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Foreword

As part of public financial management reform, the Government of Rwanda has been engaged in a number of initiatives aimed at streamlining its public procurement system in order to align it with fundamental principles of transparency, competition, economy, efficiency, fairness and accountability. It is in this regard that in March 2007, the Law on public procurement was enacted followed by the Law establishing the Rwanda Public Procurement Authority in December 2007. In January 2008 procurement regulations and standard bidding documents were issued.

This procurement user guide comes as yet another step in the overall framework of strengthening the public procurement system. It contains more detailed guidance on application of the Law on public procurement and procurement regulations. It will, no doubt, enhance the ability of Government officials and suppliers to work in mutual understanding for the interest of both parties.

MUGABO Damien

Chairman of the Board of Directors of

Rwanda Public Procurement Authority
DEFINITION/GLOSSARY

GLOSSARY

<table>
<thead>
<tr>
<th>Terms</th>
<th>Definitions and Descriptions</th>
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</thead>
<tbody>
<tr>
<td>Accounting Officer</td>
<td>Accounting Officer means any official empowered to approve reports of the Tender Committee and sign the contract on behalf of the procuring entity. This official must be empowered by Law to act as a Chief Budget Manager within the public entity in which he is employed;</td>
</tr>
<tr>
<td>Bidding document</td>
<td>Bidding document means the document containing information required for the preparation of bids, the award process and the tender execution;</td>
</tr>
<tr>
<td>Bidder</td>
<td>Bidder means any potential participant or participant in public procurement proceedings;</td>
</tr>
<tr>
<td>Bid security</td>
<td>Bid Security means any guarantee by a bank or other relevant institution to allow the prospective bidder to participate in tendering;</td>
</tr>
<tr>
<td>CIF (Cost, Insurance and Freight)</td>
<td>Cost, Insurance and Freight (CIF) is an International commercial term (incoterm) which means the seller delivers when the goods pass the ship’s rail in the port of shipment. The seller is responsible to pay for the insurance and freight of the goods to port of destination but the risk passes on delivery at the port of shipment.</td>
</tr>
<tr>
<td>CIP (Carriage &amp; Insurance Paid to)</td>
<td>Carriage and Insurance Paid (CIP) is an International commercial term (Incoterm) which means the seller delivers when the goods are received by the carrier and he pays the carrier for the delivery of goods to the named place of destination. Carrier is a person or institution which undertakes the transportation of goods by rail, road, sea, inland waterway or a combination of any of these modes..</td>
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<tr>
<td>Consultant</td>
<td>An professional individual or a firm that has technical knowhow in a specialized area and is engaged to undertake an assignment described by some terms of reference.</td>
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<tr>
<td>Contract</td>
<td>It is a legal binding agreement between a purchaser or employer and the seller or consultant or contractor</td>
</tr>
<tr>
<td>DDP (Delivered Duty Paid)</td>
<td>Delivered Duty Paid (DDP) is an International commercial term (incoterm) which means the seller delivers the goods to the buyer and cleared for importation. The seller bears all costs and risks of transporting the goods including duties and taxes.</td>
</tr>
<tr>
<td>DDU (Delivery Duty Unpaid)</td>
<td>Delivered Duty Unpaid (DDU) is an International commercial term (incoterm) which means the seller delivers to the buyer without clearing for importation. The seller does not pay or bear any risks with regard to duties and taxes which will be the responsibility of the buyer.</td>
</tr>
<tr>
<td>Direct Contracting</td>
<td>This is a procurement method where the purchaser buys goods from the Seller directly without any competition. This method is used when the value of item is very small, or there is only one seller due to the propriety nature of the goods.</td>
</tr>
<tr>
<td>Invitation to bid( request for quotations)</td>
<td>Letters with instructions sent to the sellers/suppliers or service providers inviting them to submit their price quotations to compete for the supply of goods or services.</td>
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<td>Terms</td>
<td>Definitions and Descriptions</td>
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<tr>
<td>LCS (Least Cost Selection)</td>
<td>Least Cost Selection is a consultant selection method where you establish a minimum qualifying mark for quality and the consultant offering the lowest price amongst the consultants scoring the quality’s minimum qualifying mark and above is selected.</td>
</tr>
<tr>
<td>Misprocurement</td>
<td>A misprocurement occurs when procurement procedures have not been followed by the procuring entity or its project component and expenses are incurred.</td>
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<td>National Competitive Bidding (NCB)</td>
<td>National Competitive Bidding is a procurement method where the purchaser advertises locally in a news paper with a wide circulation, can ask bids to be in local currency only and bid document can be in national language. The method is suitable when interest from foreign bidders is unlikely and when there is adequate local capacity.</td>
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<td>National Shopping Method</td>
<td>In this method, the purchaser sends written invitations for quotations for goods or services to at least three bidders and based on the prices quoted and quality of the goods, awards a contract to the bidder with the lowest evaluated quotation from at least three quotations offering the goods or services requested.</td>
</tr>
<tr>
<td>Performance security</td>
<td>“Performance security” means any guarantee by a bank or any other relevant institution established to guarantee the procuring entity that in case the contract is not performed, be it technically or at the level of deadlines, the procuring entity would receive the amount provided for such a guarantee;</td>
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<td>Procurement audit</td>
<td>In a procurement audit, the procuring entity records are checked to see if appropriate procurement procedures have been followed. In this audit, the procuring entity will need to produce all documents related to procurement and these documents may include advertisement copies, invitations to bid, bidding documents, bid evaluations, bids, contracts, delivery notes, shipping documents, progress certificates, completion certificates, receipts, cashbook and payment vouchers.</td>
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<tr>
<td>Procuring entity</td>
<td>Procuring entity means Central Government authority, Local Government authority, public institution, commission, Government project, parastatal, agency, or any specialized institution engaged in procurement process and entering into contract with the successful bidder.</td>
</tr>
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<td>Purchaser</td>
<td>The Procuring Entity is a purchaser of goods, works and consultant services.</td>
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<td>QBS (Quality Based Selection)</td>
<td>This is a consultant selection method where you invite and receive technical proposals from consultants and only quality is considered in selecting the consultant to provide the services. The cost is negotiated with the selected consultant.</td>
</tr>
<tr>
<td>QCBS (Quality and Cost Based Selection)</td>
<td>This is a consultant selection method where you invite and receive technical and financial proposals from consultants and both quality and cost are considered in selecting the consultant to provide the services.</td>
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<tr>
<td>Seller or bidder</td>
<td>The supplier of goods or the service provider of services is a seller or a bidder.</td>
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<tr>
<td>SBCQ (Selection Based on Consultant’s Qualifications)</td>
<td>This is a consultant selection method where the consultant firm is selected based on the consultant’s qualifications and experience.</td>
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<td>Successful bidder</td>
<td>Successful bidder means a bidder whose offer has been accepted after being considered the most competitive both technically and financially. It also refers to one who has concluded a procurement contract with a procuring entity without having been subject to tendering proceedings.</td>
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<tr>
<td>Technical Specifications</td>
<td>Technical specifications mean the detailed description of technical characteristics of goods or works or non consultant services.</td>
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<td>Tender committee</td>
<td>Tender Committee means a committee established by the procuring entity to assist the Procurement Unit, in the bid opening, evaluation and recommend for award</td>
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<tr>
<td>Terms of reference</td>
<td>Terms of reference means the document prepared by the procuring entity defining the requirements for an assignment and means to be made available, concerns to be taken into account as well as the expected results.</td>
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ACRONYMS and ABBREVIATIONS

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<th>ACRONYMS</th>
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<tbody>
<tr>
<td>BNR</td>
<td>Banque Nationale du Rwanda</td>
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<td>BOQ</td>
<td>Bill of Quantities</td>
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<td>CFR</td>
<td>Cost and Freight</td>
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<td>Carriage Insurance and Freight</td>
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Chapter 1: Introduction

Public procurement in Rwanda is governed by the Law on Public Procurement no. 12/2007 of 29/03/2007 and ministerial order no. 001/08/10/MIN of 16/01/2008 establishing the procurement regulations and standard bidding documents. Law on Public Procurement no. 12/2007 of 29/03/2007 replaced the Presidential Order no. 28/01 of 19/07/2004 establishing public procurement procedures. The Law on Public Procurement applies to procurement conducted by Central Government authorities, Local Government authorities, public institutions, Commissions, Government projects, parastatals, agencies or specialized institutions. However it shall not apply in the following exceptions:

- Procurement of classified items meant for national defense and security.
- If the laws conflict with procurement rules of a multilateral or bilateral treaty or other form of agreement to which the Government of Rwanda is a party, the requirement of these agreements shall prevail.

The Public Procurement Guide provides details of the standards, policies and procedures to be followed in the procurement of goods, services, works and consultant services by all Procuring Entities in Rwanda. The guide is based on the procurement law and therefore any changes to the procurement law entails appropriate changes to the guide as well. Goods, services, works and consultant services are defined as follows:

“Goods” means objects of every kind and description including raw materials, products, equipment and objects in solid, liquid or gaseous form, and electricity, as well as services incidental to the supply of the goods if the value of those related services does not exceed that of the goods themselves.

“Services” refers to any services other than consultant services. This includes related services.

