the procuring and disposing entity, if any;
- (d) where appropriate, information provided by other bidders;  
and
- (e) any other relevant information.

**7. Dismissal of complaint by Accounting Officer.**

(1) An Accounting Officer shall not investigate a complaint where—

- (a) the complaint does not fulfil the requirement of regulation 4;
- (b) the complainant is not a bidder in respect of the procurement or disposal proceeding for which the complaint is made;
- (c) a complaint is not in respect of any procurement or disposal proceeding; or
- (d) the complaint is not in respect of an omission or breach by the procuring and disposing entity, of the Act, regulations made under the Act, guidelines issued under the Act or a provision of a bidding document.

(2) A complaint that does not fulfill the requirements of subregulation (1) shall be dismissed by the Accounting Officer without investigation.

(3) Where the Accounting Officer dismisses a complaint, the Accounting Officer shall in writing notify the bidder of the dismissal.

(4) An Accounting Officer shall not investigate a complaint where the fees for administrative review prescribed under regulation 10 are not paid to the procuring and disposing entity.

**8. Decision of Accounting Officer.**

The Accounting Officer shall, within ten days of receipt of a complaint, make and communicate a decision, in writing, addressed to the bidder who makes the complaint and which shall indicate the reasons for the decision taken and the corrective measure to be taken, if any.

**9. Application to Tribunal.**

(1) A bidder may make an application to the Tribunal in accordance with Part VIIA of the Act where—

- (a) an Accounting Officer does not make a decision or communicate a decision within the period specified in regulation 8;
- (b) a bidder is not satisfied with the decision made by the Accounting Officer;
- (c) a bidder is aggrieved by a decision of the Accounting Officer.

(2) Where a bidder intends to make an application to the Tribunal under subregulation (1), the bidder shall give the Accounting Officer notice within five working days after the expiry of the period specified in regulation 4(4) or regulation 8, as the case may be.

(3) Where a bidder makes an application to the Tribunal, the procurement or disposal process that is suspended under regulation 5 shall remain suspended until the Tribunal makes a decision.

(4) For the avoidance of doubt an Accounting Officer shall not enter into a contract with a provider—

- (i) during the administrative review period;
- (ii) before the expiry of the time period required for giving notice under subregulation (2); or
- (iii) where the matter is referred to the Tribunal, before the Tribunal makes a decision.

(5) Notwithstanding this regulation and regulation 4, where a bidder believes that the Accounting Officer has a conflict of interest in respect of a complaint, omission or breach or that matter cannot be handled impartially by the procuring and disposing entity, the bidder may make an application to the Tribunal under section 91I (1) (c) of the Act.

## **10. Fees for administrative review.**

(1) A person making a complaint under these regulations shall pay fees for administrative review.

(2) For the purposes of subregulation (1), a person who makes a complaint shall pay to the procuring and disposing entity, for a procurement or disposal of a value specified in the first column of the Schedule, the fees in the second column of the Schedule.

(3) Where the Accounting Officer upholds a complaint, the fee shall be refunded to the person who makes the complaint.

(4) Where a complaint is withdrawn or is dismissed by the Accounting Officer, the fee shall not be refunded to the person who makes the complaint.

## **11. Revocation and transition.**

(2) The Public Procurement and Disposal of Assets (Administrative Review) Regulations, 2014 are revoked.

(2) An administrative review process that had commenced under the Public Procurement and Disposal of Public Assets (Administrative Review) Regulations, 2014 and the Local Governments (Public Procurement and Disposal of Public Assets) Regulations, 2006 shall be continued and completed under these Regulations.



## SCHEDULE

### FEES FOR ADMINISTRATIVE REVIEW

#### PART A

<b>Value of Procurement or Disposal</b>	<b>Fees Payable for Administrative Review in Shillings</b>
1. Procurement or disposal of a value of up to shillings 100,000,000	500,000
2. Procurement or disposal of a value of more than shillings 100,000,000 up to shillings 500,000,000	1,500,000
3. Procurements or disposal of a value of more than shillings 500,000,000 up to shillings 1,000,000,000	2,500,000
4. Procurements or disposal of a value of more than shillings 1,000,000,000 up to shillings 50,000,000,000	5,000,000
5. Procurements or disposal of a value of more than shillings 50,000,000,000 up to shillings 100,000,000,000	10,000,000
6. Procurements or disposal of a value of more than shillings 100,000,000,000	15,000,000

#### PART B

Expression of interest and general pre-qualification – shillings 500,000

MATIA KASAIJA,  
*Minister of Finance, Planning and Economic Development.*



**STATUTORY INSTRUMENTS SUPPLEMENT**

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**S T A T U T O R Y I N S T R U M E N T S**

**2023 No. 100**

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC  
ASSETS (RULES AND METHODS FOR PROCUREMENT OF  
SUPPLIES, WORKS AND NON-CONSULTANCY SERVICES)  
REGULATIONS, 2023**

**ARRANGEMENT OF REGULATIONS**

**PART I—PRELIMINARY**

*Regulation*

1. Title and commencement.
2. Interpretation.

**PART II—INITIATION OF PROCUREMENT REQUIREMENTS**

3. Initiation of procurement requirement and confirmation of funding.
4. Availability of funds.
5. Assessment of market price.

**PART III—METHODS OF PROCUREMENT**

6. Choice of procurement method.

*Circumstances relating to the procurement*

7. Emergency situations.
8. Limited number of providers.
9. Compatibility and continuity.

*Regulation*

10. Splitting of requirements.
11. Division into lots.

*Rules and conditions for use of procurement methods*

12. Rules and conditions for using a specific procurement method.
13. Rules for open domestic bidding.
14. Conditions for open domestic bidding
15. Rules for open international bidding.
16. Conditions for open international bidding.
17. Rules for restricted domestic bidding and restricted international bidding.
18. Conditions for restricted domestic bidding.
19. Conditions for restricted international bidding
20. Rules for the quotation method.
21. Conditions for use of the quotation method.
22. Rules for micro procurement.
23. Conditions for micro procurement.
24. Rules for direct procurement.
25. Conditions for use of the direct procurement method.
26. Rules for the electronic reverse auction method.
27. Conditions for use of the electronic reverse auction method.

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# STATUTORY INSTRUMENTS

2023 No. 100.

## **The Public Procurement and Disposal of Public Assets (Rules and Methods for Procurement of Supplies, Works and Non-Consultancy Services) Regulations, 2023**

*(Made under sections 96(1) and 96A of the Public Procurement and Disposal of Public Assets Act, 2003, Act No. 1 of 2003)*

IN EXERCISE of the powers conferred upon the Minister responsible for finance by sections 96(1) and 96A of the Public Procurement and Disposal of Public Assets Act, 2003, in consultation with the Minister responsible for the Kampala Capital City Authority and the Minister responsible for local governments, and on the recommendation of the Authority, these Regulations are made, this 26<sup>th</sup> day of September, 2023.

### PART I—PRELIMINARY

#### **1. Title and commencement.**

(1) These Regulations may be cited as the Public Procurement and Disposal of Public Assets (Rules and Methods for Procurement of Supplies, Works and Non-Consultancy Services) Regulations, 2023.

(2) These Regulations shall come into force on the 5<sup>th</sup> day of February, 2024.

#### **2. Interpretation.**

In these Regulations, unless the context otherwise requires—

“Act” means the Public Procurement and Disposal of Public Assets Act, 2003;

“environmentally and socially responsive” means the capacity of a procurement to contribute positively to the quality of life and of the environment and the community that is affected by the procurement;

“single source provider” means a provider invited from among a number of providers who meet the requirements of a procurement;

“sole source provider” means a situation where only one provider exists, where only that provider meets the requirements of a procurement, due to a patent, monopoly or other reason.

## PART II—INITIATION OF PROCUREMENT REQUIREMENTS

### **3. Initiation of procurement requirement and confirmation of funding.**

(1) A procurement requirement shall be initiated using Part I of Form 5 in Schedule 1.

(2) Initiation for a procurement requirement shall include—

- (a) a description of the supplies, works or non-consultancy services required;
- (b) the estimated value of the supplies, works or non-consultancy services;
- (c) confirmation of availability of funds to support the procurement; and
- (d) approval of the procurement requirement as required under subregulation (5).

(3) In estimating the value of the supplies, works or non-consultancy services required and confirming the availability of funds required under subregulation (2) (c), a procuring and disposing entity shall—

- (a) base the estimate on an assessment of the market price;
- (b) seek technical advice, where required; and
- (c) ascertain that the confirmation of availability of funding takes into account the total cost of acquiring the requirement.

(4) Notwithstanding any provision in these Regulations, the supplies specified in Schedule 2 shall only be procured from



the manufacturer of the supplies or the authorised agents of the manufacturers, and where required, the procuring and disposing entity shall make full payment for the supplies before performance of a contract by a provider, as specified in regulation 46 of the Public Procurement and Disposal of Public Assets (Contracts) Regulations, 2023.

(5) A procuring and disposing entity shall not initiate the procurement of a supply referred to in subregulation (4), without the approval of the Attorney General.

(6) A specific reference number shall be allocated to each procurement requirement at the initiation stage, using the numbering system specified in guidelines issued by the Authority.

(7) The approval of a procurement requirement referred to under subregulation (2) shall be evidenced by the signature of the Accounting Officer.

#### **4. Availability of funds.**

(1) A procuring and disposing entity shall not initiate any procurement for which funds are not available or adequate in the budget of the procuring and disposing entity except where—

- (a) the delivery of supplies, works or non-consultancy services and the consequent payments to a provider are to be effected under subsequent financial years;
- (b) in the case of framework contracts, funds are to be committed at the time of issue of each specific call off order; or
- (c) the Secretary to the Treasury confirms in writing that the required funding shall be made available.

(2) The availability of funds shall be evidenced by budgeted or supplementary funds for the current financial year or an allocation for subsequent years.

(3) The Accounting Officer or an officer authorised by the Accounting Officer shall confirm the availability of funds.

(4) Notwithstanding regulation (1), a procurement may be initiated before the receipt of funds, but a contract shall not be signed before confirmation of the availability of funds.

**5. Assessment of market price.**

In order to determine the market price of a procurement requirement, the Accounting Officer shall use the prices of supplies, works or non-consultancy services that conform to the guidelines on prices issued by the Authority.

PART III—METHODS OF PROCUREMENT

**6. Choice of procurement method.**

(1) A procuring and disposing entity shall use the procurement methods specified in Part VI of the Act for all procurement requirements.

(2) The choice of procurement method shall be in accordance with these Regulations and guidelines issued by the Authority.

(3) The choice of procurement method shall be determined by—

- (a) the estimated value of the requirement;
- (b) the circumstances relating to the requirement; and
- (c) the type of procurement, whether supplies, works or non-consultancy services.

*Circumstances relating to the procurement*

**7. Emergency situations.**

(1) An emergency situation may be used to determine the procurement method to be used notwithstanding the estimated value of the procurement requirement.

(2) The Procurement and Disposal Unit shall make a recommendation to use an emergency situation as the criterion for determining the choice of a procurement method.

(3) The recommendation under subregulation (2) shall include a comprehensive justification for the choice of the procurement method and the reasons giving rise to the emergency situation.

(4) Where an emergency situation is used as the criterion for determining the choice of a procurement method, competition shall not be excluded from the procurement process solely on the basis of the emergency situation.

(5) A procuring and disposing entity shall obtain maximum competition to the extent practicable in procurement under an emergency situation.

(6) Where the value of a procurement requirement requires the use of open bidding method, a procuring and disposing entity shall in descending order, consider to use—

- (a) the restricted bidding methods; or
- (b) the quotation method,

with the following appropriate modifications, as may be applicable—

- (i) a bidding period which is less than the minimum bidding period specified in these Regulations;
  - (ii) a shortlist of at least two bidders;
  - (iii) simplified documentation;
  - (iv) a simplified bid submission method;
  - (v) a simplified evaluation methodology;
  - (vi) any other modification which would make the use of the competitive method possible; and
- (c) the direct procurement method.

**8. Limited number of providers.**

(1) The choice of procurement method may be determined by the availability of the supplies, works or non-consultancy services from only a limited number of providers or a sole provider, regardless of the estimated value of the requirement.

(2) The number of providers may be limited by—

- (a) the existence of copyrights, intellectual property rights, patent or proprietary rights;
- (b) the existence of a monopoly;
- (c) existing laws;
- (d) an existing standardisation policy;
- (e) the need for compatibility or interchangeability with existing supplies, works or non-consultancy services;
- (f) the existence of exclusive rights given to a provider for the servicing and maintenance of objects of procurement; or
- (g) any other justified circumstances.

(3) Where there is a limited number of providers, the Procurement and Disposal Unit shall make a recommendation to procure the supplies, works or non-consultancy services, from a limited number of providers as the criterion for determining the choice of a procurement method and the recommendation shall include—

- (a) a comprehensive analysis of the market for the required supplies, works or non-consultancy services made at the level of manufacturer and not at the level of the distributor or local agent and the number of potential providers in the market;
- (b) full details of the circumstances in subregulation (2) which are applicable to the procurement;

- (c) a clear statement as to why other sources cannot be used so as to procure the requirement using a competitive procurement method; and
- (d) an analysis of the statement of requirements, with justification for any parts of the statement of requirements that restricts the number of the potential providers.

(4) The use of availability of supplies, works or non-consultancy services from a limited number of providers as a criterion to determine the choice of a procurement method shall not be based on a brand name, make or model, unless the use of the brand name, make or model has been authorised under a standardisation policy or where the use is for reasons of compatibility or continuity.

## **9. Compatibility and continuity.**

(1) A procuring and disposing entity may use direct procurement for compatibility with the existing supplies, works or non-consultancy services or for continuity with an existing provider.

(2) Where compatibility or continuity are used as the basis for direct procurement method, the Procurement and Disposal Unit shall in the recommendation to use direct procurement on grounds of compatibility or continuity include a comprehensive justification of the need for compatibility or continuity.

(3) The recommendation to use direct procurement on grounds of compatibility or continuity shall contain—

- (a) an analysis of the statement of requirements explaining the need for or the benefits of compatibility or continuity, which may include—
  - (i) technical reasons;
  - (ii) legal reasons, including continued liability or preservation of warranties;

- (iii) measures taken to achieve efficiency and value for money; and
  - (iv) any other reasons, including the use of experience acquired or savings in mobilisation costs; and
- (b) a clear statement as to why other items or providers cannot reasonably be used to subject the procurement requirement to a competitive procurement method.

(4) Convenience or the lack of an adequate statement of requirements shall not be used as the reasons for recommending compatibility or continuity as the basis for a recommendation for the use of the direct procurement method.

#### **10. Splitting of requirements.**

(1) A procuring and disposing entity shall not split a procurement requirement where the supplies, works or non-consultancy services may be procured under a single contract.

(2) Notwithstanding subregulation (1), a procuring and disposing entity may split a procurement requirement, where the split offers a clear and calculable social, economic or technical advantage.

#### **11. Division into lots.**

(1) A procuring and disposing entity may, at the commencement of a procurement process, divide the procurement requirements into separate lots, where it is anticipated that the award of several separate contracts shall result in optimum value for the procuring and disposing entity.

(2) Where a procurement requirement is divided into lots, which may result in separate contracts, the choice of procurement method shall not be determined by the estimated value of each lot but by the total value of all the lots.

(3) Where a number of lots are to be procured under the same procurement process, the bidding documents shall clearly state—

- (a) the number of lots included in the procurement process;
- (b) the nature of each lot;
- (c) the number of lots for which a bidder may bid; and
- (d) the method of evaluating each of the lots or multiple lots.

*Rules and conditions for use of procurement methods*

**12. Rules and conditions for using a specific procurement method.**

The rules in regulations 13 to 27, respectively, shall apply for the methods of procurement, as may be specified.

**13. Rules for open domestic bidding.**

(1) Procurement using the open domestic bidding method shall be open to all bidders and shall be by public advertisement of a bid notice in at least one newspaper of nation-wide circulation.

(2) Notwithstanding subregulation (1), a bidder may be selected through a pre-qualification process, following publication of a pre-qualification notice in at least one newspaper of nation-wide circulation.

(3) The Procurement and Disposal Unit shall make a submission to the Contracts Committee in respect of procurement under open domestic bidding using Part II of Form 5 in Schedule 1.

(4) For the avoidance of doubt, the pre-qualification process referred to in subregulation (2) is not the pre-qualification process referred to in regulation 32.

**14. Conditions for open domestic bidding**

(1) Bidding documents may be issued to prospective bidders at a fee.

(2) The cost of bidding documents shall be approved by the Contracts Committee.

## **15. Rules for open international bidding.**

(1) Procurement using the open international bidding shall be open to all bidders and shall be by public advertisement of a bid notice in at least one publication of wide international circulation.

(2) Notwithstanding subregulation (1), a bidder may be selected through a pre-qualification process, following publication of a pre-qualification notice in at least one publication of wide international circulation.

(3) The Procurement and Disposal Unit shall make a submission to the Contracts Committee in respect of procurement under open international bidding using Part II of Form 5 in Schedule 1.

(4) For the avoidance of doubt, the pre – qualification process referred to in subregulation (2) is not the pre-qualification process referred to in regulation 32.

## **16. Conditions for open international bidding.**

(1) Open international bidding may be used instead of open domestic bidding where competition may not be effective without foreign bidders or where involvement of foreign bidders in the bidding process may increase value for money.

(2) A bidder resident in Uganda may participate in a bid advertised under open international bidding.

(3) Bidding documents may be issued to prospective bidders at a fee.

(4) The cost of bidding documents shall be approved by the Contracts Committee.

## **17. Rules for restricted domestic bidding and restricted international bidding.**

(1) Procurement using the restricted domestic bidding or restricted international bidding method shall be by selection of a bidder using a shortlist.



(2) A procuring and disposing entity shall use the restricted domestic bidding method or the restricted international bidding method, as may be applicable, to procure the supplies specified in Schedule 2.

(3) The procurement and disposal unit shall make a submission to the contracts committee in respect of procurement under restricted domestic bidding or restricted international bidding, using Part II of Form 5 in Schedule 1.

**18. Conditions for restricted domestic bidding.**

- (1) Restricted domestic bidding may be used where—
  - (a) the supplies, works or non-consultancy services are available only from a limited number of providers;
  - (b) there is insufficient time for an open bidding method in an emergency situation; or
  - (c) the estimated value of the procurement does not exceed the threshold stated in the procurement guidelines issued under the Act.

(2) The procurement process under restricted domestic bidding shall be in accordance with the following requirements—

- (a) the invitation to bid shall be addressed to a limited number of potential bidders without advertising the opportunity;
- (b) the selection of bidders shall be in accordance with the procedure prescribed under these Regulations; and
- (c) a public bid opening shall be held in accordance with these Regulations.

(3) For the avoidance of doubt, the supplies in Schedule 2 shall only be procured from the manufacturer of the supplies or the authorised agent of the manufacturer.

## **19. Conditions for restricted international bidding**

(1) Restricted international bidding may, in descending order, be used where—

- (a) the supplies, works or non-consultancy services are available only from a limited number of providers;
- (b) the estimated value of the procurement does not exceed the threshold stated in the procurement guidelines; and
- (c) there is insufficient time for an open bidding procedure in an emergency situation.

(2) The procurement process under restricted international bidding shall be in accordance with the following requirements—

- (a) the invitation to bid shall be addressed to a limited number of potential bidders without advertising the opportunity;
- (b) the selection of bidders shall be in accordance with these Regulations; and
- (c) a public bid opening shall be held in accordance with these Regulations.

(3) For the avoidance of doubt, the supplies in Schedule 2 shall only be procured from the manufacturer of the supplies or the authorised agent of the manufacturer.

## **20. Rules for the quotation method.**

(1) Procurement using the quotation method shall be by selection of bidders using a shortlist which shall have at least six providers.

(2) A procurement process under the quotation method shall not require the opening of the quotations to be held at a public bid opening session.

(3) The Procurement and Disposal Unit shall make a submission to the Contracts Committee in respect of procurement under the quotation method using Part II of Form 5 in Schedule 1.

**21. Conditions for use of the quotation method.**

(1) The quotation method may, in descending order of priority, be used where—

- (a) the estimated value of the procurement does not exceed the threshold specified in the procurement guidelines made under the Act; or
- (b) there is insufficient time for an open or restricted bidding procedure such as in an emergency situation.

(2) The process under the quotation method shall be as follows—

- (a) the solicitation document shall be addressed to a limited number of potential bidders without advertising;
- (b) the selection of the bidders shall be in accordance with these Regulations; and
- (c) the bid opening process shall not be open to the public and shall be held in accordance with these Regulations.

**22. Rules for micro procurement.**

(1) A micro procurement process shall not require—

- (a) the issuance of bidding documents;
- (b) the submission of bids;
- (c) a public bid opening session;
- (d) the use of an Evaluation Committee;
- (e) the issuance of a notice of best evaluated bidder; and
- (f) adjudication by the Contracts Committee.

(2) A procuring and disposing entity may delegate to a user department, the authority to undertake micro procurement of the value specified in the guidelines or the limit set by the Contracts Committee, which shall be lower than the value in the guidelines.

**23. Conditions for micro procurement.**

(1) A procuring and disposing entity may engage in micro procurement for supplies, works or non-consultancy services, as the case may be, where the value of the supplies, works or non-consultancy services is below the threshold stated in guidelines made under the Act.

(2) Where a procuring and disposing entity engages in micro procurement—

- (a) a comparison shall be made for at least three quotations;
- (b) the original invoice or receipt evidencing the supplies, works or non-consultancy services procured and the price paid shall be obtained and signed by the official procuring the supplies, works or non-consultancy services; and
- (c) the Accounting Officer shall ensure that value for money is obtained to the extent practical under the procurement procedure.

**24. Rules for direct procurement.**

(1) A procuring and disposing entity shall use the appropriate documents from the standard documentation, with the necessary modifications, for the requirements of the procurement using the direct procurement method.

(2) The Procurement and Disposal Unit shall make a submission to the Contracts Committee in respect of procurement using the direct procurement method using Part II of Form 5 in Schedule 1.

(3) A bid for direct procurement shall be in writing.

**25. Conditions for use of the direct procurement method.**

(1) Direct procurement may be used where—

- (a) there is insufficient time for any other procedure such as in an emergency situation;

- (b) the supplies, works or non-consultancy services are available from only one provider;
- (c) the contract may be extended for additional supplies, works or non-consultancy services of a similar nature and no advantage may be obtained by further competition, if the prices on the extended contract are reasonable;
- (d) additional supplies, works or non-consultancy services are required and have to be compatible with existing supplies, works or non-consultancy services and it is advantageous or necessary to purchase the additional supplies, works or non-consultancy services from the original supplier, provided the prices on the additional contract are reasonable; or
- (e) it is essential or preferable to purchase additional supplies, works or non-consultancy services from the original supplier to ensure continuity for downstream work, including continuity in technical approach, use of experience acquired or continued professional liability, if the prices on the additional contract are reasonable.

(2) Where the direct procurement method is used in the circumstances set out in subregulation (1) (c), (d) or (e), the value of the additional supplies, works or non-consultancy services shall not exceed fifteen percent of the value of the original or existing supplies, works or non-consultancy services and the contract.

(3) Where the direct procurement method is used more than once in the circumstances set out in subregulation (2), the cumulative value of the additional supplies, works or non-consultancy services shall not exceed twenty five percent of the value of the original or existing supplies, works or non-consultancy services.

## **26. Rules for the electronic reverse auction method.**

(1) A procuring and disposing entity shall use the electronic reverse auction method for the procurement of supplies, by inviting

qualified bidders to present in successive stages, successively lowered bids during a scheduled period.

(2) The electronic reverse auction method shall be used for—

- (a) the procurement of standardised, simple, and generally available off-the-shelf supplies from a number of providers who are qualified to participate in the electronic reverse auction; or
- (b) procurement under a framework contract agreement, using second-stage competition.

(3) The electronic reverse auction method shall not be used for works, and non-consultancy services, except with prior approval of the Authority.

(4) The Procurement and Disposal Unit shall make a submission to the Contracts Committee for procurement using the electronic reverse auction method using Part II of Form 5 in Schedule 1.

**27. Conditions for use of the electronic reverse auction method.**

(1) A procuring and disposing entity shall in the bid notice indicate that the electronic reverse auction method is to be used for the procurement and shall invite the responsive bidders to participate in the electronic reverse auction on the specified date and time.

(2) The procuring and disposing entity shall at each stage of the auction, provide to the bidders information which is sufficient to enable the bidders ascertain the respective relative ranking of each bidder, at every stage.

(3) The procuring and disposing entity shall not disclose the identities of the bidders who participate in a procurement process using the electronic reverse auction method, except after the end of the auction.

PART IV—RULES AND PROCESSES FOR THE PROCUREMENT  
OF SUPPLIES, WORKS AND NON-CONSULTANCY SERVICES

**28. Use of pre-qualification.**

(1) A procuring and disposing entity may use pre-qualification under open domestic bidding or open international bidding, to obtain a shortlist of bidders.

(2) Pre-qualification shall be used where—

- (a) the supplies, works or non-consultancy services are highly complex, specialised or require detailed design or methodology;
- (b) the cost of preparing a detailed bid would discourage competition;
- (c) the evaluation is particularly detailed and the evaluation of a large number of bids would require excessive time and resources from a procuring and disposing entity; or
- (d) the bidding is for groups of procurements which are similar, for the purpose of preparing a shortlist.

(3) The Procurement and Disposal Unit shall make a submission to the Contracts Committee to use pre-qualification using Form 6 in Schedule 1.

**29. Pre-qualification notices and documents.**

(1) A procuring and disposing entity shall by public advertisement of a pre-qualification notice, invite potential bidders to obtain the pre-qualification documents from the procuring and disposing entity.