“Related Services” is used to denote services such as transportation, insurance, installation and commissioning, training and initial maintenance, etc. which are included in the goods and works being procured.

“Works” means all work associated with the construction, reconstruction, demolition, repair or renovation of a building, structure or works, such as site preparation, excavation, erection, building, installation of equipment or materials, decoration and finishing, as well as services incidental to works such as drilling, mapping, satellite photography, seismic investigations and similar services provided pursuant to the procurement contract, if the value of those related services does not exceed that of the works itself;
“Consultant Services” refers to activities or services of an intellectual or of immaterial nature. It refers to services which require professional skills in the execution of assignments with non-physical output, such as studies, designs, etc. to be undertaken by individual consultants, consulting firms and other specialists.

This Public Procurement Guide sets out an effective and transparent procurement process that addresses the following procurement principles: economy, efficiency, fairness, transparency and accountability. The Guide does not contain any new procurement policies or principles but it explains in more detail how specific aspects of procurement should be handled in consistence with Rwanda public procurement law and regulations. Furthermore the guide also provides professional procurement best practices and international standards which should enhance the procuring entities’ capability to handle international bidders and ensures the procurement processes or operations are more efficient and effective.

Chapters 2 and 3 of this guide deals with some legal, policy and institutional aspects of public procurement before subsequent chapters deal with procurement cycle aspects like procurement planning and budgeting, advertising, bidding period processes, evaluations, contract award, contract execution, appeals, monitoring and reporting, reviews and procurement records management generally in chronological order in which they occur or are undertaken. The users can also access copies of the law, the regulations, the thresholds, standard bidding documents, standard procurement forms and RPPA circulars in the annexes section of the guide.

It should be emphasized that the Law on Public Procurement, the Law Establishing the Rwanda Public Procurement Authority (RPPA), Procurement Regulations, Ministerial Order on Thresholds, Ministry of Finance and Economic Planning’s Circulars and RPPA Board of director’s circulars take precedent over this guide.
Chapter 2: Public Procurement Responsibility

The main institutions or players involved in public procurement are:

Rwanda Public Procurement Authority
Procuring Entities
Independent Procurement Review Panel
Bidders

Diagram D1 on the following page shows the overall structure of public procurement in Rwanda.

2.1 RWANDA PUBLIC PROCUREMENT AUTHORITY (RPPA)

RPPA is established under Law N° 63/2007 of 30/12/2007 Establishing and Determining the Organisation, Functioning and Responsibilities of Rwanda Public Procurement Authority. RPPA is supervised by the Ministry in charge of public procurement. Rwanda Public Procurement Authority (RPPA) is made up of two main organs:
- Board of Directors and
- Management.

The board of directors comprise of seven members (30% shall be women) who include a Chairman and vice Chairman and are all appointed by the Prime Minister. The RPPA Director attends the meetings of the Board of Directors and serves as their Rapporteur (Secretary). The daily Management of RPPA is entrusted to the RPPA Director who is appointed by a Prime Minister’s Order. The Director coordinates and directs the daily activities of RPPA and is answerable to the Board of Directors on how its decisions are implemented.

RPPA’s main responsibilities are:

1° to ensure organization, analysis and supervision in public procurement matters;

2° to advise the Government and other public procurement organs on the policies strategies in matters related to organization of public procurement;

3° to control activities of public contract award and execution

4 to develop human resource professionalism in public procurement;
RWANDA PUBLIC PROCUREMENT ORGANISATIONAL STRUCTURE

KEY

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Procurement Appeals/Investigations
Procurement process

Diagram C1
5° to develop teaching material, organize trainings and to set requirements to be fulfilled by public procurement members of staff;

6° to collect and disseminate procurement information on public procurement;

7° to prepare standard tender documents, bid evaluation reports, and other standard documents for use by procuring entities;

8° to suspend or approve the suspension and debarment bidders in public procurement;

9° to provide technical support where possible, to public procuring entities;

10° to sensitize the public on matters related to public procurement;

11° to establish relations and co-operate with other regional and international agencies carrying out similar responsibilities.

The RPPA has the following powers in order to fulfil its responsibilities:

1° to suspend the conduct of procurement proceedings or the award of a tender to allow investigations into the matter either upon receipt of any information or on its own initiative in accordance with the law governing public procurement;

2° to summon anyone and require them to provide any information relevant to the fulfilment of its mission;

3° to carry out investigations in any procuring entity governed by the procurement law and be given documents related to public procurement where need be;

4° to seek assistance from experts in order for it to fulfil its mission

2.2 PROCURING ENTITY

The procurement regulations require the procuring entities to undertake procurement planning and stipulate the nature and responsibilities of the Tender Committee and who is eligible to be in the tender committee. The regulations deal with procurement issues like advertising, local preference, thresholds for different procurement methods, evaluation criteria and appeals against procurement decisions.
2.2.1 ACCOUNTING OFFICER/The Chief Budget Manager

The procurement responsibilities of the Chief Budget Manager of a procuring entity are as follows:

- to appoint all the members of the Tender Committee.
- to dismiss members of the Tender Committee
- to approve bidding documents
- to approve the procurement evaluation reports and contract award
- to sign the contract
- to appoint a contract/project manager
- to provide overall management of the contract

2.2.2 TENDER COMMITTEE

In accordance with Article 4 of the Procurement Regulations, each procuring entity is required to put in place a Tender Committee comprising of five persons or seven. The appointments shall be for three years renewable only once. More than half (1/2) of the members shall not be allowed to be on the committee for two consecutive terms of office. Such committee shall be appointed by the chief budget manager of the procuring entity. The Chief Budget Manager may change one member or the entire committee if there are relevant reasons to do so.

The Tender Committee should have a Chairperson, Vice Chairperson and a Secretary. A procurement officer is a permanent member of the tender committee and acts as its secretary. When a procuring entity has a unit responsible for procurement composed of more than one procurement officer, they shall hold the post of a secretary in turns. In accordance with the procurement regulations, the following officials shall not be allowed to be members of the tender committee:

i) The head of a public body authorised to take decisions on procurement;
ii) The members of the Districts and Kigali City Councils;
iii) The Chief Manager of procurement budget;
iv) The Head of Finance Unit;
v) The internal auditor;
vi) The Legal Advisor;

Exceptions to Tender Committees Membership Rule:

a) When the procurement entity has a staff of less than ten (10) number of tender committee members may be reduced but not to less than three (3) and all
members of staff shall be allowed on the tender committee except the head of procuring entity.

b) When the procuring entity is comprised of three or less than three persons, even the head shall be authorized to be a member of the tender committee.

When a procuring entity has a unit responsible for procurement composed of more than one person, some of them may be on the committee but should not form a majority.

The tender committee shall be in charge of the opening and evaluation of bids as well as making the award recommendation for procurement contracts.

The tender committee may seek the assistance from consultants. However, the consultant shall not have any interest directly or indirectly in the tender concerned or have any relationship with bidders if his/her services were sought after the bids had been opened.

The resolutions of the tender committee shall be valid when at least \( \frac{3}{5} \) (60%) members of the committee are present for the purpose. The consultant invited shall not participate in taking decisions.

The tender committee shall make a brief report on the bid evaluation comprising the evaluation process and comparison of bids and it shall be signed by all the evaluation committee members present.

The chairperson of the tender committee stipulated in this order shall be the coordinator of the whole process of the evaluation of bids and shall be required to act in an impartial and transparent manner. Members of the tender committee taking decisions in relation to the evaluation of bids shall be generally responsible for the consequences that may arise from the decisions taken by the committee.

The Secretary to the tender committee shall be assigned the following duties:
Preparation of the tender committee;
Filing the reports of the tender committee and any other documents related to public procurement.

The evaluation of bids shall be done within a period not exceeding twenty one (21) calendar days from the date of the opening of bids except when there are clear reasons indicated by the procuring entity and the bidders must be notified.

2.2.3 PROCUREMENT UNIT

In accordance with Article 22 of the Law on Public Procurement the procurement unit is required to perform the following functions:

- Procurement planning
- Preparation of bidding documents
- Publication and distribution of invitation to bid
- Receipt and safe keeping of bids
- Obtaining approvals for award recommendations from competent authorities
- Preparation of notification of tender award
- Ensuring adequate contract execution in collaboration with the beneficiary department
- Providing information and documents requested by the Rwanda Public Procurement Authority
- And any other function in the procurement regulations

However in practice most procuring entities’ procurement units are short staffed with only one person (procurement officer) in the unit. In such cases the beneficiary department will undertake much of the Procuring Entity’s contract management duties and responsibilities.

Procurement Process Actions

The procurement unit is expected to have the duties and responsibilities regarding the procurement process:

- Receive the Procurement Requisition and supporting documents from the Originating Department.
- Verify the current availability of sufficient funds in the budget heading and that the requirement is defined in the Annual Procurement Plan.
- Check that documents are complete, that any plans and designs for works are properly prepared and approved by the competent authority, that all essential site tests and inspections have been carried out, and that due consideration for safety, economic and environmental factors is included.
- Ensure that the specifications for goods or terms of reference for services are
suitable for the need and are of an appropriate quality.

- Review the specifications and develop as necessary ensuring that these are detailed, precise and generic without reference to the trademarks or products of a specific supplier. Brand names shall only be used if essential in which case a full justification must be given, or the words “or equivalent” added. Detailed specifications, designs, plans and BOQ for construction works must be prepared by the appropriate authority unless the Procuring Entity has an approved Technical Department to undertake the preparation. In other cases, the Procurement Unit may need to seek assistance of external technical experts to prepare the detailed specifications;

- Classify the requirements into Lots or groupings of similar items if necessary to maximise competition by bidders.

- Review the price estimate for the procurement.

- Determine the procurement method to be used. If an alternative method to that which would normally be used is recommended, prepare a full justification.

- Prepare the draft bidding and contract documents to ensure that all necessary conditions are incorporated in accordance with the appropriate Standard Bidding Documents.

- Prepare the advertisement or invitation to bidders or request for expression of interest and make arrangements for the sale of the bidding documents.
  - The procurement unit should get the authority to proceed with advertising and the rest of the procurement process.

### 2.2.4 USER/RESPONSIBLE UNIT

The user/responsible unit plays the role of making the requisition for the required procurement, describing the nature of the requirements (quantity, specifications etc) and ensuring that the procured items meet the requirements of the tender. To this effect, its role in defining technical specifications participating in technical evaluation and inspecting the procured items before they are accepted is crucial.
Chapter 3: Procurement Policy/Guidelines/Principles

Public Procurement in Rwanda shall be governed by the following fundamental principles: transparency; competition; economy; efficiency; fairness and accountability. These principles are meant to achieve good procurement and are explained below.

Transparency; is about the application of procedures in a manner which is open, clear, easily accessible and predictable. The test is that bidders must see the procurement as being transparent.

Competition; is about providing the bidders with equal opportunity and treatment in bidding for procurement contracts. Competition should be seen to be open and fair in order to be sustainable and to achieve economy.

Economy; procurement should be about giving the procuring entity the best value for money, with value being defined as more than just price, but quality assessment as well. More often lowest initial price may not equate to lowest cost over the operating life of the item procured. But the basic point is the same: the ultimate purpose of sound procurement is to obtain maximum value for money;

Efficiency; being simple and timely, practical and meeting the available budget of the Procuring Entity to achieve positive results devoid of any unnecessary delays in the program implementation. Efficiency implies being practical in terms of compatibility with the administrative resources and professional capabilities of the procuring entity and its procurement personnel;

Fairness; is about being impartial, consistent and reliable. Potential bidders should have a level playing field which directly expands their options and opportunities thereby encouraging them to compete;

Accountability; is about bestowing a sense of responsibility to its users, making them accountable for their actions and/or inactions by enforcing established rules and procedures. Good procurement holds its practitioners responsible for enforcing and obeying the rules. It makes them subject to challenge and to sanction, if appropriate, for neglecting or bending those rules. It is a process that supports the credibility of the procuring entity by serving as a deterrent to collusion and corrupt practices while serving as an inducement for individual and institutional probity.
Chapter 4: Procurement Planning and Budgeting

4.1 Annual Procurement Plan

Every procuring entity shall produce annual procurement plan indicating the objectives to be achieved in accordance with procurement regulations. During the procurement planning process and the preparation of the bidding documents, the procuring entity shall ensure that there is sufficient budget allocation and shall respect regulations governing budget execution.

The Procurement Unit has the responsibility of compiling the annual procurement plan from the individual departments, units, projects and programmes of the Procuring Entity. Procurements for donor-funded projects and programmes should be included but identified in a separate section of the Annual Procurement Plan.

Some of the elements of the procurement plan namely title and quantity of the tender, method of tendering, source of funding, expected publication and execution dates, shall be published. This information shall be posted on the website of the procuring entity, posted on the RPPA website, advertised in at least one newspaper of wide readership and displayed on the procuring entity’s notice board.

Procurement planning involves developing an effective procurement framework that aids the achievement of the objectives of the procuring entities. Sufficient procurement planning enables the procuring entities to abide by the various time frames in the procurement process. Lack of procurement planning is a major source of operational problems leading to a rush of procurement activities towards the end of the budget year driven by the desire of full budget utilization. Other reasons for undertaking procurement planning and prioritization of needs process are that:

- funding for procurement is unlikely to be sufficient to meet all requirements, and scarce financial resources must be channeled to ensure that the priorities of a Procuring Entity are adequately met before spending on less essential procurements.
- effective planning allows requirements to be aggregated into bulk purchases at lower unit costs since such tenders would attract wholesalers and manufacturers.
- Publication of realistic annual procurement plans allows the private sector to respond more effectively to the requirements and specifications of the Procuring Entities, through investment in staff and equipment, manufacture and importing of goods, and financial planning.
4.2 Procurement Plan Preparation

This sets out the overall procurement timetable, indicating the different procurement activities that need to be carried out and when they should take place. These activities should cover the following:

- Defining the requirements and ascertaining the context of the tasks to be performed;
- Determining specifications and details of the activity components and ascribing costs to them;
- Selecting the most appropriate procurement method to use to ensure competition, economy, and efficiency;
- Determining whether Pre-qualification will be relevant so as to decide on the preparation and issuance of pre-qualification documents and its timing;
- Identifying and adapting the relevant SBDs to be used or seek assistance from RPPA to get the appropriate Bidding Documents to be used;
- Determining when the bidding documents would be ready for issuance to bidders;
- Determining whether and when pre-bid conference and site visits will be held;
- Determining whether, where and when public bid opening and evaluation will take place, etc;
- Setting out the bid evaluation criteria and selecting the process to be used;
- Establishing the procurement performance indicators and milestones to be used in monitoring and assessing progress;
- Identifying the team to use in managing the process from start to finish;
- Estimating costs for the procurement processes and their financial plan;
- Monitoring and evaluating plan for tracking progress and developing lessons to be used in subsequent phases.

4.3 Issuing of Procurement Notices

The procurement plan shall state the dates procurement notices for all Open Competitive Bidding and consulting contracts shall be issued and the media through which these notices shall be given.
4.4 Design of Contract Packages

- Determine the appropriate format for procuring goods, works and services and determining the best methods for procuring them.
- Determine whether single or multiple contracts should be used to procure the items required distinguishing between slices, where individual contracts are involved, and packages, where groups of similar contracts are involved for the purposes of the planned bid process and consequent contract award.
- Determine the appropriate procurement method to use for procuring the identified item whether Open Competitive Bidding, Restricted Tendering, Requesting for Quotations, Single Source/Direct Contracting, QCBS, QBS, LCS, CQS, FBS or some other procurement methods in conformity with the existing procurement regulatory framework.

Procuring entities shall prepare their own procurement plans for the following year before the end of each year when the entity’s budget is done. Procurement plans for donor funded activities or projects will also be reviewed and approved by respective donor.

The Procurement Plan shall cover a period of at least one year. The procuring entity shall update the Procurement Plan regularly, at least monthly. Sample procurement plan formats for goods, works and consultant services are in Annex B. The procuring entity is required to submit its annual procurement plan to RPPA by 31st January of each year. When the procuring entity submits the procurement plan it provides the following:

1° identification of needs;
2° identification of priorities;
3° indication if it is necessary to carry out a prior study for tenders of Works;
4° identification of the method of tendering for the procurement planned;
5° estimation of the value of the tender to be awarded;
6° specification of the source of financing;
7° determination of local preference for international tenders if it will be required;
8° specification of requirement of the non objection for the award of contract;
9° planning for the schedules in which different processes of tendering shall be carried out;
10° planning for the execution schedules of the contract.
Chapter 5: Procurement Processing – Step by Step

5.1 INTRODUCTION

In accordance with Procurement Regulations, Article 18 the threshold for procuring without tendering is for purchases whose value does not exceed one hundred thousand Rwanda francs. This chapter deals with procurement which requires tendering. The steps described here are for procurement of goods, services and works using the Open Competitive Bidding which is the main method of procurement.

![Procurement Cycle Diagram](Diagram C2)
5.1.1 One-stage Tendering

One stage tendering is the normal tendering whereby bidders are requested to submit their bids including their offer or proposal and the bid price in response to the bidding documents. The tendering provisions referred to in this public procurement guide are applicable to one stage tendering unless specified to be that of two stage tendering.

5.1.2 Two-stage tendering

Two-stage tendering is applicable where the bidding document requests bidders to submit, in the first stage, initial bids containing their proposals without a bid price. The bidding document may request for bids relating to the technical, quality or other characteristics of the goods, construction as well as to contractual terms and conditions of supply, and, where relevant, the professional and technical competence and qualifications of the bidders. Bids that are substantially responsive will be retained by the procuring entity in order for it to make adjustments on the bidding document.

In the second stage, the procuring entity shall issue a new bidding document with single set of specifications, to all bidders whose bids were retained after the first stage evaluation. In formulating those specifications, the procuring entity may modify any aspect, originally set forth in the bidding document. Any such modification or addition shall be communicated to bidders in the invitation to submit final bids.

A Bidder not wishing to submit a final tender may withdraw from the tendering proceedings without forfeiting any bid security that they may have been required to provide. The final bids shall be evaluated and compared in order to ascertain the successful bidder.