(2) A pre-qualification notice shall be published in at least one newspaper of wide circulation.

(3) A procuring and disposing entity shall, for a pre-qualification exercise, use—

(a) the standard format of the pre-qualification notice issued by the Authority; and

(b) the pre-qualification documents issued by the Authority.

(4) A pre-qualification notice shall contain—

(a) a summary of the scope of the procurement;

(b) the key requirements and criteria for pre-qualification;

(c) instructions on obtaining the pre-qualification document;

(d) the deadline for submission of pre-qualification applications; and

(e) the physical address for submission of documents.

(5) Pre-qualification documents shall contain—

(a) details of the scope of the procurement;

(b) a statement of the requirements and criteria for pre-qualification;

(c) a statement of the information required from a provider;

(d) instructions on the location and deadline for submission of pre-qualification applications; and

(e) instructions on the sealing and labelling of pre-qualification applications.

(6) The information required from a provider under subregulation (5 (c) shall be the minimum information required to make a judgment on the suitability of the provider and shall not be information that deters or discourages a provider from applying for pre-qualification.

(7) The Contracts Committee shall approve all prequalification notices and documents before the notices and documents are issued.



**30. Bidding periods in pre-qualification.**

(1) The bidding period for pre-qualification shall start from the date of the first publication of the pre-qualification notice or the date of availability of the pre-qualification documents, whichever is later, and end on the date of the deadline for submission of pre-qualification applications.

(2) In determining the bidding period for pre-qualification, a procuring and disposing entity shall take into account the factors in regulation 55.

(3) The minimum bidding period for pre-qualification shall be—

- (a) ten working days, for open domestic bidding; and
- (b) twenty working days, for open international bidding.

**31. Evaluation for pre-qualification.**

(1) The evaluation for pre-qualification shall be based on the capability and resources of a bidder, taking into account—

- (a) experience in executing similar contracts;
- (b) performance on similar contracts;
- (c) capabilities with respect to equipment and manufacturing facilities;
- (d) the qualifications and experience of the personnel of the bidder;
- (e) the financial capability of the bidder to perform the proposed contract;
- (f) the facilities or representation at or near the location for performance of the contract;
- (g) the available capacity to undertake the assignment; and
- (h) any other relevant criteria.

(2) The criteria for the evaluation for pre-qualification shall be limited to that necessary for performance of the intended contract and shall not be unduly restrictive.

(3) The assessment of pre-qualification applications shall be in accordance with the requirements and criteria stated in the pre-qualification document and shall be recorded using Form 7 in Schedule 1.

(4) The procuring and disposing entity shall display the list of pre-qualified bidders on the notice board of the procuring and disposing entity for at least ten working days and shall after the pre-qualification process, at the request of a bidder, debrief the bidder.

### **32. Pre-qualification for groups of similar procurements.**

(1) Where the pre-qualification process is for a group of procurements which are similar, the procuring and disposing entity shall apply regulations 29, 30 and 31 of these Regulations.

(2) The pre-qualification notice and document, shall specify the period of time for which the pre-qualification is to be used.

(3) The list of pre-qualified providers for groups of procurements which are similar shall be updated periodically.

(4) The procuring and disposing entity shall verify the information submitted by a provider under this regulation, before that provider is shortlisted.

## **PART V—BIDDING DOCUMENTS**

### **33. Rules for preparing bidding documents.**

(1) A procuring and disposing entity shall use the appropriate standard bidding documents issued by the Authority for each procurement requirement.

(2) The selection of the appropriate document shall depend on the type, value and complexity of the procurement requirement.

(3) The following rules shall apply to preparation of bidding documents for each procurement—

- (a) changes to the instructions to bidders shall be effected only by an entry in the bid data sheet;
- (b) changes to the general conditions of contract shall be effected only by an entry to the special conditions of a contract;
- (c) the statement of requirements shall be modified as may be required; and
- (d) the evaluation and qualification criteria shall be modified in accordance with the options available in the bidding documents and these Regulations.

(4) Textual or other changes shall not be made to the section on instructions to bidders, general conditions of contract section or bidding forms section except in accordance with subregulation (3).

(5) A procuring and disposing entity shall apply for a deviation from the use of standard documents in accordance with the procedure specified in the Public Procurement and Disposal of Public Assets Regulations.

#### **34. Statement of requirements.**

(1) A procuring and disposing entity shall state the supplies, works or non-consultancy services required in a statement of requirements.

(2) A procuring and disposing entity shall in the statement of requirements inform a bidder of how effectively the bidder may meet the statement of requirements.

(3) A procuring and disposing entity shall prepare a description of the statement of requirements, in a manner that determines that the supplies, works or non-consultancy services are fit for the purpose for which they are being procured and are of the appropriate quality.

(4) A statement of requirements, shall where applicable, state that the procurement shall be a subject of a reservation scheme and shall in this case state the particulars required of the persons who are eligible to participate in the procurement process.

(5) A statement of requirements, shall where applicable, be environmentally and socially responsive.

**35. Statement of requirements for supplies.**

(1) A procuring and disposing entity shall include in the statement of requirements for supplies—

- (a) a list of the supplies and the quantities of the supplies;
- (b) the generic, functional or performance specifications;
- (c) the relevant drawings, where applicable;
- (d) a delivery and completion schedule;
- (e) a description of any incidental works or non-consultancy services required;
- (f) where applicable, that procurement process shall be a subject of a reservation scheme; and
- (g) where applicable, that the supplies shall be environmentally and socially responsive.

(2) A specification shall contain a complete, precise and unambiguous description of the supplies required and shall include—

- (a) a clear definition of the scope of the supplies;
- (b) the purpose and objectives of the proposed purchase;
- (c) a full description of the requirement;
- (d) a generic specification to an appropriate level of detail;
- (e) a functional description of the qualities, including any environmental or safety features required of the subject of the procurement;

- (f) the performance parameters, including outputs, timescales, and any indicators or criteria by which the satisfactory performance of the specification may be judged;
- (g) process and materials descriptions;
- (h) dimensions, symbols, terminology, language, packaging, marking and labeling requirements;
- (i) the common specification standard relating to the supplies;
- (j) the relevant industry standard; and
- (k) where applicable, a statement that a product demonstration may be required for novel supplies.

**36. Statement of requirements for non-consultancy services.**

A procuring and disposing entity shall include in the statement of requirements for non-consultancy services—

- (a) any relevant background and the purpose of the required non-consultancy services;
- (b) a list of the specific tasks or duties to be performed;
- (c) a completion schedule or period of performance;
- (d) any schedule of deliverables, outputs or targets to be achieved by the provider;
- (e) the management and reporting lines to the procuring and disposing entity and the specific administrative arrangements and reporting requirements that shall apply to the non-consultancy services;
- (f) the industry standards applicable to the assignment;
- (g) a description of the incidental supplies or works required; and
- (h) where applicable, that the procurement process shall be a subject of a reservation scheme.

**37. Statement of requirements for works.**

(1) A procuring and disposing entity shall include in the statement of requirements for works—

- (a) a clear description of the scope and location of the works;
- (b) the specifications;
- (c) the drawings;
- (d) bills of quantities or activity schedules; and
- (e) a completion schedule.

(2) The statement of requirements shall also include, where appropriate—

- (a) a background narrative to the required works;
- (b) the objectives of the required works;
- (c) a list of the specific tasks to be performed;
- (d) the supervision requirements, working relationships and specific administrative arrangements to be applied;
- (e) a common specification or standard relating to the works;
- (f) the industry standard applicable to the assignment;
- (g) a description of any incidental supplies or non-consultancy services required;
- (h) where applicable, that the procurement process shall be a subject of a reservation scheme;
- (i) that the works shall be environmentally and socially responsive;
- (j) a delivery schedule for supplies associated with or to be incorporated into the works; and
- (k) any other information relevant to the procurement.

### **38. Use of brand names.**

(1) Specifications shall not be issued with reference to a particular trademark, brand name, patent, design, type, specific origin, producer, manufacturer, catalogue or numbered item.

(2) Where there is no other sufficiently precise or intelligible way of characterising a requirement except by the use of a reference in subregulation (1), the description shall be used, followed by the words “or equivalent”, and shall only serve as a benchmark during the evaluation process.

(3) Notwithstanding subregulation (1), where a standardisation policy is adopted by a competent authority, the corresponding trademark, brand name, patent, design, type, specific origin, manufacturer, producer, catalogue or numbered item may be used in the statement of requirements.

### **39. Standardisation.**

Where a standardisation policy is adopted by a competent authority, the accounting officer of a procuring and disposing entity shall submit the following information to the Authority—

- (a) the technical, economic and logistical justification for the standardization policy;
- (b) a copy of the correspondence with a competent authority or technical expert consulted in relation to the specification;
- (c) the justification for the selection of the proposed standardised supplies, including their advantages over alternative supplies;
- (d) projections for future procurement of the object of standardisation;
- (e) plans to ensure transparency and value for money in the procurement of the standardised supplies; and
- (f) any other information relevant to the standardisation policy relevant to the procurement.

**40. Common specification standard in statements of requirements.**

(1) A statement of requirements shall use common specification standards issued by the competent authority to support specifications and other definitions of the procurement requirement.

(2) A procuring and disposing entity shall select a common specification standard taking into account the nature of the procurement requirement and the anticipated location or region of use of the procurement requirement.

(3) Before issuing the common specification standards, a competent authority shall, using the following order of priority, take into account—

- (a) national standards set by the Uganda National Bureau of Standards;
- (b) international standards set by the International Standards Organisation, where appropriate standards exist;
- (c) standards set by specialised agencies or bodies such as WHO, UN or IATA;
- (d) internationally-recognised standards set by the competent authority of another country, that are used extensively and are appropriate for use in Uganda, such as BS (UK), AS (USA), or SAS (RSA); and
- (e) standards or particular specifications used by a trade or profession and obtained from the association of the trade or profession.

**41. Procedure for obtaining the approval of a competent authority for alternative specification standards.**

(1) Where a competent authority has not issued specification standards, a procuring and disposing entity shall identify a suitable standard using the order of priority stated in regulation 40 and apply to the competent authority to adopt it as a common specification standard.



(2) The application by a procuring and disposing entity to the competent authority to adopt a common specification standard for future use shall include—

- (a) a full description of the subject of the procurement, including the proposed statement of requirements;
- (b) a statement of any similar specification standard already issued by the competent authority and the reason why it is unsuitable or the modifications required;
- (c) any appropriate existing standard known to the procuring and disposing entity;
- (d) an indication of whether the requirement is a one-off or a regular requirement and if it is regular, the estimated number and value of similar future requirements; and
- (e) any other relevant information.

(3) The competent authority shall, within fifteen working days after receipt of the application, advise on the appropriate specification standard.

*Preparing bidding documents*

**42. Preparation of bidding documents.**

A procuring and disposing entity shall, when preparing each bidding document, ascertain that—

- (a) the statement of requirements defines the requirement precisely and in a manner that leaves no doubt or assumption by a bidder;
- (b) the evaluation criterion considers all the appropriate factors and that the method of application of these factors is clear;
- (c) the most appropriate type of contract shall result from the procurement proceedings in terms of contractual protection to the procuring and disposing entity, structure of payment, payment terms and method of payment;

- (d) the basis of the prices and costs required are adequately defined so that they can be meaningfully compared and later inserted into the contract to represent the full cost of the procurement requirement; and
- (e) a practical method of achieving the objectives of the procurement requirements is detailed to meet any logistics and supply requirements.

**43. Bidding documents for supplies.**

(1) A procuring and disposing entity shall specify in the bidding documents for supplies—

- (a) the instructions to bidders which shall state—
  - (i) the amount and form of bid security, if required;
  - (ii) the amount and form of performance security, if required;
  - (iii) the bid format;
  - (iv) the bid submission methodology;
  - (v) the currency in which a bid is to be submitted;
  - (vi) the procedure for conversion of prices into a single currency for evaluation purposes, including the source and date of exchange rates to be used for conversion;
  - (vii) the currency in which a contract shall be paid; and
  - (viii) the evaluation methodology and criteria to be used, and where applicable, that post qualification evaluation is to be conducted by the procuring and disposing entity and the criteria to be used;
- (b) the standard bidding forms to be used;
- (c) the schedule of requirements, which shall include—

- (i) the specification and list of supplies;
  - (ii) a sample of the supplies where required;
  - (iii) the required delivery terms; and
  - (iv) the environmental protection issues and social inclusion issues applicable to the procurement requirement;
- (d) the draft contract, which shall include—
- (i) the currency in which the contract shall be paid;
  - (ii) the amount and form of performance security, if required;
  - (iii) the payment terms, including any advance payment, stage payments, payment retentions and payment securities;
  - (iv) the basis for fixed or variable prices, and the method for calculating variations in variable prices, if required;
  - (v) the method of payment;
  - (vi) the documentation required for payment;
  - (vii) the required delivery terms;
  - (viii) any special requirements for packaging, marking and labeling;
  - (ix) the required environmental protection issues and social inclusion issues;
  - (x) the delivery documentation required;
  - (xi) any inspection or tests required;
  - (xii) any insurance requirements;

- (xiii) any required warranty; and
- (xiv) the type of contract to be placed;
- (e) any other information as may be required, which shall be in accordance with these Regulations.

(2) Where a procurement is conditional upon the acceptance of a trade-in, the bidding documents shall include details of the asset to be traded in.

#### **44. Bidding documents for works.**

A procuring and disposing entity shall in the bidding documents for works specify the following information—

- (a) the instructions to bidder, which shall include—
  - (i) the amount and form of bid security or form of bid-securing declaration required;
  - (ii) the bid format;
  - (iii) the currency in which a bid is to be submitted;
  - (iv) the bid submission methodology;
  - (v) the evaluation methodology and criteria to be used, and where applicable, that post qualification evaluation is to be conducted by the procuring and disposing entity and the criteria to be used; and
  - (vi) the procedure for conversion of prices to a single currency for evaluation purposes, including the source and date of exchange rates to be used for conversion;
- (b) the statement of requirements including—
  - (i) design, specifications, drawings, bill of quantities or equivalent as may be applicable; and
  - (ii) the schedule for execution of the works;

- (iii) the environmental protection issues and social inclusion issues applicable to the procurement requirement;
- (c) the proposed form, terms and conditions of contract, including—
  - (i) the type of contract to be placed;
  - (ii) the amount and form of performance security, if required;
  - (iii) the currency in which a contract shall be paid;
  - (iv) the payment terms, including any advance payments, interim or stage payments or payment retentions and the required payment securities;
  - (v) the basis for fixed or variable prices, and the method for calculating variations, if required;
  - (vi) the method of payment;
  - (vii) the documentation required for payment;
  - (viii) the functions and authority of the technical representative of the procuring and disposing entity, if any;
  - (ix) any inspection or tests required, and the test methods;
  - (x) requirements relating to certification of conformity;
  - (xi) the insurance cover or indemnity required; and
  - (xii) where applicable, a declaration that the provider shall abide by the required environmental protection issues and social inclusion issues; and
- (d) any other information as may be required, which shall be in accordance with these Regulations.

**45. Bidding documents for non-consultancy services.**

A procuring and disposing entity shall include in the bidding documents for non-consultancy services—

- (a) instructions to bidders, which shall include-
  - (i) the amount and form of bid security required;
  - (ii) the amount and form of any performance security;
  - (iii) the bid format;
  - (iv) bid submission methodology;
  - (v) currency in which the bid is to be submitted;
  - (vi) the procedure for conversion of prices to a single currency for evaluation purposes, including the source and date of exchange rates to be used for conversion; and
  - (vii) the evaluation methodology and criteria to be used, and where applicable, that post qualification evaluation is to be conducted by the procuring and disposing entity and the criteria to be used;
- (b) the standard bidding forms to be used;
- (c) the schedule of requirements, which shall specify-
  - (i) a description of the non-consultancy services required;
  - (ii) the duration, timing of inputs and completion schedule;
  - (iii) the required deliverables or outputs;
  - (iv) the environmental protection issues and social inclusion issues applicable to the performance of the non-consultancy services; and

- (v) any requirements with respect to the personnel to be used in the performance of the non-consultancy services;
- (d) the draft contract, which shall include—
  - (i) the currency in which a contract shall be paid;
  - (ii) the payment terms, including any advance payment, stage payments, payment retentions and payment securities;
  - (iii) the basis for fixed or variable prices, and the method for calculating variations in variable prices, where required;
  - (iv) the method of payment;
  - (v) the documentation required for payment;
  - (vi) any requirements for inspection or approvals of the non-consultancy services provided;
  - (vii) any insurance requirements;
  - (viii) where applicable, a requirement that the provider shall abide with specific environmental protection issues and social inclusion issues, which shall be specified in the contract; and
  - (ix) the type of contract to be placed; and
- (e) any other information as may be required, which shall be in accordance with these Regulations.

**46. Alternative bids.**

(1) A procuring and disposing entity shall specify in the bidding documents whether an alternative bid shall be considered.

(2) A procuring and disposing entity shall permit alternative bids where it is anticipated that a bidder shall be able to offer supplies,

works or non-consultancy services, which do not conform precisely to the statement of requirements, but which satisfy the objectives of the procurement in an alternative manner.

(3) An alternative bid shall be permitted in areas of rapidly changing technology or where a need may be satisfied in a number of different ways and the procuring and disposing entity wishes to encourage cost efficient and technically innovative approaches by bidders.

(4) The bidding document shall state whether—

- (a) alternative bids are invited for the complete supplies, works or non-consultancy services or specified parts of the works, supplies or non-consultancy services or for other factors, such as alternative completion schedules; and
- (b) a bidder shall be required to submit both a main bid which conforms precisely to the statement of requirements and an alternative bid or whether an alternative bid may be submitted without a main bid.

(5) Where the bidding document permits alternative bids, the bidding document shall state that the alternative bid does not need to conform precisely to the statement of requirements, but that the alternative bid shall—

- (a) meet the objectives or performance requirements prescribed in the statement of requirements;
- (b) be substantially within any delivery or completion schedule, budget or other performance parameters stated in the bidding document; and
- (c) clearly state the benefits of the alternative bid over any solution which conforms precisely to the statement of requirements, in terms of technical performance, price, operating costs or any other benefit.



(6) Where the bidding document permits alternative bids, the procuring and disposing entity shall ascertain that—

- (a) the statement of requirements contains a clear, accurate and comprehensive description of the objectives or performance requirements of the subject of the procurement; and
- (b) the method for evaluating alternative technical solutions is specified.

**47. Evaluation criteria and post evaluation.**

(1) The evaluation criteria to be used shall be stated in the solicitation document.

(2) Where post evaluation is to be conducted, the criteria to be used for post evaluation shall be stated in the solicitation document.

(3) The evaluation criteria shall be used to assess compliance with the statement of requirements, the technical and financial ability of a bidder to perform the contract and the availability of the required resources.

(4) The evaluation criteria which is not related to the statement of requirements, the proposed contract or the objectives of the procurement shall not be included in the solicitation document.

(5) The evaluation criteria shall not be drafted in a way which restricts competition, unless the criteria is required to meet the objectives of the procurement or is in accordance with a preference or reservation scheme.

(6) Where criteria is given scores or is weighted, the maximum score or weight allocated shall be directly related to the importance of the criteria to the procurement.

**48. Costs to be included in financial comparison.**

(1) The bidding document shall state the costs which shall be taken into account in the financial comparison and the costs which may be excluded.

(2) The costs may, where applicable include—

- (a) fee rates or unit prices, based on either a fixed or estimated total quantity;
- (b) reimbursable costs, such as costs for travel, materials or consumables used in the performance of the services or similar costs;
- (c) costs for packing, packaging, freight and inland delivery;
- (d) costs for installation and commissioning of equipment;
- (e) costs for inspection and tests;
- (f) operating costs, which shall be for the period specified in the bidding document;
- (g) costs for the servicing and maintenance of equipment and costs for spare parts for equipment, which shall be for the period specified in the bidding document;
- (h) for works, the total bid price based on the bill of quantities or the schedule of prices and the cost of day work items;
- (i) duties, taxes or other levies;
- (j) cost to cover contingencies;
- (k) costs for disposal of assets procured or decommissioning the process, where applicable, as may be specified in the bidding document; and
- (l) any costs prescribed in the environmental or social, management plan.

(3) Where the evaluation of bids requires the consideration of factors other than cost, the bidding document may also state the way in which non-cost factors will be quantified and expressed in monetary terms for purposes of the financial comparison.

(4) The financial comparison may include an assessment of the whole life-cycle cost of the equipment which is expected to be in use for a long time or where maintenance and operating costs are a significant proportion of the overall cost.

**49. Discounts in bidding documents and bids.**

(1) The bidding document shall include specific areas in which a bidder may declare the level of discount applicable to the bid.

(2) A bidder shall be permitted to offer a cross discount that is conditional on the simultaneous award of a contract for other lots contained in the bidding document.

**50. Considerations in respect of taxes, duties and levies.**

(1) A bidding document shall state whether taxes, duties and levies shall be included in the evaluated price.

(2) Where taxes are included, in the case of supplies, a procuring and disposing entity shall—

(a) use the delivery terms defined in INCOTERMS to state the export and import taxes, duties or levies that are the responsibility of the provider; and

(b) state any other taxes, duties or levies that are the responsibility of the provider.

(3) Where taxes are included, in the case of non-consultancy services, a procuring and disposing entity shall state the liability to taxes and other charges for the duration of the proposed assignment or project for a provider.

(4) Unless otherwise stated in the bidding document, where a preference scheme applies, the amount of the applicable taxes, duties or levies shall be included in the evaluated price prior to the application of any margin of preference.

## PART VI—BIDDING

### **51. Method of inviting bidders.**

(1) A procuring and disposing entity shall invite a bidder to bid—

- (a) by publication of a bid notice in a newspaper of wide circulation;
- (b) through a pre-qualification exercise;
- (c) from a shortlist of providers; or
- (d) by direct invitation of a sole or single provider.

(2) The method used shall be in accordance with the Act and these Regulations.

### **52. Bid notices.**

(1) A bid notice shall be displayed on the website of the Authority and the Procurement and Disposal Unit notice board of the procuring and disposing entity and where available, the website of the procuring and disposing entity, not later than the date of publication of the bid notice and shall be displayed until the deadline for submission of bids.

(2) A procuring and disposing entity shall publish an abridged version of the notice in at least one newspaper of wide circulation, indicating the website where the full version of the notice is published.

### **53. Shortlist of bidders.**

(1) A shortlist shall have at least six bidders, except for micro procurement which shall have three bidders.

(2) Where it is not practicable for a procuring and disposing entity to obtain at least six bidders, the Contracts Committee, may approve a shortlist of less than six bidders.

(3) A procuring and disposing entity shall, when developing a shortlist for procurement requirements, use the list of providers pre-qualified by the procuring and disposing entity developed under Part IV, for groups of procurements which are similar under regulation 32, or—

- (a) the register of providers of the Authority;
- (b) the list of pre-qualified providers of another procuring and disposing entity; or
- (c) knowledge of the market by the procuring and disposing entity.

(4) Where a procuring and disposing entity develops a shortlist, the following shall be taken into account—

- (a) fair and equal opportunity shall be afforded to all bidders and there shall be no barrier created to deter competition;
- (b) a bidder shall not be included unless the bidder is expected to satisfy fully the eligibility requirements; and
- (c) a bidder shall not be included unless the bidder is expected to satisfy fully the qualification requirements of competence, capacity, resources and experience required for the execution of the procurement.

(5) The Procurement and Disposal Unit shall, before issuing the bidding document, record the proposed shortlist, with reasons for the selection of each provider and shall submit it to the Contracts Committee for approval.

(6) The Procurement and Disposal Unit shall make a submission to the Contracts Committee for approval of a shortlist of bidders using Part II of Form 5 in Schedule 1.

(7) The approved shortlist shall be displayed on the procurement and disposal notice board of the procuring and disposing entity, not later than the date of issue of the invitation and shall remain on display until the closing date for submission of bids.

**54. Invitation of single source provider or sole source provider.**

(1) A procuring and disposing entity shall use the following information to identify a single source provider or a sole source provider of a procurement requirement—

- (a) the list of pre-qualified providers of the procuring and disposing entity;
- (b) the register of providers of the Authority;
- (c) the list of pre-qualified providers of any other procuring and disposing entity; or
- (d) the procuring and disposing entity's own knowledge of the market.

(2) When selecting a single source provider—

- (a) the procuring and disposing entity shall, before recommending the source, ascertain that the selected single source provider is eligible and qualified; and
- (b) where possible, the provider shall not be informed that the proposed procurement is based on a single source.

(3) Where a sole source provider exists, the procuring and disposing entity shall verify that only a sole source provider exists and ensure that the sole bidder is eligible and qualified before recommending the source.

(4) The Procurement and Disposal Unit shall, before issuing the bidding document, record the proposed single source provider or sole source provider, with reasons for the selection of a single source provider or reasons why there is only a sole source provider, and shall submit it to the Contracts Committee for approval.

(5) The Procurement and Disposal Unit shall make a submission to the Contracts Committee for approval of a single source provider or sole source provider using Part II of Form 5 in Schedule 1.

**55. Determining bidding period.**

(1) The bidding period shall start on the date the bid notice is first published or on the date of availability of the bidding document to bidders, whichever is later, and shall end on the closing date for submission of bids.

(2) The bidding period shall be determined taking into consideration—

- (a) the time required for the potential bidders to obtain the bidding document from the procuring and disposing entity;
- (b) the time required for the preparation of bids, taking into account the level of detail required and the complexity of the bidding;
- (c) the need for bidders to submit specified legal documents or similar documents as part of the bids and the time required to obtain the documents;
- (d) the location of shortlisted or potential bidders and the time required for obtaining bidding documents and for the delivery and submission of bids to the procuring and disposing entity;
- (e) the anticipated duration of the procurement process; and
- (f) the minimum bidding period.

**56. Minimum bidding period.**

(1) The minimum bidding period in respect of each procurement method is—

- (a) fifteen working days for open domestic bidding method;
- (b) twenty working days for open international bidding method;

- (c) ten working days for restricted domestic bidding method;
- (d) fifteen working days for restricted international bidding method; and
- (e) five working days for the quotation method.

(2) The direct procurement method shall not have a minimum bidding period.

(3) Where the publication of a bid notice or the availability of the bidding document, is delayed, the closing date for submission of bids shall be extended appropriately so that the minimum bidding period is complied with.

**57. Issue and sale of bidding documents.**

(1) A procuring and disposing entity shall issue or sell bidding documents to—

- (a) a bidder who requests for the documents, in the case of open bidding;
- (b) a single source provider or a sole source provider approved by the Contracts Committee, in the case of direct procurement; and
- (c) a bidder on the shortlist approved by the Contracts Committee, in the case of all other methods of procurement.

(2) Where bidding documents are sold, the procuring and disposing entity shall allow a potential bidder to inspect the bidding documents before purchase.

(3) A procuring and disposing entity shall record the issue or sale of all bidding documents using Form 8 in Schedule 1.

(4) Bidding documents may be sold in order to recover the cost of printing, copying and distribution and the price shall be calculated to cover only these costs and shall not include any profit.



(5) The price of the bidding documents shall be approved by the Contracts Committee before issuing the bid notice or bidding documents and shall be included in the bid notice.

(6) Where bidding documents are sold, a procuring and disposing entity shall issue signed receipts to the bidders.

**58. Bidding documents not obtained directly from procuring and disposing entity.**

A bid shall be rejected during the preliminary examination of bids, if the bid is received from a bidder who—

- (a) is not listed in Form 8 as having bought or obtained the bidding document directly from the procuring and disposing entity; or
- (b) is not included on the shortlist approved by the Contracts Committee.

**59. Clarification and amendment of bidding documents.**

(1) The bidding documents shall state that a bidder may seek clarification on the bidding documents and shall state the date by which the clarification shall be sought.

(2) In determining the date referred to in subregulation (1) a procuring and disposing entity shall provide adequate time for all bidders to receive and study the bidding documents.

(3) Where a request for clarification is received, the procuring and disposing entity shall promptly provide clarification in writing and the clarification shall be copied to all the bidders to whom the bidding documents were issued, and shall include a description of the request without identifying the source of the request.

(4) At any time before the deadline for submission of bids, the procuring and disposing entity may, at its own initiative or in response to a request for clarification from a bidder, amend the bidding documents by issuing an addendum.

(5) A clarification made by the procuring and disposing entity shall not be taken as an addendum to the bidding documents.

(6) To give a bidder reasonable time to prepare a bid in response to an addendum, the procuring and disposing entity shall, where less than one third of the bidding period remains, extend the deadline for the submission of bids by a reasonable period.

(7) Where more than one third of the bidding period remains, the procuring and disposing entity may, at its discretion, extend the deadline for the submission of bids.

(8) The addendum, including any extension to the bidding period, shall be issued in writing and the same information shall be provided to all the bidders.

(9) A procuring and disposing entity shall obtain proof of receipt of the addendum by a bidder.

(10) All addenda to bidding documents shall be approved by the Contracts Committee before being issued to bidders and shall be numbered sequentially.

(11) All clarifications and addenda to the bidding documents shall be binding on all the bidders.

(12) The Procurement and Disposal Unit shall seek approval for the addendum, by the Contracts Committee using Form 9 in Schedule 1.

## **60. Pre-bid meetings.**

(1) A procuring and disposing entity may hold pre-bid meetings to allow potential bidders seek clarification or access project sites, where applicable.

(2) Where holding a pre-bid meeting is required, the notice to attend the meeting shall be included in the bidding document.

(3) A potential bidder shall be given sufficient notice of the pre-bid meeting to offer reasonable opportunity for the bidder to attend.

(4) A pre-bid meeting shall allow sufficient time before the deadline for bidding to enable a bidder to take any additional information into account in preparing the bid.

(5) The minutes of a pre-bid meeting shall be recorded using Form 10 in Schedule 1 and copies of the minutes shall be provided to all bidders who purchased bidding documents or to whom the bidding documents were issued.

(6) A pre-bid meeting shall be managed by the Procurement and Disposal Unit and the user department shall be represented at the pre-bid meeting.

**61. Format and content of bids.**

The bidding documents shall contain instructions to bidders on—

- (a) the format and content required in bids;
- (b) the requirements for signing and authorising bids; and
- (c) the number of copies of bids to be submitted, which shall be the original bid marked “ORIGINAL” and a specified number of copies, each marked “COPY”.

**62. Bid validity period and extensions.**

(1) The bidding documents shall state the date up to which a bid shall be valid.

(2) A bid shall remain valid until the close of business on the last day of the validity period.

(3) When determining the duration of a bid validity period, sufficient time shall be allowed to enable—

- (a) the procuring and disposing entity undertake evaluation, post-qualification and negotiation exercises, as may be appropriate;
- (b) the Contracts Committee to consider the evaluation report and recommendation for award of the contract;
- (c) a bidder challenge the award decision before a contract is formed; and
- (d) the Procurement and Disposal Unit to prepare the contract document and obtain all necessary approvals, prior to issue of the contract document, within the validity period of the bid.

(4) A procuring and disposing entity shall not request for an extension to the period of bid validity from a bidder.

(5) Notwithstanding subregulation (4), where an extension to the bid validity period becomes necessary, a bidder shall be requested in writing, before the expiry of validity of their bid, to extend the validity for a specified period to complete the process outlined in subregulation (3).

(6) A bidder may on his or her own discretion extend the bid validity period where the procurement and disposing entity delays to request the bidder to extend the bid and the bid validity period is likely to expire before the completion of the procurement process.

(7) In extending the validity of a bid, the bidder shall not be permitted to change the price or any other details of the bid.

(8) A procuring and disposing entity shall request a bidder who extends the bid validity period to provide a bid securing declaration.

(9) A bidder may refuse to extend the validity of the bid, and where the bidder refuses to do so, the bidder shall not forfeit the bid security.

**63. Bid security and bid securing declaration.**

(1) A bidding document shall state any requirement for a bid security or bid securing declaration.

(2) The amount of a bid security or the terms of a bid securing declaration shall be specified in guidelines issued by the Authority.

(3) The purpose of a bid security and a bid securing declaration shall be to encourage bidders fulfil the conditions of the bids and to deter irresponsible and unserious bidders from bidding.

(4) A procuring and disposing entity shall require a bid security to be—

(a) in a format provided by the Authority, as shall be included in the bidding documents;

(b) in a form and from an institution that is specified in guidelines issued by the Authority, after consulting the Bank of Uganda; and

(c) valid up to the date prescribed in the bidding documents.

(5) A bid security shall be valid for at least twenty-eight days after the expiry of the bid.

(6) A bid security shall be released promptly by a procuring and disposing entity to an unsuccessful bidder upon the expiry of the term of the security or upon the formation of a contract with the successful bidder and submission of a valid performance security or upon request by the unsuccessful bidder after publication of the notice of best evaluated bidder.

(7) The bid security of the successful bidder shall not be returned to the bidder until a corresponding performance security or bid securing declaration is received, where it is required by the contract.

(8) The proposed release of a bid security shall be communicated to the bidder and the bid security returned in accordance with the instructions of the bidder.

(9) A procuring and disposing entity shall require a bid securing declaration where the restricted domestic bidding and quotation procurement methods are used.

(10) Where a bidder breaches the bid securing declaration, the procuring and disposing entity shall immediately notify the Authority.

(11) The Authority may in accordance with Section 94 of the Act, suspend a bidder who breaches a bid securing declaration.

**64. Forfeiture of bid security.**

The conditions for forfeiture of a bid security shall be specified in the bidding document and shall include—

- (a) withdrawal of a bid by a bidder during the period of bid validity; and
- (b) failure by a successful bidder to—
  - (i) sign the contract within the specified period; or
  - (ii) furnish the required performance security within the specified period.

**65. Bid currency.**

The bidding documents shall state any limitations on the currency of the bid and the payment that shall apply to the procurement proceedings and the contract.

**66. Bid submission methods.**

(1) The bidding documents shall contain instructions on the method of bid submission.

(2) The one stage-single envelope method shall be used for the procurement of supplies, works and non-consultancy services.

(3) Under the one stage-single envelope method, a bid shall be submitted in one sealed envelope, which shall be opened on the specified date and time at the bid opening session.

(4) Notwithstanding subregulation (2), where necessary, in the case of procurement of design and build, text books and information technology systems, the bid submission method may be—

- (a) the one stage-two envelope method, in which a bid is submitted in an outer sealed envelope, containing two separately sealed and labelled technical and financial bids, which are opened on different dates in separate bid openings; or
- (b) the two stage method, in which—
  - (i) during the first stage, only the technical bid is submitted, opened and evaluated; and
  - (ii) during the second stage, a revised technical bid and a financial bid are submitted, opened and evaluated together.

(5) Where the two stage method is used, a bidder shall be invited to submit a revised technical bid and financial bid during the second stage, unless the bidder has been declared non-compliant or non-responsive.

(6) The bid submission method to be used shall be selected using the provisions of the applicable evaluation methodology and guided by the following—

- (a) the one stage-single envelope method, which shall be used under technical compliance evaluation method where all the stages of the evaluation are to be conducted together;
- (b) the one stage-two envelope method, which shall be used where the detailed technical evaluation is to be conducted without reference to the financial bid; and

- (c) the two stage method, which shall be used for large and complex contracts, where technically unequal bids are likely to be received and more than one equally acceptable technical solution is available to the procuring and disposing entity, which needs to ensure that all the technical bids conform to the same technical standard before a financial bid is prepared.

(7) The bidding documents shall state that the bid shall be submitted in a plain securely sealed outer envelope, so that opening and resealing of the envelope cannot be achieved undetected.

(8) The bidding documents shall contain instructions on the information to be provided on the envelope, including—

- (a) the procurement reference number;
- (b) the name of the bidder;
- (c) the words, “TECHNICAL” or “FINANCIAL” where the one stage-two envelope or two stage bid submission method is used;
- (d) the words “WITHDRAWAL” “MODIFICATION” or “REPLACEMENT” where a bid is withdrawn, modified or replaced; and
- (e) the words “NOT TO BE OPENED BEFORE THE DATE AND TIME OF THE BID OPENING”.

(9) The bidding documents shall state that where a bid is not properly marked or sealed in accordance with this regulation, the procuring and disposing entity shall not be responsible for opening a bid when it should not be opened or misplacing the bid.

(10) Where alternative bids are permitted and a bidder submits more than one bid, each bid shall be submitted as a completely separate bid and shall conform to the instructions for preparation and submission of bids in its own right, without any reliance on any other bid.



(11) For the purposes of subregulation (10) each bid shall be separately signed, authorised, sealed, labelled and shall be submitted in accordance with the instructions for submission of bids and shall be accompanied by a separate bid security or bid-securing declaration, if so required, and labelled “Main Bid” or “Alternative Bid”, as the case may be.

**67. Withdrawal, replacement and modification of bids.**

(1) The bidding documents shall contain instructions that a bidder may, at any time before the deadline for submission of bids—

- (a) withdraw the bid;
- (b) submit a replacement bid; or
- (c) modify the bid.

(2) The bidding documents shall specify the procedure for withdrawal, replacement or modification of a bid and shall state that the deadline for withdrawal, replacement or modification shall be the same as the deadline for submission of bids.

(3) Withdrawal shall be by submission of a letter notifying the procuring and disposing entity of the withdrawal and shall be authorised and submitted in the same way as the bid.

(4) Modification shall be by submission of a letter notifying the procuring and disposing entity of the part of the original bid being modified and shall be authorized and submitted in the same way as the original bid.

(5) The envelope containing the letter withdrawing a bid shall be clearly marked, “WITHDRAWAL”.

(6) The envelope containing the letter modifying the bid shall be clearly marked, “MODIFICATION”.

(7) A bidder withdrawing a bid may submit a new bid in accordance with the bid submission instructions in the bidding document and the envelope containing the new bid shall be clearly marked “REPLACEMENT”.

(8) A bid shall only be modified, replaced or withdrawn in accordance with this regulation and any modification, replacement or withdrawal submitted in any other way shall not be taken into account in the evaluation of bids.

**68. Methods of receipt of bids.**

(1) A Procurement and Disposal Unit shall on behalf of the procuring and disposing entity receive the bids from the bidder or representative of the bidder.

(2) A bidder may deliver a bid to the procuring and disposing entity, in person or electronically—

- (a) through the staff of the Procurement and Disposal Unit, who shall acknowledge receipt of the bid; or
- (b) by use of a bid box or government electronic system.

(3) Where a bid is delivered by courier, a procuring and disposing entity shall not be held liable where the bid is lost or delivered late by the courier to the procuring and disposing entity.

**69. Receipt of bids in person and closing of submission of bids.**

(1) A member of the Procurement and Disposal Unit shall be available at the location for submission of bids, for a reasonable period of time to receive the bids and issue receipts before the closing date for submission of bids.

(2) The Procurement and Disposal Unit shall issue a signed receipt for each bid received, stating the date and time the bid is received.

(3) A procuring and disposing entity shall maintain a record of all the bids received, using Form 11 in Schedule 1.

(4) The process of submission of bids shall be closed at the deadline for submitting bids.

(5) A bid that is brought to the location of submission of bids after the closing date for submission or which is submitted after closing date shall not be received by the procuring and disposing entity but shall be labelled "LATE", and returned unopened to the bidder or destroyed, where the bid is not labelled with the name of the bidder.

(6) The closure of the process of submission of bids shall be managed by at least one member of the Procurement and Disposal Unit and shall be witnessed by a member of the Contracts Committee or a member of the user department nominated by the user department.

(7) The persons referred to in subregulation (6) shall sign Form 11 in Schedule 1 to confirm that bidding closed at the deadline for submission of bids.

(8) Immediately after the closure of the process of submission of bids, the bids received shall be moved to the location where the bids are to be opened.

**70. Receipt of bids by bid box and closing of submission of bids.**

(1) A Procurement and Disposal Unit shall provide a box for submission of bids which shall be accessible to bidders during working hours until the closing date for submission of bids.

(2) Where a bid is too large to be placed in the bid box, a member of the Procurement and Disposal Unit shall receive the bid and issue a receipt to the bidder.

(3) Where a procuring and disposing entity considers it appropriate, it may require a bidder to register the bid before placing the bid in the bid box.

(4) The process of submission of bids shall be closed at the deadline for submission of bids by sealing the bid box.

(5) A bid that is brought to the location for submission of bids after the deadline for submission shall not be placed in the box or accepted in any other way.

(6) The closure of the process of submission of bids shall be managed by at least one member of the Procurement and Disposal Unit and shall be witnessed by a member of the Contracts Committee or a member of the user department nominated by the user department.

(7) The persons referred to in subregulation (6) shall sign Form 11 in Schedule 1 to confirm that the bid box was sealed at the deadline for submission of bids.

(8) Immediately after the closure of the process of submission of bids, the bids received shall be moved to the location where the bids are to be opened.

(9) The bid box shall not be opened before the public opening session.

**71. Change to bid details.**

(1) The bidding documents shall state that a change in the substance of a bid including changes in price shall not be sought, allowed or offered after bid closing.

(2) The bidding documents shall state that a bidder who attempts to make changes to a bid after the closure of the process of submission of bids shall be reported to the Authority and that the bid shall be rejected by the procuring and disposing entity.

**72. Notification to bidders of public bid opening.**

(1) The bids submitted under the open bidding method or the restricted bidding method shall be opened at a public bid opening session.

(2) The bidding documents of the open bidding method or the restricted bidding method shall contain instructions to bidders regarding—

- (a) the date and time of the bid opening session;
- (b) the location of the bid opening session; and
- (c) the information to be read out and recorded at the bid opening session.

(3) For the purposes of subregulation (2)(a) bid opening shall be immediately after bid closing.

(4) The information in subregulation (2) (c) may be varied where it is required by an alternative bid submission or evaluation methodology.

**73. Representation of bidder at public bid opening.**

(1) Public bid opening shall be conducted in the presence of a bidder who chooses to attend or a representative of a bidder.

(2) The procuring and disposing entity shall permit a bidder or a representative of a bidder to confirm that the bid is intact and sealed and no addition, deletion or modification to the exterior or the contents of the sealed bid shall be permitted.

(3) A bidder or a representative of a bidder may ask questions after the bids are opened, but a procuring and disposing entity shall not enter into discussion on the specific details of any bid.

**74. Information to be read out at bid opening.**

(1) The information to be read out at a bid opening session shall be in accordance with the bidding document and shall include—

- (a) the name of the bidder;
- (b) the presence or absence of a bid security and the form or amount of any bid security, where bid security was requested in the bidding document;

- (c) the total price of the bid, including the currency and amount or discount;
- (d) the technical score obtained by the bid under the one stage-two envelope, the two stage-two envelope or the two stage submission methods, as may be applicable;
- (e) where applicable, whether a power of attorney is submitted or not; and
- (f) any other information required as may be stated in the bidding documents.

(2) The information in subregulation (1) may be varied where it is required by an alternative bid submission or evaluation methodology.

#### **75. Procedure for public bid opening.**

(1) The public opening of bids shall be managed by the Procurement and Disposal Unit and shall be witnessed by a member of the Contracts Committee or a person authorised by the user department.

(2) At the public opening, the Procurement and Disposal Unit shall first manage the envelopes marked “WITHDRAWAL” by reading out the names of the bidders as indicated on the envelopes and returning the sealed envelopes to the bidder.

(3) A bid shall be accepted as withdrawn where the withdrawal notice is in accordance with the instructions for withdrawal of bids stated in the bidding documents and in accordance with subregulation (2).

(4) The Procurement and Disposal Unit shall open all the other envelopes including the envelopes marked “REPLACEMENT” or “MODIFICATION” and read out the information that is required by the bidding documents to be read out at the public opening session.

(5) A modified or replacement bid shall be recorded as such in the record of the bid opening session.

(6) The key pages of a bid, including the typed pages that are unique to the bid, the bid form, the bid submission sheet and the pages containing the financial information shall be endorsed with the stamp of the procuring and disposing entity and signed or initialled by the chairperson of the opening session.

(7) A bid shall not be accepted, rejected or evaluated in any way at the public bid opening.

(8) The procuring and disposing entity shall note in the record of the bid opening, the discrepancies in a bid or documents missing in a bid, if any, but shall not otherwise comment on the discrepancies or any missing documents.

(9) A record of the public bid opening shall be made using Form 12 in Schedule 1.

(10) A person who attends or participates in a bid opening session shall sign Part II of Form 12 in Schedule 1.

(11) A member of the public may attend a public bid opening session.

(12) After all bids are opened, read out and recorded, the record of the bid opening session shall be signed by the chairperson and the secretary of the opening session.

(13) Copies of the record shall upon request, be made available to a bidder or a representative of a bidder.

(14) The record of the bid opening shall be posted on the procurement and disposal notice board of the procuring and disposing entity, within one working day after the opening session and shall be displayed for a minimum of seven working days.

**76. Revocation and transition.**

(1) The Public Procurement and Disposal of Assets (Rules and Methods of Procurement of Supplies, Works and Non-Consultancy Services) Regulations, 2014 are revoked.

(2) A procurement process that had commenced under the Public Procurement and Disposal of Public Assets (Rules and Methods of Procurement of Supplies, Works and Non-Consultancy Services) Regulations, 2014 and the Local Governments (Public Procurement and Disposal of Public Assets) Regulations, 2006 shall be continued and completed under these Regulations.



**SCHEDULES**  
**SCHEDULE I**  
Forms  
**FORM 5**

*Regulation 3(1), 13(3), 15(3), 17(3) 24(2), 53(6), 54(5)*

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003**

**REQUEST FOR APPROVAL OF PROCUREMENT**

**PART I: REQUEST BY USER DEPARTMENT FOR APPROVAL OF PROCUREMENT**

Procurement Reference Number			
Code of Procuring and Disposing Entity	Supplies/Works/Non-consultancy services	Financial Year	Sequence Number

**Category of procurement and budget**

Recurrent Budget	Development Budget	Project Code	Project Title

**Is procurement going to result into multiyear contracting?**

Required Resources (UGX Bn) Year One	Required Resources (UGX Bn) Year Two	Required Resources (UGX Bn) Year Three	Required Resources (UGX Bn) Year Four

<b>Particulars of Procurement</b>	
Subject of Procurement	
Procurement Plan Reference	
Location for Delivery	
Date Required	

<b>Details Relating to the Procurement</b>					
Item No.	Description <i>(Attach specifications, terms of reference or scope of works)</i>	Quantity	Unit of Measure	Estimated Unit Cost	Market price of the procurement
Currency: _____					
Estimated Total Cost:					

**(1) Request for Procurement**  
(Member of user department)

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**(2) Confirmation of Request**  
(Head of user department)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Availability of funds to be confirmed prior to approval by Accounting Officer:*

<b>Vote/head No</b>	<b>Programme</b>	<b>Sub-programme</b>	<b>Item</b>	<b>Balance remaining</b>

**(3) Confirmation of Funding and Approval to Procure**  
(Accounting Officer)

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**PART II: REQUEST BY PROCUREMENT AND DISPOSAL UNIT TO CONTRACTS COMMITTEE FOR APPROVAL OF PROCUREMENT METHOD**

	Submission by the Procurement and Disposal Unit		Decision of the Contracts Committee	Conditions/Justification for Decision
	Date of Submission to Contracts Committee:			
1.	Recommended method of procurement and justification		Date/Reference of Contracts Committee Meeting:	
2.	Names of shortlisted provider (s) and justification for selection			
3.	Bidding document. Persons involved in preparation of proposal document ( <i>Names and positions</i> )			
4.	Names of persons recommended to constitute the Evaluation Committee and the justification ( <i>Names and positions</i> )			
5.	Cost of the bidding document, if any			
6.	Any other information			

***Documents attached:***

1. Bidding Document

**Declaration by Procurement and Disposal Unit**

The information contained in this form and the attached documents is complete, true and accurate and in accordance with the Public Procurement and Disposal of Public Assets Act, 2003.

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Position: \_\_\_\_\_  
Date: \_\_\_\_\_

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**Declaration by Contracts Committee**

The information contained in this form is a true and accurate record of the decision of the Contracts Committee meeting held on the above date.

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Position: **Chairperson Contracts Committee**  
Date: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Position: **Secretary Contracts Committee**  
Date: \_\_\_\_\_

**FORM 6**

*Regulation 28 (3)*

THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003

**REQUEST BY PROCUREMENT AND DISPOSAL UNIT  
FOR APPROVAL OF PREQUALIFICATION**

<b>Procurement Reference Number</b>			
Code of Procuring and Disposing Entity	Supplies/Works/ Non-consultancy services	Financial Year	Sequence Number

<b>Particulars of Pre-qualification</b>	
Subject of Pre – qualification	
Procurement Plan Reference	

	Submission by the Procurement and Disposal Unit	Decision of the Contracts Committee	Conditions/Justification for Decision
	Date of Submission to Contracts Committee:	Date/Reference of Contracts Committee Meeting	
1.	Recommended method of procurement and justification		
2.	Names of shortlisted provider(s) and justification for selection		
3.	Persons involved in preparation of the bidding document ( <i>Names and positions</i> )		
4.	Names of persons recommended to constitute the Evaluation Committee and the justification ( <i>Names and positions</i> )		
5.	Cost of the bidding document, if any		
6.	Any other information		

***Documents attached: (list the documents attached)***

1. Bidding Document

**Declaration by Procurement and Disposal Unit**

The information contained in this form and the attached documents is complete, true and accurate and in accordance with the Public Procurement and Disposal of Public Assets Act, 2003.

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Position: \_\_\_\_\_  
Date: \_\_\_\_\_

**Declaration by Contracts Committee**

The information contained in this form is a true and accurate record of the decision of the Contracts Committee meeting held on the above date.

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Position: **Chairperson Contracts Committee**  
Date: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Position: **Secretary Contracts Committee**  
Date: \_\_\_\_\_



**FORM 7**

*Regulation 31(3)*

THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003

**REPORT OF ASSESSMENT AND PRE-QUALIFICATION EVALUATION**

<b>Procurement Reference Number</b>			
Code of Procuring and Disposing Entity	Supplies/Works/ Non-consultancy Services	Financial Year	Sequence Number

**1. INTRODUCTION**

**(1) PRE-QUALIFICATION FOR SINGLE REQUIREMENTS**

- (a) The requirement is for [*Subject of procurement*]
- (b) The procurement method used and approved by the Contracts Committee was [*open domestic bidding/open international bidding*] with pre-qualification.

**(2) PRE-QUALIFICATION FOR A GROUP OF CONTRACTS**

The pre-qualification is for a group of contracts for [*subject of procurement*]

**2. DETAILS OF INVITATION**

- (1) The pre-qualification document was approved by the Contracts Committee on [*date*]

- (2) The pre-qualification notice was advertised on [date]\_\_\_\_\_ in [name of newspaper/  
publication]\_\_\_\_\_.
- (3) The list of bidders who requested for and were issued with the pre-qualification document was recorded using Form 8 which attached.

**3. DETAILS OF BID CLOSING**

- (1) Bidding was closed on [date]\_\_\_\_\_ at [time]\_\_\_\_\_ at [location]\_\_\_\_\_.
- (2) The receipt of pre-qualification submissions was recorded using Form 11 which is attached.