For example two-stage bidding is normally associated with the procurement of more complex information systems. Putting together the teams made up of staff from many departments or divisions and preparing the implementation plan tend to be considerably more involved. The team will have to resolve more challenging technical problems. These may include specifying acceptance tests that are based on more complex operational functions or specifying the required procedures that the supplier must follow in conducting trial implementations and performing subsequent system refinements.

The advantages of the two-stage process include the ability of the borrower’s agency, during the first stage, to interact extensively on technical matters with bidders than is permissible in a one-stage process. In this way, an agency can learn from the market and adapt its requirements. In addition, a two-stage process allows an agency to state its requirements in more general functional terms in the first stage of the two-stage process. After receiving the bids and evaluating them, the Borrower can come up with more precise specifications in the second stage and bidders will be required to offer a bid price.

5.1.3 Conditions for use of two-stage tendering

The procuring entity may engage in procurement by means of two-stage tendering when:
1° it is not feasible for the procuring entity to formulate detailed specifications for the goods or works in order to obtain the most satisfactory solution to its procurement needs.

2° when tendering proceedings have been engaged in but no tenders were submitted or all tenders were rejected by the tender committee and when, in the judgement of the tender committee, engaging in new tendering proceedings would be unlikely to result in a procurement contract.

5.1.4 Pre-qualification procedure

(1) To identify qualified bidders, a procuring entity may use a pre-qualification procedure. Pre-qualification proceedings are intended to eliminate at a preliminary stage of the procurement proceedings, bidders that are not qualified to perform the contract and to enable the procuring entity to limit its evaluation of tenders to those submitted by the qualified bidders.

(2) Pre-qualifications should be utilized in particular in the procurement of complex or high-value goods or large works or any other circumstances in which the high costs of preparing detailed tenders, proposals could discourage competition, such as custom designed equipment, specialized services, and contracts to be let under turnkey or management contracting, or for the purpose of establishing short-lists for two stage tendering.

5.1.5 Domestic and regional preference

For international tenders, the tender document may provide for local preference. The domestic and regional preference shall not exceed ten percent (10%) and shall be granted at the phase of financial evaluation process.

If the tender document provides for domestic and regional preference and that the tender may be subcontracted, the principal bidder subcontracting to regional bidders shall be the one to be granted the local preference.

Domestic and regional preference may also be granted to local products during the process of bid evaluation of goods, works or services that seem to have been the monopoly of foreign bidders.

Categorization for preference

After the reception and evaluation of bids, the responsive bids shall be classified as follows:

Category A: Bids to be granted local preference;
Category B: Other bids.
When the evaluation process is completed, the bid price of the bids in category B shall be increased by ten percent (10%) of the price included in each offer and the contract shall be awarded to the lowest responsive bidder.
5.2 Technical Specifications

(1) The Procuring entity shall prepare specific requirements relating to the goods or services being procured that are clear, that give a correct and complete description of what is to be procured and that allow for fair and open competition among those who may wish to participate in the procurement proceedings. The Procuring entity may seek external experts’ assistance in preparing technical specifications when it does not have the expertise.

- For goods user department should define the requirement in terms of description, quantity, quality, urgency, packing and marking requirements and a detailed specification.
- For non-consultant services the user or requesting department shall prepare a description of services required, and a detailed specification of the requirement including the period of the contract, quality standards and service levels.

(2) The technical requirements shall, where appropriate:

- relate to performance rather than to design or descriptive characteristics;
- be based on national, regional or international standards;
• The technical requirements shall not refer to a particular trademark, name, patent, design, type, producer or service provider or to a specific origin unless:
  - there is no other sufficiently precise or intelligible way of describing the requirements and;
  - the requirements allow equivalents to what is referred to.

5.3 Preparation of Bidding Documents

The Procurement Unit prepares the bidding documents and incorporates the technical specifications based on the standard bidding documents provided in annex B. The bidding document is prepared based on the approved annual procurement plan which provides important details like quantities, cost estimates, method of procurement etc. Once the bidding document is ready it must be given to the Tender Committee which will review and provide comments. The bidding document is then finalized. In accordance with the procurement law the bidding document should provide the following information:

1° the specific requirements relating to the goods, works or services being procured and the time limit for delivery or completion;
2° if works are being procured, relevant drawings and bills of quantities;
3° the general and specific conditions governing the contract, if the performance security is provided;
4° the tender number assigned to the procurement proceedings by the procuring entity;
5° instructions for the preparation and submission of tenders including:
   a) the bid form;
   b)the number of copies to be submitted with the original bid;
   c) any bid security required, the form and amount of such security;
   d)any proof evidencing the bidder’s qualifications.
   e) a statement of where and when tenders shall be submitted,
   f) a statement of where and when the tenders shall be opened;

6° a statement of whether those submitting tenders or their representatives shall be allowed to attend the tender opening session;
7° a statement of the period during which tenders shall remain valid;
8° the procedures and criteria for bid evaluation and comparison;
9° a statement that the procuring entity may cancel the bids at any time before the signing of the contract;
10° anything else as may be provided for by the bidding document in accordance with this Law or public procurement regulations.

Administrative documents required for foreign bidders shall refer to the Laws in force in the bidders’ home countries.

Eligibility – The standard bidding documents which are prepared in accordance with the procurement law and regulations, provide the eligibility of both bidders and the goods they supply. For example a bidder is not eligible if:

• The bidder is currently blacklisted (debarred) by RPPA
• The bidder has been prosecuted and found guilty in court, including any appeals
process on corruption charges
- The bidder is bankrupt
- The Bidder has been excluded in accordance with regional or international conventions.
- The Bidder has a conflict of interest
- The bidder is a Government-owned enterprise which cannot establish that it (i) is legally and financially autonomous, (ii) operates under commercial law, and (iii) is not a dependent agency of the Purchaser.

All the Goods and Related Services to be supplied under the Contracts may have their origin in any country except where specific sanctions are declared against a country.

**Issuing Bidding Document:** Before issuing the bidding document the Procuring Entity may authenticate the original bidding documents using the Procuring Entity’s official seal to guard against any fraudulent changes to the bidding document.

**Delivery and Incoterms**

In the bidding documents for goods, the instruction to bidders shall specify or define the price to be quoted. Such price shall be based on specific delivery terms in accordance with specified incoterms for goods supplied from within the country and those supplied from outside the country. Examples of incoterms are EXW, FCA, FAS, FOB, CFR, CIF, CIP, CPT, DAF, DES, DEQ, DDP and DDU. These are international terms of trade which are governed by the rules prescribed in the current edition of Incoterm, published by The International Chamber of Commerce.

The most commonly used when importing goods are CIF (Cost, Insurance and Freight) and CIP (Cost and Insurance Paid). For Rwanda CIP is ideal because the freight is paid up to the place of destination whereas CIF only pays freight up to the port of destination. The main purpose of incoterms is to define responsibilities of seller and purchaser, set rules for moving goods from one country to the other and determine point of transfer of risk from Seller to Purchaser.

**5.4 Notification and Advertising**

For Works whose value is estimated to cost above one million Rwanda francs, the procuring entity shall advertise the tender in at least one newspaper of wide circulation and on internet website, where it is available. The time allotted to the preparation of bids for open competitive bidding must not be less than thirty (30) calendar days from the time the notice is published through a newspaper.

Tenders shall be made international tenders if they are for works with estimated value exceeding one billion two hundred million Rwandan francs (Rwf 1 200 000 000), goods and other services and their estimated value exceeds six hundred million Rwandan francs (Rwf 600 000 000).

For Goods and Non-Consulting Services whose value is estimated to cost above one million Rwanda francs, the procuring entity shall advertise the tender in at least one
newspaper of wide circulation and on internet website, where it is available. The time allotted to the preparation of bids for open competitive bidding must not be less than thirty (30) calendar days from the time the notice is published through a newspaper.

Tenders shall be made international tenders if they are for goods and other services with estimated value exceeding six hundred million Rwandan francs (Rwf 600 000 000). However, depending on the nature of tender, even those of lower value may be made an international tender regardless of the size.

5.5 BID CLARIFICATION, AMENDMENT, EXTENSION AND CANCELLATION

5.5.1 BID CLARIFICATIONS

The period during which bid clarifications may be requested will be defined in the bidding documents. Requests for clarifications received after this period may be ignored unless they draw attention to a serious flaw in the bidding documents. In all cases, any response to a bidder must be communicated to all bidders who received the bidding documents, but without identifying the bidder who requested the clarification.

5.5.2 Bidding Document Amendment

The period during which the bidding document can be amended will be defined in the bidding documents. In principle at any time prior to the deadline for submission of bids, the procuring entity may amend the bidding documents by issuing addendum. Any addendum issued shall be part of the Bidding Documents and shall be communicated in writing to all who have obtained the Bidding Documents directly from the procuring entity.
5.5.3 Extension of Bid Closing Date

To give prospective bidders reasonable time in which to take an addendum or clarifications into account in preparing their bids, the procuring entity may, if necessary or at its discretion but in line with the law, extend the deadline for the submission of bids. It is normally necessary to extend the bid closing date if modification of bidding documents require additional research or effort by bidders to submit a responsive bid or request for a time extension is made by two or more bidders; and unforeseen administrative issues which force a postponement of the proposed bid opening.