**4. DETAILS OF BID OPENING**

- (1) A public bid opening was held at [location]\_\_\_\_\_ on [date]\_\_\_\_\_ at [time]\_\_\_\_\_.
- (2) The bid opening and attendance was recorded using Form 12 which is attached.

**5. DETAILS OF EVALUATION COMMITTEE**

- The Evaluation Committee approved by the Contracts Committee on [date]\_\_\_\_\_ comprised:
- [Name] [Designation and Department]\_\_\_\_\_
  - [Name] [Designation and Department]\_\_\_\_\_
  - [Name] [Designation and Department]\_\_\_\_\_
  - [Name] [Designation and Department]\_\_\_\_\_

**6. DETAILS OF EVALUATION**

- (1) All pre-qualification submissions received were evaluated against the criteria stated in the pre-qualification document/notice.

[Give a brief narrative on the result of the evaluation and detailed justification with reasons why any pre-qualification submissions were declared non responsive.]

(2) On the basis of the pre-qualification criteria stated, \_\_\_\_\_ [number] providers are pre-qualified and \_\_\_\_\_ [number] are not pre-qualified.

**Refer to the attached table, which summarises the evaluation.**

(3) Recommendation

**(a) Pre-qualification for single requirements**

It is recommended that [number] \_\_\_\_\_ providers be invited to bid, as listed below:

1. ....
2. ....

**(b) Pre-qualification for a group of contracts**

It is recommended that [number] providers be retained on file as pre-qualified and used on future shortlists for [*subject of procurement*].

**7. DISAGREEMENT BY THE EVALUATION COMMITTEE**

The Evaluation Committee could not reach a unanimous decision on the pre-qualification and this report details the view of the majority of the team.

[Give details of the issues where the team disagreed, the discussions held, the alternative views and the names of those with alternative views].

**Signed by the Evaluation Committee:**

We confirm that this Pre-qualification Report gives a complete and accurate record of the pre-qualification conducted:

Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**8. DOCUMENTS AVAILABLE FROM THE PROCUREMENT AND DISPOSAL UNIT:**

Copy of the pre-qualification document.

Copy of the pre-qualification notice.

Copy of all pre-qualification submissions.

**Annexes:**

Form 8: Record of issue of pre-qualification documents

Form 11: Record of bids received

Form 12: Record of bid opening

Summary of pre-qualification evaluation

Shortlist of pre-qualified bidders

## SUMMARY OF PRE-QUALIFICATION EVALUATION

<b>Procurement Reference Number</b>			
Code of Procuring and Disposing Entity	Supplies/Works/Non-consultancy Services	Financial Sear	Sequence Number

Subject of Pre-qualification	
------------------------------	--

<b>Company Name</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
<b>Pre-qualification Criteria</b> {List all criteria in accordance with the pre-qualification document or notice. Criteria shown are examples only}.						
Experience/performance on similar contracts in the country/region/internationally	Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ
Equipment and manufacturing/construction facilities	Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ
Qualifications and experience of personnel	Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ
Financial capability to perform the contract	Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ
Local facilities or representation	Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ

Available capacity		Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ	Q/NQ
<b>Recommendation</b>	<b>Q/NQ</b>	<b>Q/NQ</b>	<b>Q/NQ</b>	<b>Q/NQ</b>	<b>Q/NQ</b>	<b>Q/NQ</b>	<b>Q/NQ</b>	<b>Q/NQ</b>	<b>Q/NQ</b>

**KEY: Q = Qualified NQ = Not Qualified** {delete that which is not applicable in the table above}

As a result of this pre-qualification evaluation, \_\_\_\_\_ companies were declared qualified and \_\_\_\_\_ companies were declared not qualified.

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

*On behalf of the Evaluation Committee*

**FORM 8**

*Regulation 57(3)*

THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003

**RECORD OF SALE OR ISSUE OF BIDDING DOCUMENTS OR ADDENDA**

<b>Procurement Reference Number</b>			
Code of Procuring and Disposing Entity	Supplies/Works/ Non-consultancy Services	Financial Year	Sequence Number

<b>Particulars of Procurement</b>	
<b>Subject of Procurement</b>	
<b>Date of Publication of Bid Notice</b>	
<b>Date of bidding document or addendum is Available</b>	
<b>Addendum Number</b>	

<b>Particulars of Issue of Bidding Documents or Addendum</b>							
<b>No.</b>	<b>Name and Address of Bidder</b>	<b>Date of Application for the Document<sup>1</sup>'s</b>	<b>Fee Paid</b>	<b>Date and Time of Issue of Documents</b>	<b>Person Issued with the Document and Address</b>	<b>Signature of Person Issued with Document</b>	<b>Name and Signature of Officer Issuing Document</b>

I hereby certify that the above is a true and accurate record of the issue of bidding documents.

Name: \_\_\_\_\_ Position: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_



**FORM 9**

*Regulation 59(12)*

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003**

**REQUEST FOR APPROVAL OF ADDENDUM TO BIDDING DOCUMENT**

<b>Procurement Reference Number</b>			
Code of Procuring and Disposing Entity	Supplies/Works/ Non-consultancy Services	Financial Year	Sequence Number

<b>Particulars of Procurement</b>	
Subject of Procurement	

<b>Submission by the Procurement and Disposal Unit</b>		<b>Decision of the Contracts Committee</b>	<b>Conditions/Justification for Decision</b>
<b>Date of Submission to Contracts Committee</b>		<b>Date/Reference of Contracts Committee Meeting</b>	
1.	Number of times (if any) has the bidding document been amended previously.		
2.	Description of proposed Addendum to bidding document		
3.	Reason(s) for Addendum		
4.	Proposed extension to deadline (if any)		
5.	Any other relevant information		

***Documents attached:***

1. Draft addendum to bidding document

**Declaration by Procurement and Disposal**

**Unit**

The information contained in this form and the attached documents is complete, true and accurate and in accordance with the Public Procurement and Disposal of Public Assets Act, 2003.

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Declaration by Contracts Committee**

The information contained in this form is a true and accurate record of the decision of the Contracts Committee meeting held on the above date.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Position: **Chairperson Contracts Committee**

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Position: **Secretary Contracts Committee**

Date: \_\_\_\_\_

**FORM 10**

*Regulation 60(5)*

THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003

**RECORD OF MINUTES OF PRE-BID MEETING**

<b>Procurement Reference Number</b>			
Code of Procuring and Disposing Entity -	Supplies/Works/ Non-consultancy Services	Financial Year	Sequence Number

<b>Particulars of Procurement</b>	
<b>Subject of Procurement</b>	
<b>Location of Pre-bid Meeting</b>	
<b>Date and Time of Meeting</b>	



*Record of pre-bid meeting to be sent to all bidders who purchased or were issued with the bidding documents.*

<b>RECORD OF ATTENDANCE</b>				
<b>No</b>	<b>Name and Address</b>	<b>Position</b>	<b>Company or Department</b>	<b>Signature</b>

**FORM 11**

*Regulation 69(3),(7), 70(7)*

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003**

**RECORD OF BIDS RECEIVED**

<b>Procurement Reference Number</b>			
<b>Code of Procuring and Disposing Entity</b>	<b>Supplies/Works/ Non-consultancy Services</b>	<b>Financial Year</b>	<b>Sequence Number</b>

<b>Particulars of Procurement</b>	
<b>Subject of Procurement</b>	
<b>Deadline for Bid Submission (<i>date and time</i>)</b>	
<b>Location for Bid Closing</b>	





**FORM 12**

*Regulation 75(9),(10)*

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003**

**RECORD OF BID OPENING**

<b>Procurement Reference Number</b>			
<b>Code of Procuring and Disposing Entity-</b>	<b>Supplies/Works/ Non-consultancy Services</b>	<b>Financial Year</b>	<b>Sequence Number</b>

<b>Particulars of Procurement</b>	
<b>Subject of Procurement</b>	
<b>Date and Time of Bid Opening</b>	
<b>Location for Bid Opening</b>	
<b>Type of Opening Technical/Financial/ Combined Opening</b>	

**PART 1 - PARTICULARS OF BID OPENING**

No	Name and Address of the Bidder	Currency and Price as Read out	Bid Security Received (Yes/No)	Bid Security Amount <sup>1</sup> *	No of Copies	Power of Attorney <sup>2</sup> *

Name: \_\_\_\_\_ Position: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Position: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**PART II: RECORD OF ATTENDANCE**

<b>No</b>	<b>Name and Address</b>	<b>Position</b>	<b>Company or Department</b>	<b>Signature</b>

## **SCHEDULE 2**

*Regulations 3(4), 17(2), 18(3), 19(3)*

### **SUPPLIES TO BE PROCURED ONLY FROM MANUFACTURERS OR AUTHORISED AGENTS OF MANUFACTURERS**

1. Aviation equipment including aircraft and installation, components and spare parts for these
2. Medical equipment and installation, components and spare parts for these
3. Agricultural and industrial equipment and installation, components and spare parts for these

**MATIA KASAIJA,**  
*Minister of Finance, Planning and Economic Development.*

**STATUTORY INSTRUMENTS SUPPLEMENT**

*to The Uganda Gazette No. 80 Volume CXVI, dated 8th December, 2023*

Printed by UPPC, Entebbe, by Order of the Government.

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**S T A T U T O R Y I N S T R U M E N T S**

**2023 No. 105.**

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS  
(CONTRACTS) REGULATIONS 2023**

**ARRANGEMENT OF REGULATIONS**

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# STATUTORY INSTRUMENTS

2023 No. 105.

## **The Public Procurement and Disposal of Public Assets (Contracts) Regulations, 2023**

*(Made under sections 96(1) and 96A of the Public Procurement and Disposal of Public Assets Act, 2003, Act No. 1 of 2003)*

IN EXERCISE of the powers conferred upon the Minister responsible for finance by sections 96(1) and 96A of the Public Procurement and Disposal of Public Assets Act, 2003, in consultation with the Minister responsible for the Kampala Capital City Authority and the Minister responsible for local governments, and on the recommendation of the Authority, these Regulations are made this 26<sup>th</sup> day of September, 2023.

### PART I—PRELIMINARY

#### **1. Title and commencement.**

(1) These Regulations may be cited as the Public Procurement and Disposal of Public Assets (Contracts) Regulations, 2023.

(2) These Regulations shall come into force on the 5<sup>th</sup> day of February, 2024.

### PART II—AWARD OF CONTRACT

#### **2. Recommendation to award contract.**

(1) After evaluation, and where negotiations are held and are successful, a Procurement and Disposal Unit shall submit to the Contracts Committee, a recommendation to award a contract.

(2) The Contracts Committee shall consider the recommendation to award a contract and make a decision as may be appropriate.

(3) Where the Contracts Committee makes a decision to award a contract, the award decision shall not be a contract binding the procuring and disposing entity to the provider.

### **3. Notice of best evaluated bidder.**

(1) A procuring and disposing entity shall, within five working days after the award decision of the Contracts Committee, display a notice of best evaluated bidder on the notice board of the procuring and disposing entity for ten working days.

(2) The notice of best evaluated bidder shall state—

- (a) the name of the best evaluated bidder;
- (b) the total contract price and, where any scores were awarded during the evaluation process, the total score of the best evaluated bidder;
- (c) the date of the notice; and
- (d) the unsuccessful bidders, the stage at which their bids failed or were eliminated and the reasons for the failure or elimination.

(3) The notice of best evaluated bidder shall be displayed on the procurement and disposal notice board of the procuring and disposing entity and where available, the website of the procuring and disposing entity and the website of the Authority until the day following the expiry of the period specified, in regulation 4, where applicable.

(4) A procuring and disposing entity shall deliver a copy of the notice of best evaluated bidder to all bidders who participated in the bidding process in any of the following ways—

- (i) by electronic mail;
- (ii) by post or courier; or
- (iii) in person.

(5) A procuring and disposing entity shall obtain proof of delivery of the notice of best evaluated bidder to all bidders.

- (6) This regulation shall not apply where —
  - (a) the micro procurement method is used;
  - (b) direct procurement is used;
  - (c) irrespective of the procurement method used, procurement in emergency situations; or
  - (d) where one bid is received through a competitive procurement method.

**4. Period during which no further action may be taken.**

(1) A procuring and disposing entity shall not take any action on the award decision before the lapse of a period of ten working days, after the date of display of the notice of the best evaluated bidder as required under regulation 3.

(2) Where the award decision is changed within the time specified in regulation (1), the ten working days shall be deemed to commence on the date of display of the new notice of the best evaluated bidder.

- (3) This regulation shall not apply—
  - (a) where the micro procurement method is used;
  - (b) where the direct procurement is used;
  - (c) to procurement in emergency situations, irrespective of the procurement method used; or
  - (d) where one bid is received through a competitive procurement method.

**5. Debriefing bidders.**

(1) After signing a contract, the procuring and disposing entity shall at the request of a bidder give the bidder who made the request, a written debrief stating the reasons for the success or failure of the bid of that bidder—

- (a) provide brief details of any material deviation, reservation or omission that led to the rejection of the bid or state the relative weakness of the bid.
- (b) where any scores were awarded during the evaluation process, provide a breakdown of the scores awarded against each criterion, to the bid of the unsuccessful bidder.

(2) The debrief shall be unique to each bidder and shall not provide details on any other bids, other than the information that is otherwise publicly available.

(3) The debriefing of bidders shall not apply to the micro procurement method.

## **6. Procedure for signing contract.**

(1) A procuring and disposing entity shall not issue a contract, purchase order, or other communication in any form, conveying acceptance of a bid that binds a procuring and disposing entity to a contract with a provider, except where—

- (a) the Contracts Committee makes an award decision;
- (b) the Accounting Officer confirms that the contract price is not higher than the market price established prior to the commencement of the procurement process;
- (c) the period specified in regulation 4 has expired and the bid is valid or the bidder is willing to extend the bid validity on terms similar to the terms stated in their bid;
- (d) the Accounting Officer confirms that the procurement is not subject to an administrative review process;
- (e) subject to regulation 7(2), the full amount of the funding required for the duration of the proposed contract is committed; and
- (f) all the relevant agencies, including, where applicable, the Attorney General, make the necessary approval of the contract.

(2) Notwithstanding regulation (1), in an emergency situation or for micro procurement, the Accounting Officer may sign a contract—

- (a) without an award decision by the Contracts Committee, where the Contracts Committee is unable to meet;
- (b) without a notice of best evaluated bidder; or
- (c) before the lapse of the period specified in regulation 4.

## **7. Commitment of funds.**

(1) Notwithstanding regulation 6(1)(e), a procuring and disposing entity shall not enter into a contract until the Accounting Officer confirms in writing that the funds required for the proposed contract have been committed.

(2) Regulation (1) shall not apply where—

- (a) payment to a provider is to be effected in a subsequent financial year;
- (b) in the case of a framework contract, funds are committed at the time of issue of each specific call off order using Form 48 in Schedule II to these Regulations; or
- (c) the Secretary to the Treasury confirms in writing that the required funding shall be made available in accordance with a specified schedule of payment.

(3) Where payment to a provider extends to more than one financial year, the annual budget of the procuring and disposing entity shall for the duration of the contract, include for each financial year, the payment to be made to the provider in the financial year.

(4) In the case of a framework contract, the Accounting Officer shall ascertain that—

- (a) the funds required to cover the full cumulative costs of all call off orders anticipated for the financial year are included in the budget of the procuring and disposing entity, for the financial year; and

- (b) the funds required for each call off order are committed prior to the release of the call off order.

**8. Commitment of total cost of acquiring requirement.**

(1) An Accounting Officer shall ascertain that the total cost of acquiring a procurement requirement is committed before entering into a contract.

(2) The total cost of acquiring a requirement shall include the contract price and other incidental costs, not included in the contract price, but for which a procuring and disposing entity shall be liable, including local clearance, contingencies, inland delivery and import taxes or duties.

(3) In the case of a contract for supplies using an INCOTERM term, where the procuring and disposing entity is responsible for paying any additional costs, the procuring and disposing entity shall ascertain that the additional costs are included in the total cost of procuring the requirement before entering into the contract.

- (4) The additional costs referred to in regulation (3) include—
  - (a) freight costs;
  - (b) local clearance and delivery costs;
  - (c) insurance costs;
  - (d) taxes;
  - (e) inspection costs; and
  - (f) any other related costs.

**9. Contract.**

- (1) A contract shall—
  - (a) clearly identify the obligations of each party;
  - (b) correlate all payments by a procuring and disposing entity with the corresponding inputs and the obligations or

deliverables by a provider, in a specific identifiable and measurable manner;

- (c) where required, provide effective supervision arrangements;
- (d) where required, provide adequate monitoring and cost control measures;
- (e) where required, include adequate and clear delivery, acceptance and handover or commissioning arrangements; and
- (f) the right of the parties to terminate the contract and the procedure for termination.

(2) A contract document shall be in accordance with the form of contract specified in the bidding document.

(3) A person signing the contract shall initial all the pages of the contract and sign the signature page of the contract.

(4) At least three originals of the contract shall be produced and the procuring and disposing entity and the provider shall each have an original signed by both parties.

#### **10. Formation of contract.**

(1) A contract shall be formed where the contract is signed by the representatives of the procuring and disposing entity and of the provider with capacity to sign, and is issued by a procuring and disposing entity.

(2) A procuring and disposing entity shall, within five working days after the signing of the contract, display a notice of the signed contract on the notice board of the procuring and disposing entity.

#### **11. Performance security.**

(1) The bidding documents shall state the requirement for a performance security or a performance securing declaration.

(2) The value of the performance security shall be specified in guidelines issued by the Authority.

(3) A performance security shall be—

(a) in a format authorised by the Authority, which shall be specified in the bidding documents;

(b) in a form and from an institution that is acceptable to the Bank of Uganda, in the case of a bank guarantee, or in a form and from an institution that is acceptable to the Insurance Regulatory Authority, in the case of an insurance bond, as may be specified in the guidelines issued by the Authority; and

(c) valid for the period specified in the bidding documents.

(4) Where a provider is required to provide a performance security under subregulation (1), a bid security provided by the provider in the bidding process shall not be released until the performance security is received and verified by the procuring and disposing entity.

(5) A performance security shall not be released by a procuring and disposing entity until all the obligations of the provider, which are subject to the performance security, are fulfilled.

## **12. Effecting a contract.**

(1) A contract shall become effective as specified in the contract, where one or more of the conditions specified in the contract including the following are fulfilled—

(a) the procuring and disposing entity receiving the performance security or the performance securing declaration;

(b) the procuring and disposing entity receiving an advance payment guarantee; and

(c) a provider receiving an advance payment, where applicable.



(2) A procuring and disposing entity shall terminate a contract where a provider fails to provide the required performance security within the specified time.

(3) Where a contract is terminated under subregulation (2), the procurement and disposing entity may award the contract to the bidder who is ranked second after the best evaluated bidder and where that bidder is not able to perform the contract, in descending order, to the next qualified bidder, provided the period for bid validity has not expired.

### PART III—TYPES OF CONTRACTS.

#### **13. Choice of contract.**

(1) A procuring and disposing entity shall, determine the contract type appropriate for a procurement or disposal after taking into account—

- (a) the nature of the procurement or disposal requirement;
- (b) the need to minimise risk for the procuring and disposing entity;
- (c) the need to maximise value for money for the procuring and disposing entity;
- (d) the likelihood of any delays or unforeseen circumstances requiring contract extensions, or variations of change orders; and
- (e) the need for effective contract management and cost control.

(2) A procuring and disposing entity shall use any of the types of contracts specified in this Part and may for that purpose combine types of contracts.

#### **14. Lump sum contract.**

(1) A lump sum contract shall indicate the fixed price of the contract, determined in accordance with these Regulations.

(2) A lump sum contract shall provide for interim or stage payments.

(3) Payment for a lump sum contract shall be linked to clearly specified outputs or deliverables, including—

- (a) deliveries of supplies, evidenced by the appropriate delivery documentation;
- (b) reports;
- (c) drawings;
- (d) bills of quantities;
- (e) activity schedules; and
- (f) any other outputs or deliverables appropriate to the contract.

**15. Time-based contract.**

(1) Payment for a time-based contract shall be based on the agreed hourly, daily, weekly, or monthly fees for nominated personnel or of a certain type or grade of personnel and reimbursable items based on actual expenses or the agreed unit prices.

(2) The payment rates for personnel shall include salary, social costs, overhead costs, fees or profit and special allowances.

(3) Reimbursable items referred to in subregulation (1) include—

- (a) subsistence, such as per diem or housing;
- (b) transport, which may be international or local;
- (c) mobilisation and demobilisation;
- (d) services and equipment such as vehicles, office equipment, furniture and supplies;

- (e) office rent;
- (f) insurance;
- (g) printing of documents;
- (h) surveys;
- (i) training, where training is a major component of the assignment; and
- (j) any other appropriate items.

(4) A time-based contract shall indicate the maximum amount of total payments to be made, including any contingency allowance for unforeseen work and duration.

(5) A time-based contract shall include interim or stage payments.

## **16. Admeasurement contract.**

(1) Under an admeasurement contract, works shall be split into various items and the quantity of each item needed to complete the assignment shall be estimated and indicated in the bidding document.

(2) A bidder shall price each work item by indicating a unit rate for each item in the bill of quantities.

(3) The initial total contract price shall be calculated by multiplying the unit rate of each item by the estimated quantity of the item, to give a total cost for each item, and then, calculating the sum of the line item totals.

(4) The actual work done shall be measured during the performance of the contract and shall be finally reconciled upon completion of the contract.

(5) Payment shall be made for the actual quantity of work performed.

(6) An admeasurement contract shall include fixed prices or price adjustments.

(7) An admeasurement contract shall include interim or stage payments.

**17. Framework contract.**

(1) Under a framework contract, a bidder shall indicate the unit rate for each item.

(2) Notwithstanding regulation (1), where applicable, under a framework contract, the price of a bidder may be based on commission rates.

(3) A procuring and disposing entity shall indicate the estimated quantity or value of a procurement where this is possible or necessary to obtain competitive bids, but shall not make a commitment to purchase the full quantity or value of a procurement requirement.

(4) A framework contract shall state the arrangements for obtaining specific requirements during the period of the contract, using the placement of “call-off” or delivery orders, as may be appropriate.

(5) Payment shall be made on the basis of the works, services or supplies actually delivered or performed.

(6) A framework contract shall include fixed prices or price adjustment.

(7) A procuring and disposing entity shall use open domestic bidding method to procure supplies, works, consultancy or non-consultancy services under a framework contract except where—

- (a) the supplies, works, consultancy or non-consultancy services are required in a period of time that does not allow the procuring and disposing entity to use the open domestic bidding method;

- (b) there is only available a single provider or limited providers for the supplies, works, consultancy or non-consultancy services; or
- (c) the value of the procurement does not conform to the threshold for open domestic bidding method.

**18. Percentage based contract.**

(1) A percentage based contract shall clearly define the total cost of the procurement requirement from which the percentage is to be calculated.

(2) A bidder shall be required to indicate the fee rate as a percentage of the total cost of the procurement requirement.

(3) A percentage contract shall include—

- (a) the fixed target cost;
- (b) the minimum or maximum fees;
- (c) sliding scales of the fees, related to the value of the subject of the contract; or
- (d) incentive fees, related to any savings made as a result of economic designs, discounts obtained, cost reductions or similar fees.

**19. Cost reimbursable contract.**

Under a cost reimbursable contract, a procuring and disposing entity shall pay a provider—

- (a) for the actual cost of the works, evidenced by receipts and other appropriate documentation; and
- (b) a fee or profit to be agreed upon and specified in the contract.

**20. Target price contract.**

Under a target price contract, a procuring and disposing entity shall pay the provider for the actual cost of the works, evidenced by receipts

and other appropriate documentation and a fee, profit or an agreed percentage of any cost savings which are below the target price.

**21. Retainer contract.**

Payment for a retainer contract shall include a flat fee—

- (a) which represents the total payment due, irrespective of the level and amount of the services provided during the prescribed period; or
- (b) as a retainer for the prescribed period plus a pre-agreed unit rate for the services provided.

**22. Success fee contract.**

(1) Payment for a success fee contract, shall be a—

- (a) pre-agreed amount linked to the successful completion of a target or event;
- (b) percentage of a predetermined amount or proceeds; or
- (c) a basic flat rate, which is not linked to the successful completion of a particular task, event or action.

(2) A success fee contract shall describe the nature of the success to which a success fee shall be applicable and the timeframe within which the task, event or action shall be achieved.

*Contracts for supplies*

**23. Types of contracts for supplies.**

(1) A procuring and disposing entity shall use a lump sum contract for supplies where the specification, required quantity and delivery schedule of the contract are known.

(2) A procuring and disposing entity shall use a framework contract for supplies—

- (a) which are needed repeatedly or continuously over a period of time, including stationery, office supplies, food stuffs and spare parts;

- (b) where there are logistical and procurement reasons for having the requirement available on a call off basis; or
- (c) where the arrangement reduces procurement costs or lead times.

(3) A procuring and disposing entity shall obtain the consent of the Authority to procure supplies using any other type of contract other than the types of contracts stated in this regulation.

#### **24. Scope of contracts for supplies.**

A contract for supplies shall clearly indicate the responsibilities of a provider under the contract, which may include—

- (a) the supply and delivery of supplies, in accordance with the specified INCOTERM;
- (b) the installation and commissioning of supplies;
- (c) training in the use, maintenance or repair of the supplies; and
- (d) provision of after-sales services, including the supply and delivery of consumables and spare parts and servicing, maintenance, repair, calibration and modification of the equipment.

#### **25. Delivery terms.**

(1) The delivery terms for supplies shall be in accordance with the INCOTERMS.