The procurement law provides that if the bidding document is amended, when the time remaining before the deadline for submitting tenders is less than one third (1/3) of the time allotted to the reparation of tenders, the procuring entity shall extend the deadline in order to allow the amendment of the tender documents to be taken into account in the preparation of tenders.

5.5.4 Cancellation of Bidding Process

A bidding process may be cancelled at any time before the deadline for receipt of bids with the approval of the Chief Budget Officer and the Tender Committee. Note that for donor-funded procurements, the donor must be consulted before any cancellation of the bidding process.

5.6 BIDDING PROCESS

5.6.1 Submission and Receipt of tenders

All bids shall be received and kept by the Procurement Unit until the Bid Opening. The Procurement Unit will co-ordinate the organisation of bid opening proceedings. Bid Opening shall commence immediately after the bid closing time and should be completed within the same session.

Tenders must be sealed and bear the tender number assigned to the procurement proceedings by the procuring entity.

Tenders must be submitted before the deadline for submitting tenders and any tender received after that deadline shall be returned unopened.

The procuring entity shall ensure that the place where tenders must be submitted is open and accessible. Every procuring shall have a bids received register in which all bids received are recorded and a safe place where bids received are kept. This place may be the office of the procurement unit which must be equipped with a cupboard or cupboards in which the received bids shall be kept and locked until the opening time when they will be moved to the opening room.

It shall be the duty of the procurement officer to receive the bids and record them in the
bids received register. Any bidder whose bid is received shall be given a bid received receipt according to the format below.

**BID RECEIPT FORM**

1. Date : ………………………………………………………………………………………
2. Time: ………………………………………………………………………………………
3. Tender n°:………………………………………………………………………………. 
4. RPPA stamp and officer’s names and signature:…………………………………………………………
   …………………………………………………………………………………………….
Bidder, s/Representative’s names and signature:……

If the bid is submitted by hand the one delivering it will have his/her name recorded in the register and shall sign against it. On any working day before the date for bids opening, if the procurement officer is not in office, bids submitted shall be received by the person in charge of receiving incoming mail and keep them unopened and give them to the procurement officer as soon as he/she is in office.

Bids submitted on the opening date shall be received from the opening room. Depending on the number of bids to expected to received (as by number of tender documents bought), the procurement officer and at least one other member of the tender committee must be in the opening room not less than one hour to begin receiving bids. Bidders bringing in their bids will be given numbers from one onwards to facilitate orderly submission and registration of their bids.

The procurement unit must ensure that:

- all reception office staff and staff responsible for the receipt of post are fully aware of the bid and their responsibilities for bids received.
- all bids received by post or by courier service on receipt, stamp with the date and time of receipt, and give the envelope unopened to the procurement officer.

**5.6.2 Bid Opening**

The Tender Committee is responsible for the bid opening. However Procurement Unit will co-ordinate the administration of the bid opening to assist the Tender Committee and ensure smooth operation of the proceedings including taking minutes and to advise on procedural issues if requested. The bid opening meeting will be chaired by the
chairperson of the tender committee or any member of the tender committee nominated by him or her and attended by at least two more members of the committee.

The Chairman of the bid opening meeting will control and direct the bid opening and shall not allow anyone to interfere with proceedings. Any objections by a bidder to the procedures or decisions of the bid opening should be made in writing to the procuring entity. For purposes of transparency bids should be opened in one session and it is not permitted for a bid opening to be halted or postponed once a bid has been opened.

During bid opening:

- bidders representatives should be seated separately from the officials of the Procuring Entity, and that the name, organisation represented and contact details of all attendees are recorded in an attendance register.
- Check that the writing on each envelope or sample inside confirms that it is for the correct bid and complies with the wording and sealing required in the bidding documents. Stack all envelopes in clear view of the bidders ready for opening. Samples supplied by bidders shall be stacked separately after checking that the bidder’s name is clearly identified on each sample provided.
- The Chairperson of the bids opening meeting will open the meeting and outline the procedures to be used for the Bid Opening.
- bidders are not permitted to amend their bid or to submit any additional documents.
- check for any withdrawals or modifications and match with the original bid before proceeding. Withdrawn bids shall not be opened once the authenticity of the withdrawal notice has been confirmed.
- Open bid envelop or package and identify and initial originals and two copies including any separate sections and attachments. Also verify how many copies have been submitted.
- Read out the following details of each bid from the Original copy:
  - any bid modifications or withdrawals;
  - the name and country of the bidder;
  - a brief description of the goods or services and lot number if applicable;
  - the currency of the bid;
  - the total bid price;
  - any discounts offered;
  - the presence or absence of any required bid security;
  - the Chairperson and two members of the committee shall initial the original and two copies of each bid and all attachments thereto including any samples provided by the bidder. Any corrections to prices or obvious errors and omissions shall be initialled.
  - any envelopes containing substitutions, or modifications, must be subject to
the same level of scrutiny, including the reading out of critical details, such as price changes.

- Minutes of the Bid Opening shall be prepared by the Procurement Unit, signed by the Chairperson of the bid opening meeting and made available to any bidder involved in the bidding who requests a copy in writing.

5.6.3 Cancellation of Bidding after Bid Opening

The tender committee may recommend to cancel bidding if:

- the goods or services are no longer required
- it is established that there was fraud and lack of fairness in bidding
- Bids have unacceptable reservations and conditions.
- All bids are not responsive
- The lowest evaluated bid is unacceptably higher than the budget (contract cost estimates).
5.6.4 Extension of Bid Validity

The evaluation and award of contract should be completed within the period set for the validity of bids. The date for expiry of bid validity must be monitored and attention drawn to this deadline not less than two weeks before the expiry date.

If circumstances occur in which award cannot be made within the original bid validity period, extensions in writing should be requested from bidders, in accordance with the bidding documents. Bidders who refuse this request may withdraw from the bid without incurring any penalty, but bidders who agree to a bid extension will also be required to extend their bid securities for an appropriate period. When an extension of bid validity period is requested, bidders shall not normally be requested or be permitted to change the quoted price or other conditions of their bid. However, the bidding documents may provide for an appropriate price adjustment mechanism when requests for second or subsequent extensions are made, to reflect changes in the cost of inputs for the contract over the period of extension.

The bid validity period shall not exceed one hundred and twenty (120) days unless accepted by the bidder.

5.7 Evaluation of Tenders

The Tender Committee will undertake the evaluation of bids received and to make recommendations for the award of contract. The Tender Committee must be commenced and completed as soon as possible after the bid opening and within 21 days prescribed by procurement regulations and ensure that the award of contract is made within the period of bid validity. The committee should use the standard evaluation form provided in Annex B.

Under the single envelope bidding system, the Tender Committee will conduct the preliminary examination of bids, technical evaluation and the financial evaluation in one stage. In preliminary examination, the bids are evaluated initially by reviewing responsiveness against the requirements stated in the bidding documents, and bids that are determined not to be substantially responsive will be rejected. The requirements normally stated in the bidding document are as follows:

**Eligibility** – relates to the bidder and also to the goods and services offered. Refer to 5.3 Preparation of Bidding Documents for details.

**Bid validity** – bid must be valid in accordance with the validity period required in the bidding document.

**Verification** - attention should be directed toward deficiencies that, if accepted, would provide unfair advantage to the bidder. Simple omissions or mistakes arguably occasioned by human error should not be grounds for rejection of the bid. However
validity of the bid itself, for example, its signatures or power of attorney or joint venture agreement must not be in question.

**Completeness of Bid** – Partial bids should not be accepted unless if the bidding document permits them.

Some examples of documents which may be required by the bidding document are: registration certificate/certificate of incorporation, tax certificate, annual accounts, evidence of previous experience, powers of attorney, manufacturer’s authorisations, or joint venture agreements.

The procuring entity shall evaluate and compare the responsive tenders. The evaluation and comparison shall be done using the procedures and criteria set out in the bidding documents and no other criteria shall be used.

The technical evaluation should involve checking physical and chemical characteristics of goods offered and conformity of samples with the specification (where appropriate). Bids failing the technical examination are to be rejected. The following requirements shall apply with respect to the procedures and evaluation criteria:

- the criteria must, to the extent possible, be objective and quantifiable; and
- other criteria other than price must be expressed clearly and applied, in accordance with the procedures, for purposes of determining the lowest evaluated bid.

The financial evaluation of the bids will normally involve the following but as specified in the bidding documents:

- Check the bids for arithmetic errors:
  - where there is a discrepancy between the amounts in figures and in words, the amount in words will govern; and
  - where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will govern, unless in the opinion of the Committee there is an obviously gross misplacement of the decimal point in the unit rate, in which case the line item total as quoted will govern and the unit rate will be corrected.
  - all corrections made in accordance with the procedure specified in the bidding document, are considered binding on the bidder.

Pricing of Missing Items: - Where items missing in some bids are present in others, the highest price quoted by the other bidders is added to the incomplete bids for evaluation purposes.

Under works contracts, missing prices for occasional work items are normally assumed to be included in prices for closely related items elsewhere.

- Acceptable Deviations: - Adjust the bid price for any factors such as delayed delivery or different payment schedules in accordance with the rules specified in the bidding document. The adjusted total bid price will be used only for the purposes of evaluation and ranking of bids. Any such deviations must be acceptable to the Procuring Entity in the eventual contract.
- Provisional Sums: If the bids contain provisional sums set for contingencies or for nominated subcontractors, since these sums are the same for all bids, they should be deducted from the prices read out at the bid opening to allow a proper comparison of the competitive elements of bid prices.

- Modifications and Discounts: Discounts offered in accordance with the bidding document that are conditional on the simultaneous award of other contracts or lots in the bidding documents (“cross-discounts”) shall not be evaluated until the completion of all other evaluation steps. Non-conditional discounts should be included at this stage.

- Currency Conversions: If bids in different currencies are permitted in the bidding documents, convert the bid prices to the single currency (normally Rwandan Francs) as stated in the bidding documents:
  - The selected source and date for currency exchange rates must be as specified in the bidding documents.
  - The source of exchange rates will normally be the selling rate quoted by the National Bank of Rwanda (BNR) on the selected date.
  - The selected date should not be earlier than four weeks prior to the deadline for the receipt of bids, nor later than the original date for the closing of bids.

Apply the appropriate conversion rate to each corrected bid price to arrive at the evaluation price in the common currency.
5.8 Post Qualification

When pre-qualification was not done then a post-qualification of the lowest evaluated responsive bidder should be conducted to determine his physical capability to perform the contract. Using the criteria specified in the bidding documents, this review should include an assessment of the bidder’s financial and physical (equipment and personnel) resources available to undertake the contract, including the bidder’s current workload. For assessing financial resources the bidding document will specify the minimum level of annual turnover, proof of access to funds to be used as working capital. The annual turnover is normally required for a number of years e.g. the past five years and this will be provided in the bidder’s audited financial statements. The access to funds for use as working capital will be in the form of a line of credit provided by the bank or letter from a bank informing the procuring entity that the bank will make available certain funds to the bidder to finance the contract. Furthermore check all documents specified in RPPA circular No 010/09-018/RPPA of 09/01/2009.

If pre-qualification was conducted, the lowest evaluated responsive bid should be recommended for the award of contract, unless the bidder’s qualifications have since materially deteriorated, or if the bidder has since received additional work that reduces the available capacity.

If the lowest evaluated responsive bidder fails post-qualification, his bid should be rejected, and the next ranked bidder should then be subject to post-qualification examination. If successful, this bidder should receive the award. If not, the process continues for the other bidders.

5.9 Evaluation Award Recommendation

The Tender Committee shall prepare an evaluation report containing a summary of the evaluation and comparison of bids and recommendation of award of contract to the bidder with the lowest evaluated bid. The amount of the recommended contract award is the bid price as submitted by the lowest evaluated bidder and adjusted as described in the bidding documents for corrections, any discounts and acceptance of alternative offers from the lowest evaluated responsive bidder.

In brief the evaluation report should ensure that:

- justification is provided for any decisions reached by the committee on rejection of bidders (if necessary provide copies of selected pages from bids) and the recommendation for award of contract;
- inconsistencies between prices and modifications to prices read out at bid opening is explained.
- substantial corrections for arithmetic errors which may affect the ranking of bidders are explained.
any additions, adjustments, and priced deviations that may affect the ranking of bidders are explained.

clarification correspondence between the procuring entity and the bidders which result in major decision by the committee should be attached.

any separate evaluation or assessment report from a consultant, if one was engaged for this purpose is attached.

The tender committee undertaking an evaluation shall be composed of at least three members. Decisions of the committee shall be taken unanimously and all members present have to sign the report.

**Winner when bidders are at par**

In case of many successful bidders with equal prices, the procuring entity shall invite them to submit their new bids with reduced prices. In the event the bidders are again on par, the procuring entity shall resort to lot casting among those bidders.

### 5.10 Award of Contract, Performance Security and Contract Signing

Before the expiry of the bid validity period, the procuring entity shall simultaneously notify the successful and the unsuccessful bidders of the provisional outcome of the bid evaluation. Every unsuccessful bidder shall be informed of the main reason(s) why it did not qualify for the award in the notification letter.

The notification shall specify that the major elements of the procurement process would be made available to the bidders upon request and that they have seven (7) days in which to lodge a protest, if any, before a contract is signed with the successful bidder.

The successful bidder shall be required to provide a performance security in accordance with the procurement regulations. The performance security shall not be less than five (5%) and shall not exceed (10%) of the total bid cost. The performance security shall be provided within fifteen (15) days following the final notification of the tender award for national tenders and twenty one (21) days for international tenders, after which the successful bidder shall sign the contract.

Tenders for works, goods and other services whose amount does not exceed five million Rwanda francs (Rwf 5 000 000) may not require any performance security. For such tenders, the procuring entity shall instead withhold ten percent (10%) on each invoice presented by the bidder until the works have been completed.

If the successful bidder fails to enter into a written procurement contract, the procuring entity may award the tender to the qualified bidder that ranked second. However if the period during which tenders must remain valid has already expired then award may not be applicable.
5.11 Advance Payment and Security

The advance payment shall not exceed twenty per cent (20%) of the price of the tender and shall be paid upon submission by the successful bidder to the procuring entity of an advance payment security equivalent to the advance itself. That security shall be given by a bank or any authorized financial institution.

The successful bidder shall use the advance paid only in activities related to the tender. If the successful bidder uses the entire advance or part of it in other activities that are unrelated to the tender, the advance shall immediately be considered as a debt which shall be paid by seizing the entire security or part of it.

The advance received by the successful bidder shall be refunded by deducting a certain amount from submitted and approved invoices. The bidding document shall determine the percentage to be deducted until the whole amount of the advance is refunded.

The advance security shall be returned to the successful bidder within thirty (30) days following the payment of the entire advance received. If it is not returned within the thirty (30) days, it shall generate interest for delays equivalent to one thousandth (1/1000) for every day of delayed payment.

5.12 Publication of Award Results

Upon signature of a procurement contract, the procuring entity shall notify other bidders that their bids were not successful.

The procuring entity shall publish the results of the tender as soon as the contract is signed. The results so published shall include at least the following: winner of the tender, amount of the tender awarded and duration of the contract. The results shall be posted on the internet of the procuring entity, posted on the RPPA internet, and displayed on the procuring entity’s notice board.
Works

5.13 Procurement timing

All public works included in the annual budget should be having completed studies/designs. This means that the tenders for the designs should have been awarded and contracts signed and implemented during the previous financial year(s). It is therefore not prudent to include studies and construction of the same public works facility in the same financial year. Towards the end of a financial year, as budget consultations progress, a clear picture of which public works are going to get a budget in the next financial year emerges and so tenders for such works should be advertised, bids opened and evaluated so that signing of the contract takes place in the first month of the financial year. All tenders who have not been processed as said here should be advertised immediately the financial year starts so that all contracts are signed before the end of the first quarter of the financial year. This is aimed at ensuring that facilities planned to be constructed in a given financial year are actually constructed and paid for within that year except where actual construction period is not possible within a period of less than one year.

5.14 Technical Specifications

(1) The Procuring entity shall prepare specific requirements relating to the goods, works or services being procured that are clear, that give a correct and complete description of what is to be procured and that allow for fair and open competition among those who may wish to participate in the procurement proceedings. The Procuring entity may seek external experts’ assistance in preparing technical specifications when it does not have the expertise.

- For goods user department should define the requirement in terms of description, quantity, quality, urgency, packing and marking requirements and a detailed specification.
- For non-consultant services the user or requesting department shall prepare a description of services required, and a detailed specification of the requirement including the period of the contract, quality standards and service levels.

(2) The technical requirements shall, where appropriate: –

- relate to performance rather than to design or descriptive characteristics;
- be based on national, regional or international standards;
- The technical requirements shall not refer to a particular trademark, name, patent, design, type, producer or service provider or to a specific origin unless:
  - there is no other sufficiently precise or intelligible way of describing the requirements;
  - and the requirements allow equivalents to what is referred to.
5.15 Preparation of Bidding Documents

The Procurement Unit prepares the bidding documents and incorporates the technical specifications based on the standard bidding documents provided in annex B. The bidding document is prepared based on the approved annual procurement plan which provides important details like quantities, cost estimates, method of procurement etc. Once the bidding document is ready it must be given to the Tender Committee which will review and provide comments. The bidding document is then finalized. In accordance with the procurement law the bidding document should provide the following information:

1° the specific requirements relating to the goods, works or services being procured and the time limit for delivery or completion;
2° if works are being procured, relevant drawings and bills of quantities;
3° the general and specific conditions governing the contract, if the performance security is provided;
4° the tender number assigned to the procurement proceedings by the procuring entity;
5° instructions for the preparation and submission of tenders including:
   a) the bid form;
   b) the number of copies to be submitted with the original bid;
   c) any bid security required, the form and amount of such security;
   d) any proof evidencing the bidder’s qualifications.
   e) a statement of where and when tenders shall be submitted,
   f) a statement of where and when the tenders shall be opened;
6° a statement of whether those submitting tenders or their representatives shall be allowed to attend the tender opening session;
7° a statement of the period during which tenders shall remain valid;
8° the procedures and criteria for bid evaluation and comparison;
9° a statement that the procuring entity may cancel the bids at any time before the signing of the contract;
10° anything else as may be provided for by the bidding document in accordance with this Law or public procurement regulations.