(2) A contract shall, where applicable, specify the INCOTERMS to be used for delivery.

#### **26. Freight and delivery.**

(1) The freight and delivery requirements for each procurement requirement shall be specified in the bidding documents by stating the delivery terms using the appropriate INCOTERMS.

(2) A contract shall state the required mode of transportation and freight.

(3) A procuring and disposing entity shall state its address clearly as the consignee address.

**27. Packing, packaging, marking and labelling.**

(1) A procuring and disposing entity shall state in the contract, the minimum packing and packaging criteria and where applicable, the requirements for labelling and marking of packages.

(2) A procuring and disposing entity shall state in the contract, that the packing standards shall where applicable, withstand rough handling, storage and protection against the effects of moisture.

**28. Insurance for supplies.**

(1) A procuring and disposing entity shall specify in the contract the required level of insurance against loss, damage and theft.

(2) A procuring and disposing entity shall state in the contract whether a bidder is required to take out insurance and shall include the cost of insurance using the appropriate INCOTERM.

(3) Where a provider is required to arrange insurance in the name of a procuring and disposing entity, the bidding documents and contract shall state that the minimum insurance coverage shall be one hundred and ten percent of the delivered cost, covering Institute of Cargo Clauses (A), including “all risks” “warehouse to warehouse”, “strikes”, “war” and “civil commotion”.

**29. Export and import licences.**

(1) A procuring and disposing entity shall specify in the contract the responsibility for export and import licences, or similar documentation or formalities, using the appropriate INCOTERMS.

(2) Where a procuring and disposing entity wishes to vary the provisions of the INCOTERMS, the revised provisions shall be clearly stated in the contract.



### **30. Inspection and testing for supplies.**

(1) A contract for supplies shall specify whether a procuring or disposing entity may inspect or test the supplies during manufacture, prior to shipment, on delivery or prior to acceptance, in order to verify their technical quality, quantity, packaging or any other detail.

(2) Inspection and testing shall include an independent technical inspection or testing conducted under the internal quality control procedures of the provider.

(3) The requirement for inspection shall take into account—

- (a) the technical complexity of the supplies;
- (b) the quantity and value of the supplies;
- (c) the estimated cost, delay or other effect of receiving the wrong quantity or sub-standard or damaged supplies, to a procuring and disposing entity;
- (d) the cost of inspection; and
- (e) the internal quality control procedures of the provider.

(4) Where inspection is required, the contract shall indicate—

- (a) the type of inspection or test to be performed and the standards to be met;
- (b) the location where the inspection or test is to be performed;
- (c) the person to carry out the inspection or test;
- (d) when the inspection or testing is to be performed;
- (e) the notification or documentation required from a provider;
- (f) the party to pay for the cost of the inspection, including the cost of the facilities, labour, apparatus and materials and whether the cost is to be included in the bid;

- (g) that the samples required for inspection shall be provided at no additional cost
- (h) the arrangement and cost for any re-inspection where this is required; and
- (i) any other relevant issues.

(5) A contract shall describe the obligations and responsibilities of the provider, related to the inspection.

(6) Where a third party provider is required to inspect the supplies, the services of the third party provider shall be contracted using the appropriate procurement method and rules for the procurement of services.

(7) Where inspection or testing consists of the internal quality control procedures of the provider, the procuring and disposing entity may, if this is specified in the contract, send a representative to witness the internal tests or may request for copies of the reports of the tests.

#### *Contracts for non-consultancy services*

### **31. Types of contracts for non-consultancy services.**

(1) A procuring and disposing entity shall use a lump sum contract for non-consultancy services where the terms of reference and the required input or the period of performance of the contract, are known.

(2) A procuring and disposing entity shall use a framework contract for non-consultancy services—

- (a) where there is a need to have non-consultancy services “on call” and the extent and timing of the requirement including repairs and the servicing of equipment cannot be defined in advance; or
- (b) which are needed repeatedly or continuously over a period of time and where having the non-consultancy services

available on a “call off” basis would reduce procurement costs or lead times.

**32. Insurance and indemnity for non-consultancy services.**

- (1) A procuring and disposing entity shall ascertain that—
  - (a) all procurement requirements for non-consultancy services are adequately and appropriately indemnified against—
    - (i) damage, loss or injury to person or property arising from the services provided; and
    - (ii) any actions, suits, claims, demands, costs and expenses occasioned by negligence or breach of statutory duty by a provider; and
  - (b) a provider maintains adequate professional liability and insurance coverage against negligent performance.

(2) A procuring and disposing entity shall state in the bidding documents and the contract, the insurance and indemnity required for the procurement for services and shall require a bidder to include the costs of the insurance and indemnity in the bid.

(3) A procuring and disposing entity shall take out the insurance required under the relevant laws and any other insurance, appropriate for the procurement of a non-consultancy service.

**33. Contract for non-consultancy services.**

A procuring and disposing entity shall specify, in a contract for non-consultancy services—

- (a) the ownership of all property purchased, produced, developed or used during implementation of the contract;
- (b) the obligations of the provider regarding the custody and care of the property of the procuring and disposing entity, occupied or used during the implementation of the contract;

(c) arrangements for temporary handover and return of all the property of a procuring and disposing entity occupied or used during the implementation of the contract; and

(d) arrangements for the handover, if appropriate, of all the property purchased during implementation of a contract.

*Contracts for works*

**34. Types of contracts for works.**

(1) A procuring and disposing entity shall use a lump sum contract for buildings and other forms of construction where the works are well defined and are unlikely to change in quantity or specification, and where encountering difficult or unforeseen site conditions, such as hidden foundation problems, is unlikely.

(2) A procuring and disposing entity shall use an admeasurement contract for buildings and other forms of construction where the works are not well defined or are likely to change in quantity or specification, and where encountering difficult or unforeseen site conditions, such as hidden foundation problems, is likely.

(3) A procuring and disposing entity shall use a framework contract where the quantity of works is not defined and where—

- (a) there is a need to have works “on call” and the extent and timing of the requirement cannot be defined in advance; or
- (b) the requirements are needed repeatedly or continuously over a period of time and having the requirements available on a “call off” basis reduces the costs of procurement or lead times.

(4) A procuring and disposing entity shall use a cost reimbursable contract—

- (a) for emergency works, where there is insufficient time to calculate the full costs of the works required; or

- (b) for high risk works, where it is more economical for a procuring and disposing entity to bear the risk of price variations than to pay a provider to accept the risk or where a provider does not accept the risk.

(5) A procuring and disposing entity shall use a target price contract where—

- (a) the target price is agreed; and
- (b) savings on costs may be achieved by offering an incentive payment to a provider for any cost savings below the target price.

(6) A procuring and disposing entity shall obtain the consent of the Authority to use another type of contract for works, other than the types of contracts specified in this regulation.

### **35. Scope of contracts for works.**

(1) A contract for works shall clearly indicate the scope of work and the responsibility for the design.

(2) A contract for works may be—

- (a) a standard lumpsum or admeasurement contract, where the works are fully designed by the procuring and disposing entity or a consultant prior to bidding and the provider is responsible for construction only;
- (b) a design and build contract, where the provider is responsible for the design and construction of the works based on the parameters of the procuring and disposing entity; or
- (c) a turnkey contract, where a provider is responsible for the design, engineering, supply, installation of equipment and the complete construction, based on the performance specifications of the procuring and disposing entity, except

where the procuring and disposing entity is responsible for the design and engineering, and invites bids for a single contract for the supply and installation of all the works and supplies required for the project component.

(3) A procuring and disposing entity shall use a management contracting contract where appropriate, subject to the regulations prescribed for the procurement of services.

(4) A procuring and disposing entity shall obtain the consent of the Authority to use a contract for works, whose scope is outside this regulation.

### **36. Insurance and indemnity for works.**

(1) A procuring and disposing entity shall ascertain that all the procurement requirements for works are adequately and appropriately insured, from the commencement of the works to the end of the defects liability period, against events which are due to the risks of a provider, including—

- (a) loss of or damage to the works, plant, materials, equipment, property; and
- (b) personal injury or death.

(2) Insurance shall provide for the compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.

(3) A procuring and disposing entity shall state the insurance required, in the bidding documents and the contract and shall require a bidder to include the costs of insurance in the bid.

### **37. Property for contracts for works.**

A contract for works shall clearly state—

- (a) the procedure for the transfer of the completed works to a procuring and disposing entity, including the transfer of title and the documentation required of the transfer;

- (b) the ownership of the property, on site, during the implementation of a contract;
- (c) the obligations of the provider in relation to the custody and care of the property of a procuring and disposing entity, occupied or used during the implementation of a contract; and
- (d) the arrangements for the temporary handover and return of all the property of the procuring and disposing entity, occupied or used during the implementation of the contract.

PART IV—CONTRACT PRICING AND PAYMENT.

**38. Contract pricing.**

(1) A procuring and disposing entity shall for a procurement requirement that is to be completed within eighteen months from the placement of a contract, place the contract based on fixed prices.

(2) Notwithstanding regulation (1), a contract for a requirement that is to be completed within eighteen months shall provide for price adjustment in the case of—

- (a) rapidly rising prices; or
- (b) significant price fluctuations due to changes in the price of foreign currency, in the case of imported goods.

(3) For the purposes of regulation (2), the submission for price adjustment to the Contracts Committee shall include the justification for recommending the price adjustment.

(4) A procuring and disposing entity shall place a contract with provisions on price adjustment for a procurement requirement that will not be completed within eighteen months from the placement of a contract.

(5) The Authority shall advise a procuring and disposing entity on the internationally accepted practices, in relation to price adjustment, for differing procurement requirements.

### **39. Application of price adjustment.**

(1) A procuring and disposing entity shall include a provision on price adjustment in a contract extending beyond eighteen months, where it is more economical for a procuring and disposing entity to accept the inflation risk than to pay an additional cost for the supplier to accept the risk.

(2) Where a provision on price adjustment is included in a contract, the method for calculating adjustments, and any restrictions or conditions on adjustments, shall be clearly stated in the bidding documents and in the contract.

(3) A price adjustment shall be calculated using a predefined formula, which shall separate the total price into components, such as labour, equipment, materials, and fuel, adjusted by the index price specified for each component.

(4) Where the payment currency is different from the currency of the source of the input and corresponding index, a correction factor shall also be applied in the formula, to avoid incorrect adjustment.

(5) The formula, price indices, correction factors and base date for application shall be clearly stated in the bidding documents and in the contract.

(6) The formula and price indices shall be appropriate to the type of procurement and the source of the inputs and shall use industry standards wherever possible.

(7) Where there is an industry standard or where an appropriate formula is not available, a procuring and disposing entity shall use the sample formula in Schedule 1 to these Regulations.

### **40. Payment terms.**

(1) A contract shall specify the payment terms to apply to the contract, including—



- (a) the payment method;
- (b) the payment structure;
- (c) the payment documents;
- (d) the payment period; and
- (e) the currency of payment.

(2) Where a bidder proposes alternative payment terms, the bidder shall include the full cost of the terms in the bid price.

#### **41. Payment method.**

(1) A procuring and disposing entity shall agree with a provider on the method of payment for a contract.

(2) The method of payment shall be comprehensively defined in the contract and shall indicate the person to pay the costs if any, associated with the agreed method.

#### **42. Payment structure.**

(1) A procuring and disposing entity shall state in the contract, the structure of the payment to be made.

(2) The payment structure and amount of payment for each procurement requirement shall be determined by best practices.

(3) The amount of payment shall be proportionate to the required output or deliverables.

(4) A payment structure may include—

- (a) advance payments;
- (b) stage payments, which shall be linked to specific deliverables or milestones and which may be stated in percentage terms of the defined amount or in specific amounts;

- (c) regular interim payments, which shall be based on the general progress or the work performed and may relate to a specified time period or a measurement of work performed; or
- (d) a retained payment, which shall be linked to a specific contract event, such as installation or warranty.

(5) For payments under subregulation (4) (b) and (c), the payment structure shall be proportionate to the output or deliverables.

(6) Notwithstanding this regulation, a procuring and disposing entity may in accordance with the requirements of regulation 46 make payment in full before a contract is performed.

### **43. Advance payment.**

(1) A procuring and disposing entity may make an advance payment for—

- (a) mobilisation or start-up costs for the provision of works or services; or
- (b) the provision of supplies, such as items that have to be specially or custom manufactured.

(2) Where an advance payment is to be made, an advance payment security specified in regulation 47, shall be required and the requirement for a payment security shall be stated in the bidding documents and in the contract.

(3) A procuring and disposing entity shall not make an advance payment exceeding thirty percent of the contract price.

(4) Notwithstanding sub regulations (2) and (3), a procuring and disposing entity may, with the approval of the Secretary to the Treasury, make an advance payment of more than thirty percent of the contract price, where the procurement of the supplies, works or non-consultancy services requires an advance payment of more than thirty percent of the contract price.

- (5) An advance payment shall—
  - (a) be recovered from subsequent interim payments made to a provider, by making a percentage deduction from the interim payments, equal to the percentage paid as advance payment; or
  - (b) for stage payments, be specified as a particular milestone.

**44. Interim or stage payment.**

(1) Where an interim or stage payment is permitted, a procuring and disposing entity shall—

- (a) link the payment to specific and verifiable deliverables, contract event, time period, or work which shall be stated in the bidding documents and the resulting contract;
- (b) ensure that the individual payments do not exceed the cost or value of the deliverable, period or work to which the payment relates; and
- (c) require the provision of a payment security if, during the delivery of the supplies, works or services, the risk or title remains with the provider.

(2) Where a payment security is required under subregulation (1)(c), a procuring and disposing entity shall comply with the requirements of regulation 47.

**45. Retained payment.**

(1) A procuring and disposing entity shall determine the works or services for which payment may be retained and shall state in the contract—

- (a) the percentage or amount of the total contract value to be retained;
- (b) the period or the event at which the retention is to be released; and

(c) the documents that shall be used to prove or to certify the period or event relating to the release.

(2) A provider may be permitted to substitute a payment security for a retained payment, in accordance with these Regulations.

**46. Payment in full before performance of contract.**

(1) A procuring and disposing entity may make payment in full before performance of a contract by a provider, where the procuring and disposing entity, on its own initiative, sources for supplies directly from a manufacturer or authorised agent of the manufacturer and the manufacturer or agent of a manufacturer requests for payment in full before performance of the contract.

(2) The payment made under subregulation (1) may, where the Secretary to the Treasury so authorises, be made without the requirement for a payment security.

**47. Payment security.**

(1) A procuring and disposing entity shall not make payment to a provider under a contract for supplies, works or services without receipt of the deliverables specified in the contract.

(2) Notwithstanding regulation (1), a procuring and disposing entity may make payment to a provider before receipt of deliverables specified in the contract, where the procuring and disposing entity obtains an appropriate payment security.

(3) The bidding documents and the contract shall state the requirement for a payment security.

(4) The validity period for a payment security for procurement for works shall be for three to six months after the final expected date.

(5) The validity period for a payment security for procurement for services or supplies shall be for one to three months after the final expected date.

(6) A payment security shall be released by a procuring and disposing entity upon the expiry of the term of the security or upon the reduction of the secured sum to zero, whichever is later.

(7) The proposed release of a payment security shall be communicated to a provider and returned in accordance with the instructions of the provider.

**48. Payment documents.**

(1) A procuring and disposing entity shall clearly state in the contract, the documents against which each payment shall be made.

(2) A payment document shall include a document certifying or proving—

- (a) the delivery or receipt of the supplies, works or services in accordance with the terms of the contract;
- (b) the content of the consignments delivered;
- (c) the insurance coverage of the delivered items;
- (d) that the delivered items were inspected and confirmed to be in accordance with the contract;
- (e) the origin or eligibility of the delivered items;
- (f) payment of the costs specified in the contract, such as duties, levies or taxes that may be due and payable by a provider on the delivered items;
- (g) acceptance of the installation or commissioning of the delivered items by the procuring and disposing entity or user department;
- (h) the receipt or acceptance of reports, manuals, guides, or other relevant documents;

- (i) the actual time period worked;
- (j) the actual works or services completed;
- (k) the payment of sums due to sub-contractors; and
- (l) the actual sums paid for reimbursable costs, such as air tickets.

(3) A payment request from a provider shall be made using an original invoice from the provider certifying the payment due.

**49. Payment to provider.**

(1) The payment for any sum of money due under a contract shall only be made in the name of the provider stated in the contract.

(2) Notwithstanding subregulation (1), payment may be made to any person other than a provider, where the provider requests and confirms in writing the details of the recipient of the payment.

(3) The period for payment shall be thirty days from certification of invoices, except where this is varied in the special conditions of the contract.

(4) Payment shall be made in the currency stated in the contract.

(5) Where a payment request contains errors or discrepancies or is supported by incorrect or incomplete documentation or is not in accordance with the terms of a contract, the payment request shall not be certified and shall be returned to the provider, specifying the reasons for the rejection.

(6) A provider whose payment request is rejected shall be entitled to present a new or amended payment request, which shall be treated as the original payment request.

(7) Notwithstanding subregulation (1), where a procuring and disposing entity queries any part of a payment invoice from a provider, the procuring and disposing entity shall pay the unchallenged portion of the invoice to the provider.

## PART V—CONTRACT MANAGEMENT

### **50. Contract management.**

(1) The Accounting Officer shall appoint a person from the user department to be the contract manager.

(2) The Procurement and Disposal Unit shall provide a copy of the contract to the person appointed by the Accounting Officer to manage the contract.

(3) Upon receipt of the contract, the contract manager shall prepare a contract management plan using Form 49 in Schedule 2 to these Regulations, and forward a copy of the contract management plan to the Procurement and Disposal Unit for purposes of monitoring.

(4) Where the contract manager or the user department has any reservation or difficulty with the terms or conditions of the contract, the contract manager shall discuss and resolve the reservation or difficulty with the Procurement and Disposal Unit.

### **51. Appointment of contract manager.**

(1) For purposes of regulation 50 (1), a user department shall nominate, a member of the user department, with appropriate skills and experience, or a person who is supervised by a member of the user department who has the appropriate skills and experience, to be appointed as contract manager.

(2) Where a contract is of high value or is complex or forms part of a larger project, the Accounting Officer shall assign the contract to a contract management team, which shall have the same responsibilities as a contract manager.

(3) A contract may be managed by a body or person outside the procuring and disposing entity, supervised by the user department.

**52. Responsibilities of contract manager.**

(1) A contract manager shall—

- (a) manage the obligations and duties of the procuring and disposing entity specified in the contract; and
- (b) make certain that the provider performs the contract in accordance with the terms and conditions specified in the contract.

(2) In the case of a time-based contract, the contract manager shall closely monitor the progress of the contract and ascertain that the payments claimed by the provider are appropriate and in accordance with the contract terms.

(3) For the purposes of regulation (1), a contract manager shall—

(a) ascertain that—

- (i) the provider meets all the performance or delivery obligations in accordance with the terms and conditions of the contract;
- (ii) the provider submits all the required documentation in accordance with the terms and conditions of the contract;
- (iii) the procuring and disposing entity meets all the payment and other obligations in accordance with the terms and conditions of a contract;
- (iv) where appropriate, there is adequate control for the cost, quality and time of the contract;
- (v) there is compliance with the Public Procurement and Disposal of Public Assets Act, 2003, these Regulations, guidelines and best practices;



- (vi) all the contract obligations are completed before the expiry of the contract; and
- (vii) all contract management records are kept and archived as required;
- (b) issue any required variations or change orders, in accordance with the terms and conditions of a contract;
- (c) provide full details of a required contract amendment to the Procurement and Disposal Unit and obtain the approval of the Contracts Committee before issuing any amendment;
- (d) manage the handover of the acceptance procedures;
- (e) provide full details of any proposed termination of a contract to the Procurement and Disposal Unit and obtain the approval of the Accounting Officer prior to termination;
- (f) appraise the performance of the provider and report on the performance of the provider to the Procurement and Disposal Unit; and
- (g) submit monthly reports on the progress of the contract to the Accounting Officer and to the Procurement and Disposal Unit.

(4) The Procurement and Disposal Unit shall every three months prepare and submit to the Accounting Officer a report on all contracts signed by the procuring and disposing entity, highlighting the problems encountered in managing the contracts.

### **53. Change orders to contracts.**

(1) Subject to subregulation (2), a procuring and disposing entity may at any time after signing a contract issue a change order to the provider, in accordance with the contract, requiring the provider to make changes within the general scope of the contract in—

- (a) the drawings, designs, or specifications;
- (b) the method of shipment or packing;
- (c) the place of delivery;
- (d) the time of performance or duration of the contract; or
- (e) the related services to be provided by the provider.

(2) A procuring and disposing entity shall not issue a change order under this regulation where the change order increases the cost of the contract beyond 1% in the case of a single change or 1.5 % in the case of cumulative change orders, of the original contract price.

(3) A change order shall be issued by the contract manager.

(4) A change order shall not be issued to the provider without the approval of the Accounting Officer.

#### **54. Amendment of contracts.**

(1) A change in the terms and conditions of a contract that are not change orders or which increase the price of the contract beyond 1% in the case of a single change or 1.5% cumulatively shall be effected by amending the contract.

(2) The price to be charged by a provider for any related services that might be needed but which were not included in the contract shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the provider, for similar services.

(3) Notwithstanding subregulation (2), a contract amendment for additional quantities of the same items shall use the same or lower unit prices as the original contract.

(4) A single contract amendment shall not increase the total contract price by more than fifteen percent of the original contract price.

(5) Where a contract is amended more than once, the cumulative value of all contract amendments shall not increase the total contract price by more than 25 percent of the original contract price.

(6) A contract amendment shall not be issued to a provider without—

- (a) commitment of the full amount of funding of the amended contract price over the required period of the revised contract;
- (b) obtaining the approval of the Contracts Committee; and
- (c) obtaining approval from the Attorney General and other concerned bodies.

(7) The approval required under sub regulation (6) (c), shall be obtained after approval of the amendment by the Contracts Committee.

#### **55. Renewal of contracts**

(1) The contracts for the supplies or non-consultancy services specified in Schedule 3, that expire may be renewed.

(2) A contract referred to in subregulation (1) shall be renewed once and shall only be further renewed where the Secretary to the Treasury authorises.

#### **56. Termination of contracts.**

(1) Where the contract manager or a Procurement and Disposal Unit is satisfied that a contract should be terminated, the contract manager or the Procurement and Disposal Unit shall submit a recommendation for termination, with a copy of the contract, to the Accounting Officer.

(2) A recommendation for termination of a contract shall state—

- (a) the name of the provider and the procurement reference number;

- (b) reasons for the termination;
- (c) the actions taken to avoid termination, where applicable;
- (d) the contractual grounds for the termination;
- (e) the costs, if any, resulting from the termination; and
- (f) any other relevant information.

(3) The decision to terminate a contract shall be taken by the Accounting Officer, after approval by the Attorney General.

(4) Where a contract is terminated for non-performance of obligations under the contract, the procuring and disposing entity shall recommend to the Authority to suspend the provider.

#### PART VI—REVOCATION AND TRANSITION

##### **57. Revocation and transition.**

(1) The Public Procurement and Disposal of Public Assets (Contracts) Regulations, 2014 are revoked.

(2) A process that had commenced under the Public Procurement and Disposal of Public Assets (Contracts) Regulations, 2014 and the Local Governments (Public Procurement and Disposal of Public Assets) Regulations, 2006 shall be continued and completed under these Regulations.

## SCHEDULES

### SCHEDULE 1

*Regulation 39 (7)*

#### **PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003**

##### **SAMPLE PRICE ADJUSTMENT FORMULA**

Prices payable to the provider, as stated in the contract, shall be subject to adjustment during performance of the contract to reflect changes in the cost of labour and material components in accordance with the formula:

$$\Delta P = P_0 \left( a + b \frac{L_1}{L_0} + c \frac{M_1}{M_0} \right) - P_0$$

in which:

- $\Delta P$  = adjustment amount payable to the provider.
- $P_0$  = contract price (base price).
- a = fixed element representing profits and overheads included in the contract price and generally in the range of five (5) to fifteen (15) percent.
- b = estimated percentage of labour component in the contract price.
- c = estimated percentage of material component in the contract price.
- $L_0, L_1$  = labour indices applicable to the appropriate industry in the country of origin on the base date and date for adjustment, respectively.
- $M_0, M_1$  = material indices for the major raw material on the base date and date for adjustment, respectively, in the country of origin.

The coefficients a, b, and c shall be specified by the procuring and disposing entity in the bidding documents. The sum of the three coefficients should be one (1) in every application of the formula.

The bidder shall indicate the source of the indices and the base date indices in his bid.

Base date = thirty (30) days prior to the deadline for submission of the bids.

Date of adjustment = \_\_\_\_\_ weeks prior to date of shipment (representing the mid-point of the period of manufacture).

The above price adjustment formula shall be invoked by either party subject to the following further conditions:

- (a) Price adjustment will be applied only if the resulting increase or decrease is more than \_\_\_\_ percent of the Contract Price. *[Two (2) percent would be an acceptable percentage.]*
- (b) No price adjustment shall be allowed beyond the original delivery dates unless specifically stated in the extension letter. As a rule, no price adjustment shall be allowed for periods of delay for which the provider is entirely responsible. The procuring and disposing entity will however be entitled to any decrease in the prices of the supplies and services subject to adjustment.
- (c) The total adjustment under this clause shall be subject to a ceiling of plus or minus percent of the contract price. *[Ten (10) percent would be an acceptable percentage.]*
- (d) If the currency in which the contract price P0 is expressed is different from the currency of origin of the labour and material indices, a correction factor will be applied to avoid incorrect adjustments of the contract price. The correction factor shall correspond to the ratio of exchange rates between the two currencies on the base date and the date for adjustment as defined above.