Administrative documents required for foreign bidders shall refer to the Laws in force in the bidders’ home countries.

Eligibility – The standard bidding documents which are prepared in accordance with the procurement law and regulations, provide the eligibility of both bidders and the goods they supply. For example a bidder is not eligible if:

- The bidder is currently blacklisted (debarred) by RPPA
- The bidder has been prosecuted and found guilty in court, including any appeals process on corruption charges
- The bidder is bankrupt
- The Bidder has been excluded in accordance with regional or international conventions.
• The Bidder has a conflict of interest
• The bidder is a Government-owned enterprise which cannot establish that it (i) is legally and financially autonomous, (ii) operates under commercial law, and (iii) is not a dependent agency of the Purchaser.

All the Goods and Related Services to be supplied under the Contracts may have their origin in any country except where specific sanctions are declared against a country.

**Issuing Bidding Document:** Before issuing the bidding document the Procuring Entity may authenticate the original bidding documents using the Procuring Entity’s official seal to guard against any fraudulent changes to the bidding document.

**5.16 Notification and advertising**

For Works whose value is estimated to cost above one million Rwanda francs, the procuring entity shall advertise the tender in at least one newspaper of wide circulation and on internet website, where it is available. The time allotted to the preparation of bids for open competitive bidding must not be less than thirty (30) calendar days from the time the notice is published through a newspaper.

Tenders shall be made international tenders if they are for works with estimated value exceeding one billion two hundred million Rwandan francs (Rwf 1 200 000 000), goods and other services and their estimated value exceeds six hundred million Rwandan francs (Rwf 600 000 000).

**5. 17 Bid clarification, amendment, extension and cancellation**

5.17.1 Bid clarifications

The period during which bid clarifications may be requested will be defined in the bidding documents. Requests for clarifications received after this period may be ignored unless they draw attention to a serious flaw in the bidding documents. In all cases, any response to a bidder must be communicated to all bidders who received the bidding documents, but without identifying the bidder who requested the clarification.

5. 16.2 Bidding Document Amendment

The period during which the bidding document can be amended will be defined in the bidding documents. In principle at any time prior to the deadline for submission of bids, the procuring entity may amend the bidding documents by issuing addendum. Any addendum issued shall be part of the Bidding Documents and shall be communicated in writing to all who have obtained the Bidding Documents directly from the procuring entity.

5. 17.3 Extension of Bid Closing Date

To give prospective bidders reasonable time in which to take an addendum
clarifications into account in preparing their bids, the procuring entity may, if necessary or at its discretion but in line with the law, extend the deadline for the submission of bids. It is normally necessary to extend the bid closing date if modification of bidding documents require additional research or effort by bidders to submit a responsive bid or request for a time extension is made by two or more bidders; and unforeseen administrative issues which force a postponement of the proposed bid opening.

The procurement law provides that if the bidding document is amended, when the time remaining before the deadline for submitting tenders is less than one third (1/3) of the time allotted to the reparation of tenders, the procuring entity shall extend the deadline in order to allow the amendment of the tender documents to be taken into account in the preparation of tenders.

5.17.4 Cancellation of Bidding Process

A bidding process may be cancelled at any time before the deadline for receipt of bids with the approval of the Chief Budget Officer and the Tender Committee. Note that for donor-funded procurements, the donor must be consulted before any cancellation of the bidding process.

5.18 Bidding process

5.18.1 Submission and Receipt of tenders

All bids shall be received by the Procurement Unit and deposited in the designated locked tender box until the Bid Opening. The Procurement Unit will coordinate the organisation of bid opening proceedings. Bid Opening shall commence immediately after the bid closing time and should be completed within the same session.

Tenders must be sealed and bear the tender number assigned to the procurement proceedings by the procuring entity.

Tenders must be submitted before the deadline for submitting tenders and any tender received after that deadline shall be returned unopened.

The procuring entity shall ensure that the place where tenders must be submitted is open and accessible.

The procurement unit must ensure that:

- all reception office staff and staff responsible for the receipt of post are fully aware of the bid and their responsibilities for bids received.
- the tender box is kept locked until the Bid Opening and that neither the bidders nor staff have an opportunity to tamper with the box.
- all bids received by post or by courier service on receipt, stamp with the date and time of receipt, and deposit the envelope unopened in the correct tender box.
- all bidders’ representatives delivering bids by hand may personally place their envelopes directly in the tender box.

- bids or samples received which are too large to fit in the tender box shall be registered and securely retained in a locked room under the control of the Procurement Unit until the Bid Opening.

- the tender box is closed and sealed immediately after the deadline for submission of bids and transport the tender box to the room where the Bid Opening will take place. Alternatively, if a single tender box is used for multiple bidding procedures, or the tender box is a fixture, open the tender box immediately following the deadline for submission of bids and remove all bids required for that bid to be opened, and transport these to the room where the Bid Opening will be held.

- bids or samples which were too large to fit in the tender box are also transported to the room where the Bid Opening will be held immediately following the deadline for submission of bids.

5.18.2 Bid Opening

The Tender Committee is responsible for the bid opening. However Procurement Unit will co-ordinate the administration of the bid opening to assist the Tender Committee and ensure smooth operation of the proceedings including taking minutes and to advise on procedural issues if requested.

The Chairman of the bid opening meeting will control and direct the bid opening and shall not allow anyone to interfere with proceedings. Any objections by a bidder to the procedures or decisions of the bid opening should be made in writing to the procuring entity. For purposes of transparency bids should be opened in one session and it is not permitted for a bid opening to be halted or postponed once a bid has been opened.

During bid opening:

- bidders representatives should be seated separately from the officials of the Procuring Entity, and that the name, organisation represented and contact details of all attendees are recorded in an attendance register.

- open the tender box, check that the writing on each envelope or sample inside confirms that it is for the correct bid and complies with the wording and sealing required in the bidding documents. Stack all envelopes in clear view of the bidders ready for opening. Samples supplied by bidders shall be stacked separately after checking that the bidder’s name is clearly identified on each sample provided.

- The Chairman will open the meeting and outline the procedures to be used for the Bid Opening.

- bidders are not permitted to amend their bid or to submit any additional documents.

- check for any withdrawals or modifications and match with the original bid before proceeding. Withdrawn bids shall not be opened once the authenticity of the withdrawal notice has been confirmed.
• Open bid envelope or package and identify and stamp originals including any separate sections and attachments. Also verify how many copies have been submitted.

• Read out the following details of each bid from the Original copy:
  o any bid modifications or withdrawals;
  o the name and country of the bidder;
  o a brief description of the goods or services and lot number if applicable;
  o the currency of the bid;
  o the total bid price;
  o any discounts offered;
  o the presence or absence of any required bid security;
  o the Chairman and two members of the committee shall initial the original of each bid and all attachments thereto including any samples provided by the bidder. Any corrections to prices or obvious errors and omissions shall be initialled.
  o any envelopes containing substitutions, or modifications, must be subject to the same level of scrutiny, including the reading out of critical details, such as price changes.
  o Minutes of the Bid Opening shall be prepared by the Procurement Unit, signed by the Chairman of the bid opening meeting and made available to any bidder involved in the bidding who requests a copy in writing.

5. 18.3 Cancellation of Bidding after Bid Opening

The tender committee may recommend to cancel bidding if:

• the goods or services are no longer required
• it is established that there was fraud and lack of fairness in bidding
• Bids have unacceptable reservations and conditions.
• All bids are not responsive
• The lowest evaluated bid is unacceptably higher than the budget (contract cost estimates).

5. 18.4 Extension of Bid Validity

The evaluation and award of contract should be completed within the period set for the validity of bids. The date for expiry of bid validity must be monitored and attention drawn to this deadline not less than two weeks before the expiry date.
If circumstances occur in which award cannot be made within the original bid validity period, extensions in writing should be requested from bidders, in accordance with the bidding documents. Bidders who refuse this request may withdraw from the bid without incurring any penalty, but bidders who agree to a bid extension will also be required to extend their bid securities for an appropriate period. When an extension of bid validity period is requested, bidders shall not normally be requested or be permitted to change the quoted price or other conditions of their bid. However, the bidding documents may provide for an appropriate price adjustment mechanism when requests for second or subsequent extensions are made, to reflect changes in the cost of inputs for the contract over the period of extension.

The bid validity period shall not exceed one hundred and twenty (120) days unless accepted by the bidder.

5.19 Evaluation of tenders

The Tender Committee will undertake the evaluation of bids received and to make recommendations for the award of contract. The Tender Committee must be commenced and completed as soon as possible after the bid opening and within 21 days prescribed by law and ensure that the award of contract is made within the period of bid validity. The committee should use the standard evaluation form provided in Annex B.

Under the single envelope bidding system, the Tender Committee will conduct the preliminary examination of bids, technical evaluation and the financial evaluation in one stage. In preliminary examination, the bids are evaluated initially by reviewing responsiveness against the requirements stated in the bidding documents, and bids that are determined not to be substantially responsive will be rejected. The requirements normally stated in the bidding document are as follows:

**Eligibility** - relates to the bidder and also to the goods and services offered. Refer to [5.3 Preparation of Bidding Documents](#) for details.