No price adjustment shall be payable on the portion of the contract price paid to the provider as advance payment.

**SCHEDULE 2**

**FORMS**

**FORM 48**

*Regulation 7(2)*

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003**

**COMMITMENT FOR CALL OFF ORDER**

<b>Call Off Order Reference Number</b>		
<b>Code of Procuring and Disposing Entity</b>	<b>Supplies/Works/Non-consultancy services</b>	<b>Financial Year</b>
		<b>Call Off Order No.</b>

<b>Particulars of Procurement</b>	
<b>Subject of Procurement</b>	
<b>Location for Delivery</b>	
<b>Date Required</b>	

Item No.	Description	Quantity	Total Cost and Currency
Amount to be Committed			

**(1) Requisition Prepared by**  
(Head of user department)

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**(2) Approval of Commitment**  
(Head of Accounts)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*Funds Position- Balance available under Accounting Warrants as per Vote Control Register*

Vote/head No	Programme	Sub-programme	Item	Balance remaining

**(3) Confirmation of Commitment for Call Off Order**  
(Accounting Officer)

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_



**FORM 49**

*Regulation 50(3)*

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003**

**CONTRACT MANAGEMENT PLAN**

Category of Procurement and Budget

Recurrent Budget	Development Budget	Project Code	Project Title	On EGP (Yes/No)	New/ Extension

Is Procurement to Result into Multiyear Contracting?

Required Resources (UGX Bn) Year One	Required Resources (UGX Bn) Year Two	Required Resources (UGX Bn) Year Three	Required Resources (UGX Bn) Year Four

**PART I - SUPPLIES**

Procurement Reference Number		
Code of Procuring and Disposing Entity	Supplies	Financial Year
		Sequence Number

<b>Subject of Procurement</b>	
<b>Provider</b>	
<b>Contract Value</b>	
1. Contract start date	
2. Delivery date	
3. Contract completion date if different from 2.	
<b>Deliverables</b>	
Item	Quantity
<b>Contract Start-up/Mobilization and Guarantees (Where applicable)</b>	
Letter of credit issued, if applicable	
Performance guarantee	<i>Amount:</i>
	<i>Latest date for receipt:</i>
Date of release of bid security	
Advance payment guarantee	<i>Amount:</i>
	<i>Latest date for receipt:</i>
Release of guarantees	

<b>Inspection (Where applicable)</b>	
Point of inspection	
Inspection agency	
Point of delivery	
Acceptance/handover	
<b>Contract Progress</b>	
<b>Installation and commissioning (Where applicable)</b>	
Installation date	
Commissioning date	
Interim or stage payments	<i>See attached sheet</i>
<b>Contract Completion</b>	
Liquidated damages due if any	
Final Payment	Amount
	Date
<b>Warranty/Guarantee (Where applicable)</b>	
Warranty/ Guarantee start date	
Warranty/ Guarantee expiry date	

**Contract Implementation Plan prepared by: Contract Manager**

Name: ..... Position: .....

Signature ..... Date .....



**Part II – Works**

<b>Procurement Reference Number</b>			
Code of Procuring and Disposing Entity	Works	Financial Year	Sequence Number

<b>Subject of Procurement</b>	
<b>Provider</b>	
<b>Contract Value</b>	

Contract start date	
Contract end date ( <i>Start Date + Time for completion</i> )	
Site possession date to contractor	
Supervisor or the engineer	
<b>Guarantees (Where applicable)</b>	
Performance guarantee	<i>Amount:</i>
	<i>Latest date for receipt:</i>
Advance payment guarantee	<i>Amount:</i>
	<i>Latest date for receipt:</i>
Date of release of bid security	
Date of release of advance payment guarantee	

<b>Contract Progress</b>	
Interim or Stage payments	<i>See attached sheet</i>
<b>Contract Completion</b>	
Date of taking over certificate	<i>(Release of % of Retention where applicable)</i>
Extension of time, if any	
Delay, if any	
Liquidated damages due, if any	
Date of performance certificate	<i>(date of taking over certificate + defects notification period and release of remaining % of retention)</i>
Return of performance security	
Final Payment	<i>Amount</i>
	<i>Date</i>
<b>Retentions (Where applicable)</b>	
The proportion of payments to be retained	..... [insert percent] percent.
<b>Defects Liability Period (Where applicable)</b>	
Defects liability period	
Contractual Date of Performance Certificate	<i>(contract completion date + defects notification period)</i>



**Part III - Consultancy Services**

<b>Procurement Reference Number</b>			
Code of Procuring and Disposing Entity	Consultancy Services	Financial Year	Sequence Number

<b>Subject of Procurement</b>	
<b>Provider</b>	
<b>Contract Value</b>	

<b>Contract Duration</b>	
<b>Contract Start Date</b>	
<b>Contract Completion Date</b>	
<b>Deliverables</b>	
No.	Deliverable Date expected



<b><i>Payment Schedule (Where applicable)</i></b>			
Percentage payment	Deliverable	Amount to be paid	Amount outstanding on contract
<b>Lumpsum</b>			
<b>Time based</b>			

**Contract Management Plan prepared by:**

Name:..... Position.....

Signature ..... Date .....

**Part IV- Non-Consultancy Services**

Procurement Reference Number			
Code of Procuring and Disposing Entity	Non-Consultancy Services	Financial Year	Sequence Number
<b>Subject of Procurement</b>			
<b>Provider</b>			
<b>Contract Value</b>			
<b>Contract Duration</b>			
<b>Contract Start Date</b>			
<b>Contract Completion Date</b>			
<b>Deliverables</b>			
No.	Deliverable	Dates expected	
<b>Guarantees (Where applicable)</b>			
Performance guarantee		<i>Amount:</i>	
		<i>Latest date for receipt:</i>	
Date of release of Bid Security			

Advance payment guarantee	<i>Amount:</i>
	<i>Latest date for receipt:</i>
<b>Installation and commissioning (Where applicable)</b>	
Installation date	
Commissioning date	
<b>Payment Schedule</b>	
Interim/stage payments	Milestones
Lumpsum	
Time based	
<b>Contract completion</b>	
Liquidated damages due if any	
Final Payment	Amount
	Date

**Contract Management Plan prepared by:**

Name:..... Position.....

Signature ..... Date .....

### **SCHEDULE 3**

*Regulation 55(1)*

#### **SUPPLIES AND NON-CONSULTANCY SERVICES FOR WHICH CONTRACTS MAY BE RENEWED**

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- (ii) Rental agreements
- (iii) Cleaning services
- (iv) Security services
- (v) Catering services

**MATIA KASAIJA,**  
*Minister of Finance, Planning and Economic Development.*

**STATUTORY INSTRUMENTS SUPPLEMENT**

*to The Uganda Gazette No. 80 Volume CXVI, dated 8th December, 2023*

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**S T A T U T O R Y I N S T R U M E N T S**

**2023 No. 102.**

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS  
(DISPOSAL OF PUBLIC ASSETS) REGULATIONS, 2023.**

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# S T A T U T O R Y   I N S T R U M E N T S

**2023 No. 102.**

## **The Public Procurement and Disposal of Public Assets (Disposal of Public Assets) Regulations, 2023.**

*(Made under sections 96(1) and 96A of the Public Procurement and Disposal of Public Assets Act, 2003, Act No 1 of 2023).*

IN EXERCISE of the powers conferred upon the Minister responsible for finance by sections 96(1) and 96A of the Public Procurement and Disposal of Public Assets Act, 2003, in consultation with the Minister responsible for the Kampala Capital City Authority and the Minister responsible for local governments, and on the recommendation of the Authority, these Regulations are made, this 26<sup>th</sup> day of September, 2023.

### PART I—PRELIMINARY

#### **1. Title and commencement.**

(1) These Regulations may be cited as the Public Procurement and Disposal of Public Assets (Disposal of Public Assets) Regulations, 2023.

(2) These Regulations shall come into force on the 5<sup>th</sup> day of February, 2024.

#### **2. Disposal planning.**

(1) For the purposes of disposal planning, an Accounting Officer shall, in each financial year, cause the public assets of a procuring and disposing entity to be reviewed, to identify the public assets to be disposed of in the following financial year.

(2) A procuring and disposing entity may use the board of survey or a user department to identify the public assets to be disposed of.

(3) For the purposes of maximizing competition and achieving value for money, a procuring and disposing entity shall group the public assets to be disposed of in lots.

(4) In order to reduce the administration and transaction costs, a procuring and disposing entity shall dispose of as many public assets as possible at a given time, where the public auction disposal method is to be used.

(5) Two or more procuring and disposing entities may dispose of public assets under a collaborative arrangement, where savings on cost and other business related benefits may be envisaged.

**3. Initiation of disposal requirements and approval for disposal.**

(1) A User Department or the appropriate department of a procuring and disposing entity that is responsible for the management of public assets, shall initiate a process for disposal of a public asset by making a request for disposal of the public asset to the Accounting Officer.

(2) A User Department may initiate a process for disposal of public assets where the board of survey of the entity recommends for the disposal of a public asset.

(3) A User Department or the appropriate department of a procuring and disposing entity that is responsible for the management of public assets which initiates a disposal process shall in the request for disposal, clearly indicate the public asset to be disposed of.

(4) The Accounting Officer of a procuring and disposing entity shall approve a request for disposal prior to the commencement of the disposal process.

(5) Every disposal process shall—

(a) have a reference number, allocated using the referencing system in the guidelines; and

(b) be identified by the reference number of the asset in the assets register of the procuring and disposing entity.

(6) The request and approval of the disposal of a public asset shall be made by the User Department or the appropriate department of a procuring and disposing entity that is responsible for the management of public assets and the Accounting Officer, respectively, using Form 28 in the Schedule.

**4. Minister to approve disposal of strategic assets.**

(1) The disposal of a strategic asset shall be undertaken after approval of the disposal by the Minister.

(2) A procuring and disposing that seeks to dispose of the public asset shall make a request for approval of the disposal to the Minister which shall include a report of the valuation of the asset.

PART II—CONDITIONS AND RULES FOR DISPOSAL  
OF PUBLIC ASSETS

*Conditions and rules for public bidding*

**5. Conditions for use of public bidding.**

Public bidding shall be used as a method of disposal where—

- (a) the assets could attract competition;
- (b) the asset has a geographically dispersed potential market;  
or
- (c) no conditions need to be attached to the sale of the asset.

**6. Rules for disposal of public assets by public bidding.**

(1) The Procurement and Disposal Unit, shall make a request to the Contracts Committee, for the use of the public bidding method using Form 29 in the Schedule.

(2) The Contracts Committee shall state its decision of the Form submitted under sub-regulation (1).

(3) A procuring and disposing entity shall solicit for bids to dispose of a public asset by public bidding by publishing an invitation notice to the public.

(4) The invitation notice to the public shall be published in at least one newspaper of national circulation and may be communicated to the public using any other appropriate media, which offers an efficient means of communicating with potential bidders and which increases competition.

(5) The invitation notice shall be displayed on the procurement and disposal notice board of the procuring and disposing entity and where available, on the website of the procuring and disposing entity and on the website of the Authority.

(6) The invitation notice shall indicate that an interested bidder shall obtain the bidding documents from a procuring and disposing entity.

(7) The bidding documents shall be drafted using the format issued by the Authority and shall—

- (a) include a description and location of the public asset to be disposed of;
- (b) indicate the documentation required for bidding; and
- (c) indicate the evaluation criteria.

(8) The bidding documents may be sold and where the bidding documents are sold, they shall be sold at a price that covers the costs of copying the documents.

(9) A procuring and disposing entity shall record the issue or sale of bidding documents using Form 30 in the Schedule.

(10) The minimum bidding period shall be three working days for biological assets except where the life of the asset is at risk, in which case the minimum period shall be less than three working days, and ten working days for the other assets.

(11) The bids shall be evaluated using the “price only” methodology.

(12) A procuring and disposing entity may hold negotiations with the highest bidder where the bidder is below the reserve price.

(13) Where the successful bidder fails to pay the contract price in accordance with the terms of the contract, the procuring and disposing entity shall terminate the contract and make an offer for sale to the next highest bidder.

*Conditions and rules for public auction*

**7. Conditions for use of public auction.**

(1) A public auction shall be used where—

- (a) there is a large number of potential bidders for the public asset; or
- (b) the public assets to be disposed of are at one or several locations.

(2) Where the public auction method is used, the sale shall be at a reserve price.

**8. Rules for disposal of public assets by public auction.**

(1) The Procurement and Disposal Unit shall make a request to the Contracts Committee, for the use of the public auction method using Form 31 in the Schedule.

(2) The Contracts Committee shall state its decision on the Form submitted under sub-regulation (1).

(3) A procuring and disposing entity shall solicit for bids to dispose of a public asset by public auction, by publishing an invitation notice to the public.

(4) The invitation notice to the public shall be published in at least one newspaper of national circulation and may be communicated to the public using any other appropriate media, which offers an

efficient means of communicating with potential bidders and which increases competition.

(5) The invitation notice shall be displayed on the procurement and disposal notice board of the procuring and disposing entity and on the website of the Authority.

(6) A procuring and disposing entity shall appoint an auctioneer to conduct a public auction on behalf of the procuring and disposing entity.

(7) A procuring and disposing entity shall allow a period of at least ten working days for the potential bidders to inspect the public asset to be auctioned, which shall be between the date of publication of the invitation notice to the public and the date of the public auction.

(8) Bidding at a public auction shall be made orally.

(9) The procedure for bidding at a public auction shall be specified by the auctioneer.

(10) The auctioneer shall not hold negotiations with any bidder

(11) The auctioneer shall at the public auction announce the successful bidder who shall be advised to pay the contract price for the disposal item to the procuring and disposing entity within one working day from the date of the public auction.

(12) Notwithstanding subregulation (11), the auctioneer shall also record the particulars of the next highest bidder who may be considered where the highest bidder fails to pay the contract amount within the stipulated time.

(13) The auctioneer shall submit the record of the two highest ranked bidders for the public assets at the auction to the procuring and disposing entity.

**9. Appointment of auctioneer.**

(1) The auctioneer to be appointed by a procuring and disposing entity to conduct a public auction on behalf of the procuring and disposing entity shall be an auctioneer licenced under the Auctioneers Act, Cap. 270.

(2) The auctioneer shall be procured using the procurement methods in the Act.

(3) In procuring an auctioneer, a procuring and disposing entity shall take into account—

- (a) the commission rate of the auctioneer; and
- (b) the performance record and integrity of the auctioneer.

*Conditions and rules for direct negotiations*

**10. Conditions for use of direct negotiations.**

Direct negotiations shall be used where national security, public interest, health and safety issues, or environmental considerations or other considerations are served, when a disposal is made to a particular bidder.

**11. Rules for disposal of public assets by direct negotiations.**

(1) The Procurement and Disposal Unit shall make a request to the Contracts Committee, for the use of the direct negotiations method using Form 32 in the Schedule.

(2) The Contracts Committee shall state its decision on the Form submitted under sub-regulation (1).

(3) Where a public asset is to be disposed of through direct negotiations, a procuring and disposing entity shall obtain a valuation for the public asset before the negotiations are conducted.

(4) A procuring and disposing entity shall solicit for bids to dispose of a public asset by direct negotiations by issuing bidding documents.

(5) The bidding document shall be drafted using the format issued by the Authority.

(6) The minimum bidding period for disposal by direct negotiations shall be three working days.

(7) The bids shall be evaluated using the “price only” methodology.

(8) A procuring and disposing entity may hold negotiations with the successful bidder where the bidder’s price is less than the reserve price.

(9) Where the successful bidder fails to pay the contract price in accordance with the terms of the contract, the procuring and disposing entity shall terminate the contract and dispose of the asset using another appropriate method of disposal.

*Conditions and rules for sale to public officers*

**12. Conditions for use of sale to public officers.**

(1) Sale to a public officer shall be used for the disposal of a public asset where the use of the public asset by the public officer, would directly enhance the performance of the public officer in the execution of his or her duties within a procuring and disposing entity, if the asset is put to the personal use of the public officer.

(2) The procuring and disposing entity that disposes of public assets by sale to public officials shall contract out the disposal to a procuring and disposing entity that is not participating in the disposal process.

**13. Rules for disposal of public assets by sale to public officers**

(1) The Procurement and Disposal Unit shall make a request to the Contracts Committee, for sale to public officers using Form 33 in the Schedule and the Contracts Committee shall state its decision on the Form.



(2) The procuring and disposing entity to which a disposal is contracted out under regulation 12 (2) shall solicit for bids to dispose of a public asset by sale to public officers by publication of a non-public invitation notice which shall be displayed within at least five procuring and disposing entities, which are freely and easily accessible by public officers and on the website of the Authority.

(3) The non-public invitation notice shall indicate that the public officers interested in bidding for the public assets shall obtain the bidding documents from the procuring and disposing entity referred to in regulation 12 (2).

(4) The bidding documents for disposal by sale to public officers shall indicate—

- (a) a description and location of the public assets to be disposed of; and
- (b) the documentation required for bidding.

(5) The bidding documents shall be drafted using the format issued by the Authority.

(6) The bidding documents shall not be sold.

(7) The procuring and disposing entity to which a disposal is contracted out under regulation 12 (2) shall record the issuance of the bidding documents using Form 30 in the Schedule.

(8) The public assets to be sold to public officers shall not be grouped in lots, but shall be sold as separate items, except where—

- (a) a group of items is of a very low value;
- (b) a group of items forms a natural set; or
- (c) the items would have a lower value if sold as separate items.

(9) The minimum bidding period for sale to public officers shall be ten working days.

(10) The bids shall be evaluated using the “price only” methodology.

(11) Where the successful bidder fails to pay the contract price in accordance with the terms of the contract, the procuring and disposing entity shall terminate the contract and make an offer to the next highest bidder.

*Conditions and rules for destruction of public assets*

**14. Conditions for use of destruction of public asset.**

Destruction of a public asset shall be used where—

- (a) national security, public interest, health and safety issues, or environmental considerations will be served if the public asset is destroyed; or
- (b) the public asset has no residual value and it cannot be transferred to another procuring and disposing entity, converted or classified into another form with value or disposed of by donation.

**15. Rules for disposal of public assets by destruction.**

(1) The Procurement and Disposal Unit shall make a request to the Contracts Committee, for disposal by destruction using Form 34 in the Schedule.

(2) The Contracts Committee shall state its decision on the Form submitted under sub-regulation (1).

(3) A procuring and disposing entity shall undertake the destruction of the public asset or engage a competent authority or a provider to undertake the destruction.

(4) Where a procuring and disposing entity engages a provider to undertake the destruction, the provider shall be procured using the procurement methods in the Act.

(5) The Accounting Officer shall, using Form 35 in the Schedule give approval for the destruction, prior to the destruction.

(6) Where a procuring and disposing entity engages a competent authority or a provider to undertake the destruction, the competent authority or provider shall issue a certificate of destruction to the procuring and disposing entity which shall be part of the record of disposal proceedings.

*Conditions and rules for conversion or classification  
of public assets into another form*

**16. Conditions for use of conversion or classification of a public asset into another form for disposal by sale.**

Conversion or classification of a public asset into another form for disposal by sale shall be used, where the public asset has no residual value in its current form, but where some sale value can be obtained through conversion or classification of the public asset into another form.

**17. Rules for disposal of public assets by conversion or classification of the public assets into another form.**

(1) The Procurement and Disposal Unit shall make a request to the Contracts Committee, for disposal by conversion or classification of public assets into another form using Form 36 in the Schedule.

(2) The Contracts Committee shall state its decision on the form submitted under sub-regulation (1).

(3) A procuring and disposing entity may convert or classify the asset into another form.

(4) Where a procuring and disposing entity is not able to convert or classify the asset into another form, the procuring and

disposing entity may engage a provider to undertake the conversion or classification using the applicable procurement methods as specified in the Act.

*Conditions and rules for use of trade-in*

**18. Conditions for use of trade-in.**

(1) Trade-in shall be used where a public asset of a procuring and disposing entity will be upgraded in a convenient, economic and efficient way, by trading-in a surplus public asset of the procuring and disposing entity, to offset the purchase price of a new asset.

(2) Trade-in shall not be used where competition and value for money will not be achieved in the procurement process.

**19. Rules for disposal of public assets by trade-in.**

(1) The Procurement and Disposal Unit shall make a request to the Contracts Committee, for disposal by trade-in using Form 37 in the Schedule.

(2) The Contracts Committee shall state its decision on the Form submitted under sub-regulation (1).

(3) A procuring and disposing entity shall solicit for bids for the procurement to be done under the trade-in of a public asset using the relevant regulations on procurement.

(4) A procuring and disposing entity shall cause the public assets to be disposed of by trade-in to be valued before the disposal.

(5) For the purposes of selecting the appropriate method of disposal to use, the estimated value of the asset of the trade-in shall be included in the estimated value of the procurement.

(6) The disposal process of the trade-in shall be an integral part of the procurement process and shall follow the procurement rules in the Act and the Regulations made under the Act.

(7) The method used to evaluate trade-in offers shall be stated in the evaluation report.

(8) A procuring and disposing entity may hold negotiations with the successful bidder.

*Conditions and rules for transfer to another procuring and disposing entity*

**20. Conditions for use of transfer to another procuring and disposing entity.**

Transfer to another procuring and disposing entity shall be used where further use of the asset can be obtained by the procuring and disposing entity to which the asset is transferred.

**21. Rules for disposal of public assets by transfer to another procuring and disposing entity.**

(1) The Procurement and Disposal Unit shall make a request to the Contracts Committee, for the transfer to another procuring and disposing entity using Form 38 in the Schedule.

(2) The Contracts Committee shall state its decision on the Form submitted under sub-regulation (1).

(3) The concerned procuring and disposing entity shall prior to the transfer, agree on the following—

- (a) the public assets to be transferred;
- (b) the date for the transfer;
- (c) the responsibility for meeting the associated costs of the transfer; and
- (d) the procedure of handing over the public asset and the documentation to be transferred with the public asset.

(4) The agreement for the transfer shall be recorded using Form 39 in the Schedule.

*Conditions and rules for donation*

**22. Conditions for use of donation.**

Donation of a public asset shall be used where—

- (a) the procuring and disposing entity is to pursue the corporate social responsibility program with a private entity;
- (b) the public asset cannot be transferred to another procuring and disposing entity.

**23. Rules for disposal of public assets by donation.**

(1) The Procurement and Disposal Unit shall make a request to the Contracts Committee, for disposal by donation using Form 40 in the Schedule.

(2) The Contracts Committee shall state its decision on the Form submitted under sub-regulation (1).

(3) The procuring and disposing entity shall identify a recipient of the public assets to be donated and confirm the interest of the recipient to receive the public asset on the terms and conditions offered by the procuring and disposing entity.

(4) Regulation 22 shall not apply to an asset that is procured by a procuring and disposing entity for the purpose of donation to any person.

(5) A procuring and disposing entity shall confirm the donation of a public asset using Form 41 in the Schedule.

PART III—RULES AND PROCESSES FOR DISPOSAL  
OF PUBLIC ASSETS

**24. Valuations and reserve price.**

(1) A procuring and disposing entity shall prior to the commencement of a disposal process determine the reserve price of the asset to be disposed of.

(2) The reserve price shall be determined by obtaining a valuation for a public asset by—

- (a) a competent authority, where this is so required by law;
- (b) a provider procured in accordance with the Act, where there is no requirement for valuation under the relevant laws; or
- (c) the board of survey of the procuring and disposing entity.

(3) The user department shall determine whether the valuation required under sub-regulation (2) (b) should be conducted.

(4) A valuation shall not be carried out under sub-regulation (2) (b) where the cost of the valuation is likely to be more than the money expected to be realised from the disposal.

(5) The user department may decide to cause a second valuation to be undertaken where it is not satisfied with the first valuation.

(6) Where more than one valuation is conducted, the identities and recommendations of a valuer shall not be revealed to the other valuer.

(7) The Procurement and Disposal Unit in consultation with the user department shall use the valuation to propose a disposal method to the Contracts Committee, for approval.

(8) The reserve price shall be the minimum sale price of a public asset.

## **25. Description of public assets for disposal.**

(1) A procuring and disposing entity shall in the invitation notice to the public and the bidding documents, give a description of a public asset to be disposed of including pictures of the asset, the size of the asset, the encumbrances on the assets, if any, the current usage of the asset, the condition and location of the asset.

(2) The description of a public asset shall, where applicable, indicate the risk and cost of dismantling and removing the public asset upon completion of the disposal proceedings.

**26. Inspection of public assets.**

(1) A procuring and disposing entity shall offer a reasonable opportunity to potential bidders, to inspect a public asset before the deadline for bidding.

(2) The arrangements for the inspection of the public assets shall be included in the invitation or bidding documents.

**27. Submission of bids.**

(1) A written bid shall be submitted to the procuring and disposing entity for the public asset except where a procuring and disposing entity uses any of the following methods—

- (a) public auction;
- (b) destruction of assets;
- (c) conversion or classification of assets into another form for disposal by sale;
- (d) trade in;
- (e) electronic auctioning;
- (f) Transfer to another procuring and disposing entity; or
- (g) donation.

(2) The bids submitted shall include a bid securing declaration in the format provided by the Authority.

**28. Cancellation of disposal process.**

(1) A Procurement and Disposal Unit shall where it deems it necessary, or upon the recommendation of the User Department, recommend to the Contracts Committee that the disposal process be cancelled prior to award of the contract.



- (2) The recommendation for cancellation shall indicate—
  - (a) the reference number of the disposal and the respective public asset;
  - (b) the reasons for the recommendation;
  - (c) the recommended alternative disposal method, where applicable; and
  - (d) and other relevant information.

(3) The Contracts Committee shall consider the recommendation and forward it to the Accounting Officer for a decision.

## **29. Withdrawal of bids.**

(1) A bidder may, at any time before the deadline for submission of bids, withdraw a bid, by a letter notifying a procuring and disposing entity of the withdrawal.

(2) A withdrawal letter shall be authorised and submitted in the same way as the bid and shall be opened, read out and recorded at the bid opening session.

(3) A bidder who withdraws a bid may submit a new bid in accordance with the provisions of the bidding documents.

(4) A bidder may at any time before the deadline for submission of bids withdraw a bid and submit another bid.

## **30. Methods of receipt of bids.**

(1) A procuring or disposing entity shall receive bids—

- (a) through the staff of the Procurement and Disposal Unit, and issue a receipt, in accordance with regulation 31; or
- (b) by use of a bid box in accordance with regulation 32.

(2) Where a bid is delivered by registered mail or courier, a procuring and disposing entity shall not be held liable for risk of loss or delay in delivery.

**31. Receipt of bids in person and deadline for submission of bids.**

(1) An officer of the Procurement and Disposal Unit shall be available at the location for submission, before the deadline for submission of bids, to receive the bids and to issue receipts.

(2) The Procurement and Disposal Unit shall issue a signed receipt for each bid received, stating the date and time the bid is received.

(3) A procuring and disposing entity shall maintain a record of the bids received using Form 42 in the Schedule which shall indicate the name of each bidder, the date and time when each bid is received and name of the staff member of the Procurement and Disposal Unit who receives the bid.

(4) Bidding shall be closed at the precise time of the deadline for submission of bids.

(5) A bid that is brought to the location of submission of bids after the deadline for submission of bids shall not be accepted for purposes of bidding.

(6) The bid that is brought to the location of submission after the deadline for submission of bids shall be labelled "LATE" and returned unopened to the bidder.

(7) A bid that is brought to the location of submission of bids after the deadline for submission of bids, which is not labelled with the name of the bidder, shall be left unopened.

(8) The Procurement and Disposal Unit shall manage the process specified under this regulation and a representative of the Contracts Committee or of the User Department shall witness the process.

(9) The persons referred to in sub-regulation (8) shall sign Form 42 in the Schedule to confirm that bidding was closed at the precise time of the deadline for submission of bids.

(10) Immediately after the deadline for submission of bids, the bids received shall be moved to the location to be used for opening the bids.

**32. Receipt of bids by bid box and deadline for submission of bids.**

(1) A Procurement and Disposal Unit shall ensure that a bidder has access to the bid box at all times during working hours until the deadline for submission of bids.

(2) Where a procuring and disposing entity considers it appropriate, it may require a bidder to register a bid.

(3) A bidder whose bid is registered under subregulation (2) shall be given a receipt, stating the date and time the bid is received, before the bid is placed in the bid box.

(4) Bidding shall be closed at the precise time of the deadline for submission of bids by sealing the bid box.

(5) The bid that is brought to the location of submission after the deadline for submission of bids shall be labelled “LATE” and returned unopened to the bidder.

(6) A bid that is brought to the location of submission of bids after the deadline for submission of bids, which is not labelled with the name of the bidder, shall be left unopened and destroyed.

(7) The Procurement and Disposal Unit shall manage the process specified under this regulation and a representative of the Contracts Committee or of the User Department shall witness the process.

(8) The persons referred to in subregulation (8) shall sign Form 42 in the Schedule to confirm that the bid box was sealed at the precise time of the deadline for submission of bids.

(9) Immediately after the deadline for submission of bids, the bid box shall be moved to the location to be used for opening the bids.

(10) The bid box shall not be opened until the time of the public opening of the bids.

**33. Notification to bidders of public bid opening.**

(1) The procuring and disposing entity shall include in the invitation to bid for public assets or bidding documents—

- (a) the date and time of the bid opening;
- (b) the location of the bid opening; and
- (c) the information to be read out and recorded at the bid opening session.

(2) Where the information in subregulation (1) is not available at the time of issue of the bidding document, the information shall be communicated to all the bidders who purchased or were issued with the bidding document, before the deadline for submission of bids.

**34. Information to be read out.**

(1) The information to be read out at the bid opening under regulation 32, shall be in accordance with the bidding document and shall include—

- (a) the name of the bidder;
- (b) the presence or absence of a bid securing declaration;
- (c) the currency and price of the bid; and
- (d) any other information required as may be stated in the bidding documents.

(2) The information in this regulation may be varied where it is required by an alternative bid submission or evaluation method.

### **35. Procedure for public bid openings.**

(1) The bid opening session shall be managed by a member of the Procurement and Disposal Unit and shall be witnessed by a representative of the Contracts Committee or user department.

(2) The envelopes marked “WITHDRAWAL” shall be opened first and read out and the envelopes containing the withdrawn bid shall be located and returned to the bidder unopened.

(3) A procuring and disposing entity shall only allow a bid to be withdrawn where the withdrawal notice is in accordance with the requirements in the bidding document and where the notice is read out at the bid opening session.

(4) The other envelopes, including the envelopes marked “REPLACEMENT”, shall be opened one at a time and the relevant details read out in accordance with the bidding document.

(5) A replacement bid shall be recorded as such at the bid opening session.

(6) The key pages of a bid that is opened shall be stamped with the stamp of the procuring and disposing entity and signed or initialed by the chairperson of the bid opening session.

(7) The chairperson of the bid opening session shall determine the key pages to be stamped and initialed, which shall include the typed pages of the bid that are unique to the bid, and the bid form or bid submission sheet and the pages containing financial information.

(8) With the exception of a bid that is brought to the location of submission of bids after the deadline for submission of bids, a bid shall not be rejected or evaluated in any way at the public bid opening session.

(9) A procuring and disposing entity shall in the record of the bid opening session, note any discrepancies in a bid or any missing documents but shall not comment on the discrepancies or missing documents.

**36. Representation of bidder at public bid opening.**

(1) Public bid opening shall be conducted in the presence of a bidder or a representative of a bidder who chooses to attend.

(2) The procuring and disposing entity shall permit a bidder or a representative of a bidder to confirm that the bid is intact and sealed and any addition, deletion or modification to the exterior or the contents of a sealed bid shall not be permitted.

(3) A bidder or a representative of a bidder may ask questions after all the bids are opened, but a procuring and disposing entity shall not enter into discussion on the specific details of any bid.

**37. Record of public bid opening.**

(1) The bid opening shall be recorded using Form 43 in the Schedule.

(2) Any person who attends or participates in a bid opening shall sign Part II of Form 43 in the Schedule.

(3) After the bids are opened, read out and recorded, the record of the opening shall be signed by the chairperson and countersigned by the secretary.

(4) Copies of the record shall, upon request, be made available to a bidder or a representative of a bidder.

(5) The record of the bid opening shall be posted on the notice board of the procuring and disposing entity, within one working day of the opening and shall be displayed for a minimum of seven days.

**38. Complaints on the bidding process.**

(1) A member of a procuring and disposing entity, who suspects collusion between bidders, may request the Authority to investigate this.

(2) A member of a procuring and disposing entity who suspects mismanagement or malpractice of a procurement or disposal

process within the procuring and disposing entity, shall report this to the Accounting Officer who shall take appropriate action.

(3) A bidder may complain about the disposal process in accordance with the Public Procurement and Disposal of Assets (Administrative Review) Regulations, 2023.

**39. Re-bidding due to identical highest price bids.**

(1) Where the highest bid price for a disposal is by two or more bidders, the procuring and disposing entity shall invite the bidders with the same price to submit revised bids.

(2) A bidder who is invited to submit a revised bid under subregulation (1) shall not quote a price lower than the price quoted in the original bid.

(3) A revised bid shall be written, sealed and submitted in the same way as the original bid.

(4) A procuring and disposing entity shall give the bidders who are invited to submit revised bids reasonable time within which to submit revised bids.

(5) The procedure for opening the revised bids shall be the same as the procedure for opening the original bids.

(6) Where the revised bids have identical prices, the process shall be repeated in accordance with this regulation.

PART IV—EVALUATION OF BIDS

**40. Evaluation of bids.**

The Public Procurement and Disposal of Public Assets (Evaluation) Regulations 2023, shall, with the necessary modifications, apply to evaluation of bids under these Regulations.

**41. Evaluation based on price only.**

(1) Where the evaluation is based on the price only, the bidder with the highest price shall be awarded the contract.

(2) The Evaluation Committee shall, in evaluating the bids, compare the price of each bid with the reserve price.-

(3) The Evaluation Committee shall recommend award of the disposal contract to the bidder with the best evaluated price, subject to any reservations in regard to the reserve price.

(4) The evaluation report shall be prepared using Form 44 in the Schedule and shall indicate—

- (a) the price of each bid;
- (b) the best evaluated bid;
- (c) the comparison of the best evaluated bid with the reserve price, if any; and
- (d) a recommendation to—
  - (i) award the contract to the best evaluated bidder and where necessary, to hold negotiations with the best evaluated bidder and a copy of the negotiation plan;
  - (ii) cancel the disposal process; or
  - (iii) dispose of the public asset using another disposal method.

(5) For the purposes of subregulation (4) (d) (i), the Evaluation Committee shall prepare for the approval of the Contracts Committee a negotiation plan using Form 45 in the Schedule which shall—

- (a) propose the negotiation team;
- (b) specify the issues to be negotiated;
- (c) specify the objectives to be achieved; and



- (d) where possible shall quantify the objectives and set maximum and minimum negotiating parameters for a negotiation team.

**42. Evaluation based on price and other factors.**

(1) Where the evaluation is based on price and other factors, the eligibility requirements and compliance with the other factors, shall be evaluated on a pass or fail basis.

(2) Notwithstanding subregulation (1), evaluation of compliance with the other factors may include an evaluation of the relative merits of each bid in exceptional circumstances.

(3) The other factors shall be stated and the reasons for evaluating them justified and approved by the Contracts Committee, prior to the issuance of bidding documents.

(4) The Evaluation Committee shall—

- (a) use a preliminary examination to assess the eligibility of a bidder on a pass or fail basis and shall reject a bidder who fails to meet the eligibility criteria;

- (b) evaluate other factors in the manner stated in the bidding document; and

- (c) use a price evaluation to compare the bid price with the valuation of the public asset or reserve price, where applicable.

(5) The Evaluation Committee shall recommend award of the disposal contract to the bidder with the best evaluated price, and who meets the evaluation criteria.

(6) The evaluation report shall be prepared using Form 44 in the Schedule and shall indicate—

- (a) whether a bidder is eligible;

- (b) the results of the application of any other evaluation criteria;
- (c) the price of each bid;
- (d) the best evaluated bid; and
- (e) a recommendation to—
  - (i) award the contract to the best evaluated bidder and where necessary, to hold negotiations with the best evaluated bidder;
  - (ii) cancel the disposal process; or
  - (iii) dispose of the public asset using another disposal method.

(7) For the purposes of sub-regulation (6) (e) (i), the Evaluation Committee shall prepare for the approval of the Contracts Committee a negotiations plan using Form 45 in the Schedule which shall—

- (a) propose the negotiations team;
- (b) specify the issues to be negotiated; and
- (c) specify the objectives to be achieved and where possible shall quantify the objectives and set maximum and minimum negotiation parameters for a negotiation team.

#### **43. Submission of evaluation report.**

(1) Where the disposal of a public asset is by public auction, the auctioneer shall within fourteen days from the date of the public auction, submit the name of the highest bidder, the price of the bid, and the proceeds from the public auction, to the Accounting Officer, using Form 46 in the Schedule.

(2) Where the disposal method requires the submission of a written bid, the Evaluation Committee shall submit the name of the highest bidder and the price of the bid, to the Procurement and Disposal Unit using Form 44 in the Schedule.

**44. Procedure for negotiations.**

The procedure for negotiations shall be in accordance with the relevant provisions of the Act.

**45. Failure to reach the reserve price.**

(1) Where the price of the best evaluated bid is lower than the reserve price, the Contracts Committee shall, taking into consideration the difference between the best evaluated bid and the valuation or reserve price, the likely costs of the recommended action and the possibility of collusion of the bidders, make a recommendation to Accounting Officer.

(2) A recommendation under sub-regulation (1) shall specify whether—

- (a) another valuation for the public asset should be obtained;
- (b) negotiations should be conducted with the highest bidder, where the direct negotiations method was used for the disposal;
- (c) an invitation for new bids should be made;
- (d) the disposal process should be repeated using another method of disposal which is likely to obtain a higher price; or
- (e) the public asset should be sold at a reduced price.

**46. Records of disposal of public assets.**

(1) A procuring and disposing entity shall in respect of each disposal process keep the following records—

- (a) records of the disposal;
- (b) records relating to the management of the contract for disposal;
- (c) records of the Contracts Committee; and
- (d) records of the Accounting Officer including records of investigations of complaints.

(2) “Records of the disposal” in sub-regulation (1) (a) includes, as appropriate—

- (a) a request to initiate disposal proceedings;
- (b) a report of the board of survey;
- (c) a copy of an invitation notice;
- (d) a copy of the bidding documents, and the amendments, clarifications and additions to the bidding documents such as the catalogue of the auctioneer or general descriptive literature;
- (e) a report on the inspection of the public assets by the potential bidders;
- (f) a record of the bid opening process;
- (g) the records of the Contracts Committee;
- (h) a copy of the bids that were evaluated and the requests for clarifications by the Evaluation Committee and the responses received in respect of the requests;
- (i) the evaluation report;
- (j) minutes of the negotiation proceedings;
- (k) the best evaluated bidder notice;
- (l) the contract;
- (m) documents related to the management of the contract for disposal receipts of payment and the handing over certificate;
- (n) a copy of the public assets register of the procuring and disposing entity; and
- (o) all correspondence between the procuring and disposing entity and the bidders, the auctioneer or the third party disposal agent.

(3) A procuring and disposing entity shall, using Form 47 in the Schedule, by the 15th day of the month, submit a monthly report to the Authority on all disposal contracts awarded during the preceding month.

**47. Contract of disposal.**

(1) The Public Procurement and Disposal of Public Assets (Contracts) Regulations, 2023 shall, with the necessary modifications, apply to a contract of disposal entered into between a procuring and disposing entity and a bidder.

(2) Notwithstanding subregulation (1), a procuring and disposing entity shall not release a public asset disposed of under these Regulations, to the best evaluated bidder until the best evaluated bidder pays the full contract price.

PART V—REVOCATION AND TRANSITION

**48. Revocation and transition.**

(1) The Public Procurement and Disposal of Public Assets (Disposal of Public Assets) Regulations, 2014, are revoked.

(2) A disposal process that had commenced under the Public Procurement and Disposal of Public Assets (Disposal of Public Assets) Regulations, 2014 and the Local Governments (Public Procurement and Disposal of Public Assets) Regulations, 2006 shall be continued and completed under these Regulations.

**FORM 28**

*Regulation 3(6)*

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003**

**REQUISITION FOR DISPOSAL**

<b>Disposal Reference Number</b>		
Code of Procuring and Disposing Entity	Financial Year	Sequence Number

<b>Particulars of Disposal</b>		
Subject of Disposal		
Disposal Plan Reference		
Location/site of Asset		

Details relating to the asset for disposal			
Item No.	Description of Asset <i>(Attach a detailed list or Board of Survey report)</i>	Reference Number from Asset Register	Reserve Price and Currency
			Currency: _____ Estimated total value: _____

**(1) Request for Disposal**  
(Originating Officer)

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Date: \_\_\_\_\_

**(2) Approval to Disposal**  
(Accounting Officer)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**FORM 29**

*Regulation 6(1)*

THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003

**REQUEST BY THE PROCUREMENT AND DISPOSAL UNIT TO CONTRACTS COMMITTEE FOR  
APPROVAL OF DISPOSAL BY PUBLIC BIDDING**

<b>Disposal Reference Number</b>		
Code of Procuring and Disposing Entity	Financial Year	Sequence Number

<b>Particulars of Disposal</b>	
Subject of Disposal	
Disposal Plan Reference	
Location/site of asset	



<b>Details Relating to Submission and Decision of the Contracts Committee</b>			
	<b>Submission by the Procurement and Disposal Unit</b>	<b>Decision of the Contracts Committee</b>	<b>Conditions/ Justification for Decision</b>
	<b>Date of Submission to the Contracts Committee</b>	<b>Date/ Reference of Contracts Committee Meeting</b>	
1.	Assets to be disposed of, proposed reserve price and justification for using public bidding		
2.	Arrangements for inspection of assets by bidders ( <i>venue, dates and time</i> )		
3.	Individual/ company who/which valued the asset.		
4.	Names of persons recommended to constitute the evaluation committee and justification ( <i>Names and positions</i> )		
5.	Cost of the bidding documents if any		
6.	Any other information		

**Documents attached:**

1. Request for Proposal Document/ Expression of Interest Notice
2. Bidding document

**Declaration by Procurement and Disposal Unit**

The information contained in this Form and the attached documents is complete, true and accurate and in accordance with the Public Procurement and Disposal of Public Assets Act, 2003.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Date: \_\_\_\_\_

**Declaration by Contracts Committee**

The information contained in this form is a true and accurate record of the decision of the Contracts Committee meeting held on the above date.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Position: **Chairperson Contracts Committee**

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Position: **Secretary Contracts Committee**

Date: \_\_\_\_\_

**FORM 30**

*Regulation 6(9)*

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003**

**RECORD OF ISSUE OR SALE OF BIDDING DOCUMENTS /ADDENDA**

<b>Disposal Reference Number</b>		
Code of Procuring and Disposing Entity	Financial Year	Sequence Number

<b>Particulars of Disposal</b>	
Subject of Disposal	
Location/Site of Asset	
Date of Publication of Bid Notice	
Date Bidding Document is Available	

Particulars of Issue of Bidding Document or Addenda							
No	Name and Address of Bidder	Date of Application for the Document	Fee Paid	Date and Time of issue of Document	Name and Address of Person issued with the Document	Signature of Person Issued with Document	Name and Signature of Officer Issuing Document

I hereby certify that the above is a true and accurate record of the issue of bidding documents.

Name: \_\_\_\_\_ Position: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**FORM 31**

*Regulation 8(1) and (2)*

THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003

**REQUEST BY PROCUREMENT AND DISPOSAL UNIT TO CONTRACTS COMMITTEE FOR  
DISPOSAL BY PUBLIC AUCTION**

<b>Disposal Reference Number</b>		
Code of Procuring and Disposing Entity	Financial Year	Sequence Number

<b>Particulars of Disposal</b>	
Subject of Disposal	
Disposal Plan Reference	
Location/Site of Asset	

<b>Details relating to submission and decision of the Contracts Committee</b>				
	<b>Submission by the Procurement and Disposal Unit</b>		<b>Decision of the Contracts Committee</b>	<b>Conditions/ Justification for Decision</b>
	<b>Date of Submission to the Contracts Committee</b>		<b>Date/Reference of Contracts Meeting</b>	
1.	Assets to be disposed of, proposed reserve price and justification for using public auction			
2.	Arrangements for inspection of assets by bidders ( <i>venue, dates and time</i> )			
3.	Individual/ company who/which valued the asset.			
4.	Proposed auctioneer, contract arrangement and costs to be incurred where applicable			
5.	Any other information			

**Documents attached:**

1. Requisition for Disposal Form

**Declaration by the Procurement and Disposal Unit**

The information contained in this Form and the attached documents is complete, true and accurate and is in accordance with the Public Procurement and Disposal of Public Assets Act, 2003.

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Declaration by Contracts Committee**

The information contained in this Form is a true and accurate record of the decision of the Contracts Committee meeting held on the above mentioned date.

Name: \_\_\_\_\_

Position: **Chairperson Contracts Committee**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Position: **Secretary Contracts Committee**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**FORM 32**

*Regulation 11 (1) and (2)*

THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003

**REQUEST BY THE PROCUREMENT AND DISPOSAL UNIT TO CONTRACTS COMMITTEE FOR APPROVAL OF DISPOSAL BY DIRECT NEGOTIATIONS**

<b>Disposal Reference Number</b>		
Code of Procuring and Disposing Entity	Financial Year	Sequence Number

<b>Particulars of Disposal</b>	
Subject of Disposal	
Disposal Plan Reference	
Location/Site of Asset	



**Details Relating to Submission and Decision of the Contracts Committee**

<b>Submission by the Procurement and Disposal Unit</b>		<b>Decision of the Contracts Committee</b>	<b>Conditions/ Justification for Decision</b>
	<b>Date of submission to the Contracts Committee</b>		
1.	Asset to be disposed of, proposed reserve price and justification for using direct negotiations		
2.	Individual/ company who/which valued the asset.		
3.	Name of proposed bidder and reason for selection		
4.	Names of persons recommended to constitute the evaluation committee and justification ( <i>Names and positions</i> )		
5.	Any other information		

**Documents attached:**

1. Requisition for Disposal Form
2. Bidding document

**Declaration by the Procurement and Disposal Unit**

The information contained in this Form and the attached documents is complete, true and accurate and is in accordance with the Public Procurement and Disposal of Public Assets Act, 2003.

Name: \_\_\_\_\_  
Position: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

**Declaration by the Contracts Committee**

The information contained in this Form is a true and accurate record of the decision of the Contracts Committee meeting held on the above-mentioned date.

Name: \_\_\_\_\_  
Position: **Chairperson Contracts Committee**  
Signature: \_\_\_\_\_  
Date: \_\_\_\_\_  
Name: \_\_\_\_\_  
Position: **Secretary Contracts Committee**  
Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

**FORM 33**

*Regulation 13(1)*

THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003

**REQUEST BY THE PROCUREMENT AND DISPOSAL UNIT TO CONTRACTS COMMITTEE FOR  
APPROVAL OF DISPOSAL BY SALE TO PUBLIC OFFICERS**

<b>Disposal Reference Number</b>		
Code of Procuring and Disposing Entity	Financial Year	Sequence Number

<b>Particulars of Disposal</b>	
Subject of Disposal	
Disposal Plan Reference	
Location/Site of Asset	

<b>Details Relating to Submission and Decision of the Contracts Committee</b>			
	<b>Submission by the Procurement and Disposal Unit</b>	<b>Decision of the Contracts Committee</b>	<b>Conditions/ Justification for Decision</b>
	<b>Date of submission to the Contracts Committee</b>	<b>Date/ Reference of Contracts Committee Meeting</b>	
1.	Assets to be disposed of, proposed reserve price and justification for using sale to public officers.		
2.	Arrangement for inspection of assets by bidders ( <i>venue, dates and time</i> )		
3.	Individual/ company who/which valued the asset.		
4.	Independent agent to be contracted.		
5.	Names of procuring and disposing entities to participate in the disposal process and justification for selection.		
6.	Names of persons recommended to constitute the evaluation committee and justification ( <i>Names and positions</i> )		
7.	Cost of bidding document if any		
8.	Any other information		

**Documents attached:**

1. Requisition for Disposal Form
2. Bidding document

**Declaration by the Procurement and Disposal Unit**

The information contained in this Form and the attached documents is complete, true and accurate and is in accordance with the Public Procurement and Disposal of Public Assets Act, 2003.

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Declaration by the Contracts Committee**

The information contained in this Form is a true and accurate record of the decision of the Contracts Committee meeting held on the above-mentioned date.

Name: \_\_\_\_\_

Position : **Chairperson Contracts Committee**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Position : **Secretary Contracts Committee**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**FORM 34**

*Regulation 15 (1) and (2)*

THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003

**REQUEST BY THE PROCUREMENT AND DISPOSAL UNIT TO CONTRACTS COMMITTEE  
FOR APPROVAL OF DISPOSAL BY DESTRUCTION**

<b>Disposal Reference Number</b>		
Code of Procuring and Disposing Entity	Financial Year	Sequence Number

<b>Particulars of Disposal</b>	
Subject of Disposal	
Disposal Plan Reference	
Location/Site of Asset	

**Details Relating to Submission and Decision of the Contracts Committee**

	<b>Submission by the Procurement and Disposal Unit</b>	<b>Decision of the Contracts Committee</b>	<b>Conditions/ Justification for Decision</b>
	<b>Date of submission to the Contracts Committee</b>	<b>Date/ Reference of Contracts Committee Meeting</b>	
1.	Assets to be disposed of, proposed reserve price and justification for using destruction.		
2.	Competent authority or provider to undertake destruction.		
3.	Costs to be paid for the destruction.		
4.	Any other information		

**Documents attached:**

1. Requisition for Disposal Form

**Declaration by the Procurement and Disposal Unit**

The information contained in this Form and the attached documents is complete, true and accurate and is in accordance with the Public Procurement and Disposal of Public Assets Act, 2003.

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Declaration by the Contracts Committee**

The information contained in this Form is a true and accurate record of the decision of the Contracts Committee meeting held on the above-mentioned date.

Name: \_\_\_\_\_

Position: **Chairperson Contracts Committee**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Position: **Secretary Contracts Committee**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_



**FORM 35**

*Regulation 15(5)*

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003**

**APPROVAL OF DESTRUCTION OF PUBLIC ASSETS**

<b>Disposal Reference Number</b>		
Code of Procuring and Disposing Entity	Financial Year	Sequence Number

<b>Particulars of Disposal</b>	
Subject of Disposal	
Disposal Plan Reference	
Location/Site of Asset	

<b>Details of Asset(s) to be Destroyed</b>			
<b>Asset(s) to be destroyed</b>	<b>Asset description</b>	<b>Assets Reference Number</b>	<b>Quantity</b>
<b>Method of Destruction</b>			
<b>Official or Provider Responsible for Destruction</b>			

Approval to destroy asset is granted.

Name: \_\_\_\_\_

Position: **Accounting Officer**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**FORM 36**

*Regulation 17(1) and (2)*

THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003

**REQUEST BY THE PROCUREMENT AND DISPOSAL UNIT TO CONTRACTS COMMITTEE FOR APPROVAL OF DISPOSAL BY CONVERSION OR CLASSIFICATION INTO ANOTHER FORM**

<b>Disposal Reference Number</b>		
Code of Procuring and Disposing Entity	Financial Year	Sequence Number

<b>Particulars of Disposal</b>	
Subject of Disposal	
Disposal Plan Reference	
Location/Site of Asset	

<b>Details Relating to Submission and Decision of the Contracts Committee</b>			
	<b>Submission by the Procurement and Disposal Unit</b>	<b>Decision of the Contracts Committee</b>	<b>Conditions/ Justification for Decision</b>
	<b>Date of Submission to the Contracts Committee</b>	<b>Date/ Reference of Contracts Committee Meeting</b>	
1.	Assets to be disposed of, proposed reserve price and justification for using conversion or classification of asset into another form.		
2.	Competent authority or provider to undertake the conversion or classification		
3.	Costs to be undertaken for the conversion or classification, if any.		
4.	Any other information		

**Documents attached:**

1. Requisition for Disposal Form

**Declaration by the Procurement and Disposal Unit**

The information contained in this Form and the attached documents is complete, true and accurate and is in accordance with the Public Procurement and Disposal of Public Assets Act, 2003.

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Declaration by the Contracts Committee**

The information contained in this Form is a true and accurate record of the decision of the Contracts Committee meeting held on the above-mentioned date.

Name: \_\_\_\_\_

Position: **Chairperson Contracts Committee**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Position: **Secretary Contracts Committee**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**FORM 37**

*Regulation 19(1) and (2)*

THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003

**REQUEST BY THE PROCUREMENT AND DISPOSAL UNIT TO CONTRACTS COMMITTEE FOR  
APPROVAL OF DISPOSAL BY TRADE IN**

<b>Disposal Reference Number</b>		
Code of Procuring and Disposing Entity	Financial Year	Sequence Number

<b>Particulars of Disposal</b>	
Subject of Disposal	
Disposal Plan Reference	
Location/Site of Asset	

<b>Details Relating to Submission and Decision of the Contracts Committee</b>			
	<b>Submission by the Procurement and Disposal Unit</b>	<b>Decision of the Contracts Committee</b>	<b>Conditions/ Justification for Decision</b>
	<b>Date of Submission to the Contracts Committee</b>	<b>Date/ Reference of Contracts Committee Meeting</b>	
1.	Assets to be disposed of, proposed reserve price and justification for using trade in.		
2.	Individual / company who/which valued the asset and estimated trade-in value if different.		
3.	Procurement requirement in which trade in will be included.		
4.	Any other information		

**Documents attached:**

1. Requisition for Disposal Form

**Declaration by the Procurement and Disposal Unit**

The information contained in this Form and the attached documents is complete, true and accurate and is in accordance with the Public Procurement and Disposal of Public Assets Act, 2003.

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Declaration by the Contracts Committee**

The information contained in this Form is a true and accurate record of the decision of the Contracts Committee meeting held on the above-mentioned date.

Name: \_\_\_\_\_

Position: **Chairperson Contracts Committee**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Position: **Secretary Contracts Committee**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_



**FORM 38**

*Regulation 21(1) and (2)*

THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003

**REQUEST BY THE PROCUREMENT AND DISPOSAL UNIT TO CONTRACTS COMMITTEE FOR APPROVAL OF DISPOSAL BY TRANSFER TO ANOTHER PROCURING AND DISPOSING ENTITY**

<b>Disposal Reference Number</b>		
Code of Procuring and Disposing Entity	Financial Year	Sequence Number

<b>Particulars of Disposal</b>	
Subject of Disposal	
Disposal Plan Reference	
Location/Site of Asset	

<b>Details Relating to Submission and Decision of the Contracts Committee</b>			
	<b>Submission by the Procurement and Disposal Unit</b>	<b>Decision of the Contracts Committee</b>	<b>Conditions/ Justification for Decision</b>
	<b>Date of submission to the Contracts Committee</b>	<b>Date/ Reference of Contracts Committee Meeting</b>	
1.	Assets to be disposed of, proposed reserve price and justification for using transfer to another entity.		
2.	Individual/ company who/which valued the asset and value of the asset to be transferred.		
3.	Procuring and Disposing Entity/ entities with potential interest in asset to be transferred.		
4.	Any other information.		

**Documents attached:**

1. Requisition for Disposal Form

**Declaration by the Procurement and Disposal Unit**

The information contained in this Form and the attached documents is complete, true and accurate and is in accordance with the Public Procurement and Disposal of Public Assets Act, 2003.

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Declaration by the Contracts Committee**

The information contained in this Form is a true and accurate record of the decision of the Contracts Committee meeting held on the above-mentioned date.

Name: \_\_\_\_\_

Position: **Chairperson Contracts Committee**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Position: **Secretary Contracts Committee**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**FORM 39**

*Regulation 21(4)*

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003  
AGREEMENT FOR THE TRANSFER OF AN ASSET TO ANOTHER PROCURING AND  
DISPOSING ENTITY**

<b>Disposal Reference Number</b>		
Code of Procuring and Disposing Entity	Financial Year	Sequence Number

<b>Particulars of Disposal</b>	
Subject of Disposal	
Disposal Plan Reference	

**Details of the Transfer**

Transferring Procuring and Disposing Entity			
Recipient Procuring and Disposing Entity			
Description of asset(s) to be transferred	Asset (Description)	Asset Reference Number	Quantity
Cost to be paid by recipient for transfer if any			
Date of transfer			
Date and method of payment if applicable			
Documentation to be provided by transferring Procuring and Disposing Entity e.g. manual, handbook, registration certificate, licence etc			
Any items or accessories linked or excluded from transfer			
Additional information or terms			

I hereby certify the release of the asset(s) for transfer on the terms and conditions described above.

Name : \_\_\_\_\_ Position: **Accounting Officer** :

Signature : \_\_\_\_\_ Date: \_\_\_\_\_

I hereby accept the assets(s) on the terms and conditions described above.

Name : \_\_\_\_\_ Position: **Accounting Officer** :

Signature : \_\_\_\_\_ Date: \_\_\_\_\_

**FORM 40**

*Regulation 23(1) and (2)*

THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003

**REQUEST BY THE PROCUREMENT AND DISPOSAL UNIT TO CONTRACTS COMMITTEE FOR  
APPROVAL OF DISPOSAL BY DONATION**

<b>Disposal Reference Number</b>		
Code of Procuring and Disposing Entity	Financial Year	Sequence Number

<b>Particulars of Disposal</b>	
Subject of Disposal	
Disposal Plan Reference	
Location/Site of Asset	

<b>Details Relating to Submission and Decision of the Contracts Committee</b>			
	<b>Submission by the Procurement and Disposal Unit</b>	<b>Decision of the Contracts Committee</b>	<b>Conditions/ Justification for Decision</b>
	<b>Date of submission to the Contracts Committee</b>	<b>Date/ Reference of Contracts Committee Meeting</b>	
1.	Assets to be disposed of, proposed reserve price and justification for using donation.		
2.	Individual / company who/which valued the asset to be donated.		
3.	Proposed recipient(s) of the asset(s)		
4.	Any other information		



**Documents attached:**

1. Requisition for Disposal Form

**Declaration by the Procurement and Disposal Unit**

The information contained in this Form and the attached documents is complete, true and accurate and is in accordance with the Public Procurement and Disposal of Public Assets Act, 2003.

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Declaration by the Contracts Committee**

The information contained in this Form is a true and accurate record of the decision of the Contracts Committee meeting held on the above-mentioned date.

Name: \_\_\_\_\_

Position: **Chairperson Contracts Committee**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Position: **Secretary Contracts Committee**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**FORM 41**

*Regulation 23(5)*

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003**

**CONFIRMATION OF DONATION OF ASSET**

<b>Disposal Reference Number</b>		
Code of Procuring and Disposing Entity	Financial Year	Sequence Number

<b>Particulars of Disposal</b>	
Subject of Disposal	
Disposal Plan Reference	
Location/site of asset	

Details of the Donation			
Procuring and Disposing Entity donating the asset			
Recipient			
Description of asset(s) to be donated	Asset (Description)	Asset Reference Number	Quantity
Cost of donation			
Documentation to be provided by donating Procuring and Disposing Entity e.g. manual, handbook, registration certificate, licence ,etc			
Any items or accessories linked or excluded from donation.			
Additional information or terms			

I hereby certify the donation of the asset(s) for transfer on the terms and conditions described above.

Name: \_\_\_\_\_ Position: **Accounting Officer**  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_

I hereby accept that I have received the assets(s) on the terms and conditions described above.

Name: \_\_\_\_\_ Position: **Accounting Officer**  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**FORM 42**

*Regulation 31(3) 31(9), 32(8)*

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003**

**RECORD OF RECEIPT OF BIDS/BID CLOSING**

<b>Disposal Reference Number</b>		
Code of Procuring and Disposing Entity	Financial Year	Sequence Number

<b>Particulars of Disposal</b>	
Subject of Disposal	
Deadline for bid submission <i>(date and time)</i>	
Location for bid closing	

**Particulars of Receipt or Bid Closing**

No.	Name and Address of Bidder	Date of Receipt	Time of Receipt	Number of Envelopes	Method of Receipt: Person/ Bid Box	Name of Officer who Received the Bid	Signature of Officer who Received the Bid Document

Name: \_\_\_\_\_ Position: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Position: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**FORM 43**

*Regulation 37(1) and (2)*

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003**

**RECORD OF BID OPENING**

<b>Disposal Reference Number</b>		
Code of Procuring and Disposing Entity	Financial Year	Sequence Number

<b>Particulars of Disposal</b>	
Subject of Disposal	
Date and Time of Bid Opening	
Location for Bid Opening	

**Particulars of Bid Opening**

**PART I: Record of Bids Opened and Details Read out**

No.	Name and Address of the Bidder	Currency and Price	No. of Copies (Including Original)

Name: \_\_\_\_\_ Position: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Position: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_



**PART II: RECORD OF ATTENDANCE**

<b>No.</b>	<b>Name and Address</b>	<b>Position</b>	<b>Company or Department</b>	<b>Signature</b>

**FORM 44**

*Regulation 41(4), 42(6)*

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003**

**DISPOSAL EVALUATION REPORT  
(EVALUATION BASED ON PRICE ONLY/ PRICE AND OTHER FACTORS)**

Disposal Reference Number		
Code of Procuring and Disposing Entity	Financial Year	Sequence Number

**\*\* Please read the guidance notes for preparing evaluation report at the end of this Form**

**1. Introduction**

- (1) The asset(s) being disposed of is/are [*description of asset and number in asset register*]\_\_\_\_\_.
- (2) The disposal method used and approved by the Contracts Committee was [*public bidding/direct negotiations/sale to public officers*]\_\_\_\_\_.

**2. Details of invitation**

*{For public bidding}*

- (1) The bidding document was approved by the Contracts Committee on [*date*]\_\_\_\_\_.

(2) The bid notice was advertised on the [date] \_\_\_\_\_ in [name of publications] \_\_\_\_\_.

(3) The list of persons issued with the bidding documents was recorded using Form 30 which is attached.

*{For sale to public officers}*

(1) The bidding document was approved by the Contracts Committee on [date] \_\_\_\_\_.

(2) The bid notice was advertised on the [date] \_\_\_\_\_ at the premises of the following procuring and disposing entities [insert locations of notices] \_\_\_\_\_.

(3) The list of staff issued with the bidding documents was recorded using Form 31 which is attached.

*{For direct negotiations}*

(1) The bidding document and proposed bidder were approved by the Contracts Committee on [date] \_\_\_\_\_.

(2) The bidding document was issued on [date] \_\_\_\_\_.

### 3. **Inspection of assets**

Potential bidders were given the opportunity to inspect the assets at [location] \_\_\_\_\_ on [date(s)] \_\_\_\_\_.

### 4. **Details of bid closing**

*{For public bidding and sale to public officers}*

(1) Bidding was closed on [date] \_\_\_\_\_ at [time] \_\_\_\_\_ at [location] \_\_\_\_\_.

(2) The receipt of bids was recorded using Form 43 which is attached.

*{For direct negotiation}*

The sealed bid was received on [date] \_\_\_\_\_.

**5. Details of bid opening**

- (1) A public bid opening was held at [location] \_\_\_\_\_ on [date] \_\_\_\_\_ at [time] \_\_\_\_\_.
- (2) The bid opening and attendance was recorded using Form 44 which is attached.

**6. Details of Evaluation Committee**

The evaluation committee approved by the Contracts Committee on [date] \_\_\_\_\_ comprised of the following:

- [Name] \_\_\_\_\_
  - [Name] \_\_\_\_\_
  - [Name] \_\_\_\_\_
- {For evaluation based on price only}

- [Designation and department] \_\_\_\_\_
- [Designation and department] \_\_\_\_\_
- [Designation and department] \_\_\_\_\_

**7.**

**Details of evaluation**

- (1) The evaluation was based on price only.  
Refer to Table 1, which summarises the bid prices.
- (2) The highest bid received was [price of highest bid].
- (3) The official valuation/reserve price was [valuation or reserve price, if any].

{For disposal by sale to public officers only}

- (1) The previous purchases of the best evaluated bidder were checked on the Authority's register and it was determined that the bidder was not purchasing for business or commercial use.  
{or}
- (2) The previous purchases of the best evaluated bidder were checked on the Authority's register and it was determined that the bidder was purchasing for business or commercial use. [Give details of why this conclusion was reached.]

- (3) The same check was therefore made on the next best evaluated bidder and it was determined that he/she was not purchasing for business or commercial use.

*{For evaluation based on price and other factors}*

**8. Details of evaluation methodology**

The evaluation was based on price and other factors, using the following three stage methodology. *{amend as appropriate}*.

- (a) preliminary examination on a pass/fail basis to determine the eligibility of the bidders. Non eligible bidders were eliminated from further evaluation;
- (b) application of other evaluation criteria in the manner stated in the bidding document. The technically non compliant bids were eliminated from further evaluation/bids were awarded scores according to merit; and
- (c) financial evaluation to correct any errors in calculations, convert to a common evaluation currency and rank the bids according to price or score. The bids were compared to the official valuation/reserve price.

**9. Preliminary examination**

*[Brief narrative on the result of the preliminary examination and detailed justification with reasons why any bidders were declared not eligible].*

Refer Table 2, which summarises the preliminary examination.

**10. Other evaluation criteria (if any)**

*[Brief narrative on the application of any other evaluation criteria and detailed justification with reasons why any bids were declared non compliant or for the scores awarded].*

Refer to Table 3, which summarises the technical evaluation.

**11. Financial evaluation**

[Describe any errors in calculation and corrections made and the conversion to a common currency if necessary.]

[Describe the ranking of bids according to price or scores].

Refer to Table 4, which summarises the price evaluation.

- (1) The best evaluated bid was [name of bidder] at a total bid price of [price of bid].
- (2) The official valuation/reserve price was [valuation or reserve price, if any].

**12. Recommendation** {amend as appropriate}

{Where the highest bid is equal to or higher than the valuation or reserve price, if any}

On the basis of evaluation based on price only, it is recommended that the award be made to [name of bidder] for a total contract value of [currency and amount] for [list all items that the award relates to].  
{Repeat recommendation for multiple contracts.}

{Where the highest bid is lower than the valuation or reserve price}

- (1) The best evaluated bid is less than the valuation/reserve price and it is therefore recommended that no contract award be made.
  - (2) It is further recommended that the asset(s) be revalued/disposed of by [method of disposal].
- {or}

The highest bid received is only [state percentage] \_\_\_\_\_ % below the valuation/reserve price and it is therefore recommended that negotiations be held with [name of bidder] \_\_\_\_\_ in relation to the bid price.

{or}

The highest bid received is only [state percentage] \_\_\_\_\_ % below the valuation/reserve price and it is therefore recommended that the award be made to [name of bidder] \_\_\_\_\_

for a total contract value of [currency and amount] \_\_\_\_\_ for [list all items that the award relates to] \_\_\_\_\_  
{or} [State other appropriate recommendation.] \_\_\_\_\_

**13. Disagreement by the Evaluation Committee** *{delete if not applicable}*

The Evaluation Committee could not reach a unanimous decision on the evaluation and this evaluation report details the view of the majority of the team.  
[Give details of the issues where the team disagreed, the discussions held, the alternative views and the names of those with alternative views].

**14. Signed by the Evaluation Committee:**

We confirm that this evaluation report gives a complete and accurate report of the evaluation conducted:

Name: _____	Signature: _____	Date: _____
Name: _____	Signature: _____	Date: _____
Name: _____	Signature: _____	Date: _____

**Documents available from the Procurement and Disposal Unit: {amend as appropriate}**

Copy of the bidding document.

Copy of all bids.

**Annexes: {amend as appropriate}**

Form 30: Record of issue of bidding documents/ addenda

Form 42: Record of receipt of bids/bid closing

Form 43: Record of bid opening

Table 1: Summary of bid prices

Table 2: Summary of preliminary examination and assessment of eligibility

Table 3: Summary of application of other evaluation criteria

Table 4: Summary of financial evaluation





**TABLE 2 – PRELIMINARY EXAMINATION AND ASSESSMENT OF ELIGIBILITY**

<b>Disposal Reference Number</b>							
Code of Procuring and Disposing Entity	Financial Year	1	2	3	4	5	6
<b>Name of Bidder</b>		<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
<b>Eligibility Criteria</b>							
<i>{Complete criteria as per bidding document}</i>		C/NC	C/NC	C/NC	C/NC	C/NC	C/NC
		C/NC	C/NC	C/NC	C/NC	C/NC	C/NC
		C/NC	C/NC	C/NC	C/NC	C/NC	C/NC
<b>Administrative compliance criteria</b>		C/NC	C/NC	C/NC	C/NC	C/NC	C/NC
<i>{Complete criteria as per bidding document}</i>		C/NC	C/NC	C/NC	C/NC	C/NC	C/NC
		C/NC	C/NC	C/NC	C/NC	C/NC	C/NC
		C/NC	C/NC	C/NC	C/NC	C/NC	C/NC
<b>Conclusion</b>		<b>C/NC</b>	<b>C/NC</b>	<b>C/NC</b>	<b>C/NC</b>	<b>C/NC</b>	<b>C/NC</b>

**KEY: C = Compliant NC = Non Compliant** *{delete that which is not applicable from the table above}*  
 This preliminary examination eliminated [number] bidders, [Names of bidders]

**TABLE 3 – SUMMARY OF APPLICATION OF OTHER EVALUATION CRITERIA**

Disposal Reference Number						
Code of Procuring and Disposing Entity	Financial Year	Sequence Number				
		<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
<b>Bidder Name</b>						<b>6</b>
<b>Other Evaluation Criteria</b>	<i>{Enter compliant/non compliant or score}</i>					
<i>{Complete criteria as listed in bidding document}</i>						
<b>Conclusion</b>						

This examination eliminated [number] \_\_\_\_\_ bidders, [Names of Bidders] \_\_\_\_\_.

**TABLE 4 – SUMMARY OF FINANCIAL EVALUATION**

Disposal Reference Number			
Code of Procuring and Disposing Entity	Financial Year	Sequence Number	

  

ITEM/LOT NUMBER:	EVALUATION CURRENCY:				
ASSET REGISTER NUMBER:	VALUATION/RESERVE PRICE:				
<b>No</b>	<b>Name of Bidder</b>	<b>Bid Currency</b>	<b>Bid Total as Read Out</b>	<b>Evaluated Total</b>	<b>Rank</b>

{The highest price should be ranked as number 1. Attach a separate table for each item or lot}.  
 \*\* This form provides an outline format to assist evaluation committees in drafting evaluation reports for disposal where the evaluation is based on price only. The content should be amended as appropriate.  
*Italic text in {} brackets indicates either a drafting instruction, which should be deleted from the final report or a section included for a possible option, where the whole section should be deleted if not appropriate. Normal text in [] brackets indicates data which should be completed for each individual evaluation.*

**Form 45**

*Regulation 41(5) and 42(7)*

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003  
NEGOTIATIONS PLAN**

<b>Disposal Reference Number</b>		
Code of Procuring and Disposing Entity	Financial Year	Sequence Number

<b>Particulars of Disposal</b>	
Subject of Disposal	
Name of Bidder	

<b>Details of the Negotiations</b>	
Issue for Negotiation	Objectives

**Proposed negotiations prepared by:**

Name: \_\_\_\_\_ Position: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Form 46**

*Regulation 43(1)*

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003  
RECORD OF PUBLIC AUCTION**

<b>Details of Auctioneer</b>	
<b>Name of Auctioneer</b>	
<b>Address of Auctioneer</b>	

<b>Place of Auction</b>						
<b>Date and Place of Auction</b>						
No	Disposal Reference Number	Subject of Disposal	Reference Number from Asset Register	Name of Successful Bidder	Reserve Price	Contract Value
<b>Grand Total:</b>						

I hereby certify that the above is a true and accurate record of the auction:

Name of auctioneer: \_\_\_\_\_ Position: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Form 47**

*Regulation 46(3)*

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003**

**MONTHLY REPORT ON DISPOSAL**

*(Insert Name of Procuring and Disposing Entity here)*

<b>Month of Reporting</b>	
<b>Financial Year</b>	

<b>Details of Disposals</b>						
Disposal Reference Number	Subject of Disposal	Method of Disposal	Name of Buyer	Date of Award	Reserve Price	Contract Price (Currency and Amount)
<b>TOTAL</b>						

I hereby certify that the above is a true and accurate record of the disposal transactions for this Procuring and Disposing Entity.

Name: \_\_\_\_\_ Position: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Accounting Officer**

**MATIA KASAIJA,**  
*Minister of Finance, Planning and Economic Development.*



**STATUTORY INSTRUMENTS SUPPLEMENT**

*to The Uganda Gazette No. 80 Volume CXVI, dated 8th December, 2023*

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**S T A T U T O R Y I N S T R U M E N T S**

**2023 No. 99.**

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS  
(PROCUREMENT PLANNING) REGULATIONS, 2023.**

**ARRANGEMENT OF REGULATIONS**

*Regulation*

1. Title and commencement
2. Procurement plans
3. Multi-year procurement plan.
4. Update of procurement plan.
5. Approval of procurement plan by Contracts Committee.
6. Contents of annual procurement plan.
7. Aggregating procurement requirements.

# STATUTORY INSTRUMENTS

2023 No. 99.

## **The Public Procurement and Disposal of Public Assets (Procurement Planning) Regulations, 2023.**

*(Made under sections 96(1) and 96A of the Public Procurement and Disposal of Public Assets Act, 2003, Act No. 1 of 2003)*

IN EXERCISE of the powers conferred upon the Minister responsible for finance by sections 96 (1) and 96 A of the Public Procurement and Disposal of Public Assets Act, 2003, in consultation with the Minister responsible for the Kampala Capital City Authority and the Minister responsible for local governments, and on the recommendation of the Authority, these Regulations are made, this 26<sup>th</sup> day of September, 2023.

### **1. Title and commencement.**

(1) These Regulations may be cited as the Public Procurement and Disposal of Public Assets (Procurement Planning) Regulations, 2023.

(2) These Regulations shall come into force on the 5<sup>th</sup> day of February, 2024.

### **2. Procurement plans.**

A procuring and disposing entity shall have an annual procurement plan for each financial year.

### **3. Multi-year procurement plan.**

A procuring and disposing entity that is to undertake a procurement for a period of more than one financial year shall prepare a multi-year procurement plan for that procurement, using guidelines issued by the Authority.

**4. Update of procurement plan.**

The Procurement and Disposal Unit shall, where necessary, at any time during the financial year, update the procurement plan of the procuring and disposing entity.

**5. Approval of procurement plan by Contracts Committee.**

A procurement plan and any updates to it shall be submitted to the Contracts Committee for approval.

**6. Contents of annual procurement plan.**

The procurement plan of a procuring and disposing entity shall state—

- (a) the supplies, works, consultancy and non-consultancy services to be procured by the procuring and disposing entity and the cost of the supplies, works, consultancy and non-consultancy services, respectively;
- (b) the supplies, works, consultancy and non-consultancy services to be used in common by the procuring and disposing entity with another procuring and disposing entity;
- (c) the resources required for the procurement;
- (d) the recommended method of procurement for each contract package and the time estimated for each stage of procurement;
- (e) the type of contract recommended for each requirement; and
- (f) where applicable, the maintenance, operating and repair costs of each procurement.

**7. Aggregating procurement requirements.**

(1) A procuring and disposing entity shall aggregate the procurement requirements for—

- (a) the user departments of the procuring and disposing entity;
- (b) a financial year or for any other appropriate period of time; and

(c) any other circumstance, as may be appropriate.

(2) For purposes of sub regulation (1), a procuring and disposing entity shall—

- (a) determine the market structure for the required items;
- (b) aggregate the items which are of a similar nature and which are likely to attract the same potential bidders;
- (c) determine the optimum size and type of contract that attracts the greatest and most responsive competition or the best prices;
- (d) aggregate the items for which the method of procurement and bidding conditions are to be the same;
- (e) aggregate the items which are to be offered for bidding at the same time;
- (f) aggregate the items which are to be subject to the same conditions of contract;
- (g) determine the potential savings in time or transaction costs;
- (h) where applicable, determine the value of the contract which facilitates the application of a preference scheme or a reservation scheme; and
- (i) determine the optimum number and size of contracts which facilitate the management and administration of contracts by the procuring and disposing entity.

MATIA KASAIJA,  
*Minister of Finance, Planning and Economic Development.*