**Bid validity** – bid must be valid in accordance with the validity period required in the bidding document.

**Verification** - attention should be directed toward deficiencies that, if accepted, would provide unfair advantage to the bidder. Simple omissions or mistakes arguably occasioned by human error should not be grounds for rejection of the bid. However, validity of the bid itself, for example, its signatures or power of attorney or joint venture agreement must not be in question.

**Completeness of Bid** – Partial bids should not be accepted unless if the bidding document permits them.

Some examples of documents which may be required by the bidding document are: valid
trading licence, tax certificate, annual accounts, evidence of previous experience, powers of attorney, manufacturer’s authorisations, or joint venture agreements.

The procuring entity shall evaluate and compare the responsive tenders. The evaluation and comparison shall be done using the procedures and criteria set out in the bidding documents and no other criteria shall be used.

The technical evaluation should involve checking physical and chemical characteristics of goods offered and conformity of samples with the specification (where appropriate). Bids failing the technical examination are to be rejected. The following requirements shall apply with respect to the procedures and evaluation criteria:

- the criteria must, to the extent possible, be objective and quantifiable; and
- other criteria other than price must be expressed clearly and applied, in accordance with the procedures, for purposes of determining the lowest evaluated bid.

The financial evaluation of the bids will normally involve the following but as specified in the bidding documents:

- Check the bids for arithmetic errors:
  - where there is a discrepancy between the amounts in figures and in words, the amount in words will govern; and
  - where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will govern, unless in the opinion of the Committee there is an obviously gross misplacement of the decimal point in the unit rate, in which case the line item total as quoted will govern and the unit rate will be corrected.
  - all corrections made in accordance with the procedure specified in the bidding document, are considered binding on the bidder.

Pricing of Missing Items: Where items missing in some bids are present in others, the highest price quoted by the other bidders is added to the incomplete bids for evaluation purposes.

Under works contracts, missing prices for occasional work items are normally assumed to be included in prices for closely related items elsewhere.

- Acceptable Deviations: Adjust the bid price for any factors such as delayed delivery or different payment schedules in accordance with the rules specified in the bidding document. The adjusted total bid price will be used only for the purposes of evaluation and ranking of bids. Any such deviations must be acceptable to the Procuring Entity in the eventual contract.

- Provisional Sums: If the bids contain provisional sums set for contingencies or for nominated subcontractors, since these sums are the same for all bids, they should be deducted from the prices read out at the bid opening to allow a proper comparison of the competitive elements of bid prices.

- Modifications and Discounts: Discounts offered in accordance with the bidding document that are conditional on the simultaneous award of other contracts or lots in the bidding documents ("cross-discounts") shall not be evaluated until the
completion of all other evaluation steps. Non-conditional discounts should be included at this stage.

- Currency Conversions: If bids in different currencies are permitted in the bidding documents, convert the bid prices to the single currency (normally Rwandan Francs) as stated in the bidding documents:
  - The selected source and date for currency exchange rates must be as specified in the bidding documents.
  - The source of exchange rates will normally be the selling rate quoted by the National Bank of Rwanda (BNR) on the selected date.
  - The selected date should not be earlier than four weeks prior to the deadline for the receipt of bids, nor later than the original date for the closing of bids.

Apply the appropriate conversion rate to each corrected bid price to arrive at the evaluation price in the common currency.

In case of many successful bidders with equal prices, the procuring entity shall invite them to submit their new bids with reduced prices. In the event the bidders are again on par, the procuring entity shall resort to lot casting among those bidders.

5.20 Post Qualification

When pre-qualification was not done then a post-qualification of the lowest evaluated responsive bidder should be conducted to determine his physical capability to perform the contract. Using the criteria specified in the bidding documents, this review should include an assessment of the bidder’s financial and physical (equipment and personnel) resources available to undertake the contract, including the bidder’s current workload.

For assessing financial resources the bidding document will specify the minimum level of annual turnover, proof of access to funds to be used as working capital. The annual turnover is normally required for a number of years e.g. the past five years and this will be provided in the bidder’s audited financial statements. The access to funds for use as working capital will be in the form of a line of credit provided by the bank or letter from a bank informing the procuring entity that the bank will make available certain funds to the bidder to finance the contract. Furthermore check all documents specified in RPPA circular No 010/09-018/RPPA of 09/01/2009.

If pre-qualification was conducted, the lowest evaluated responsive bid should be recommended for the award of contract, unless the bidder’s qualifications have since materially deteriorated, or if the bidder has since received additional work that reduces the available capacity.

If the lowest evaluated responsive bidder fails post-qualification, his bid should be rejected, and the next ranked bidder should then be subject to post-qualification examination. If successful, this bidder should receive the award. If not, the process continues for the other bidders.
5.21 Evaluation Award Recommendation

The procuring entity shall prepare an evaluation report containing a summary of the evaluation and comparison of bids and recommendation of award of contract to the bidder with the lowest evaluated bid. The amount of the recommended contract award is the bid price as submitted by the lowest evaluated bidder and adjusted as described in the bidding documents for corrections, any discounts and acceptance of alternative offers from the lowest evaluated responsive bidder.

In brief the evaluation report should ensure that:

- justification is provided for any decisions reached by the committee on rejection of bidders (if necessary provide copies of selected pages from bids) and the recommendation for award of contract;
- inconsistencies between prices and modifications to prices read out at bid opening is explained.
- substantial corrections for arithmetic errors which may affect the ranking of bidders are explained.
- any additions, adjustments, and priced deviations that may affect the ranking of bidders are explained.
- clarification correspondence between the procuring entity and the bidders which result in major decision by the committee should be attached.
- any separate evaluation or assessment report from a consultant, if one was engaged for this purpose is attached.

The tender committee undertaking an evaluation shall be composed of at least three members. Decisions of the committee shall be taken unanimously and all members present have to sign the report.

Winner when bidders are at par

In case of many successful bidders with equal prices, the procuring entity shall invite them to submit their new bids with reduced prices. In the event the bidders are again on par, the procuring entity shall resort to lot casting among those bidders.

5.22 Award of Contract, Performance Security and Contract Signing

Before the expiry of the bid validity period, the procuring entity shall simultaneously notify the successful and the unsuccessful bidders of the provisional outcome of the bid evaluation.

The notification shall specify that the major elements of the procurement process would be made available to the bidders upon request and that they have seven (7) days in which to lodge a protest, if any, before a contract is signed with the successful bidder.
The successful bidder shall be required to provide a performance security in accordance with the procurement regulations. The performance security shall not be less than five (5%) and shall not exceed (10%) of the total bid cost. The performance security shall be provided within fifteen (15) days following the final notification of the tender award for national tenders and twenty one (21) days for international tenders, after which the successful bidder shall sign the contract.

Tenders for works, goods and other services whose amount does not exceed five million Rwanda francs (Rwf 5 000 000) may not require any performance security. For such tenders, the procuring entity shall instead withhold ten percent (10%) on each invoice presented by the bidder until the works have been completed.

The successful bidder and the procuring entity shall enter into a written procurement contract based on the bidding document, the successful bid, any clarifications received and any corrections provided. No contract shall be formed between the successful bidder and the procuring entity until the written procurement contract is entered into. However, a purchase order issued after the conduct of procurement proceedings shall suffice for contracts below a threshold in Annex B.

If the successful bidder fails to enter into a written procurement contract, the procuring entity may award the tender to the qualified bidder that ranked second. However if the period during which tenders must remain valid has already expired then award may not be applicable.

5.23 Advance Payment and Security

The advance payment shall not exceed twenty per cent (20 %) of the price of the tender and shall be paid upon submission by the successful bidder to the procuring entity of an advance payment security equivalent to the advance itself. That security shall be given by a bank or any authorized financial institution.

The successful bidder shall use the advance paid only in activities related to the tender. If the successful bidder uses the entire advance or part of it in other activities that are unrelated to the tender, the advance shall immediately be considered as a debt which shall be paid by seizing the entire security or part of it. The advance received by the successful bidder shall be refunded by deducting a certain amount from submitted and approved invoices. The bidding document shall determine the percentage to be deducted until the whole amount of the advance is refunded.

The advance security shall be returned to the successful bidder within thirty (30) days following the payment of the entire advance received. If it is not returned within the thirty (30) days, it shall generate interest for delays equivalent to one thousandth (1/1000) for every day of delayed payment.

5.24 Publication of Award Results
Upon signature of a procurement contract, the procuring entity shall notify other bidders that their bids were not successful.

The procuring entity shall publish the results of the tender as soon as the contract is signed. The results so published shall include at least the following: winner of the tender, amount of the tender awarded and duration of the contract. The results shall be posted on the internet of the procuring entity, posted on the RPPA internet, and displayed on the procuring entity’s notice board.

5.25 Insurance for works

In accordance with article 114 of the procurement law, within the period provided for by the tender document, the successful bidder shall submit documentary evidence to the procuring entity to show that on the very onset of works, he or she has obtained an insurance cover for work accidents which any person or their property may undergo during the process of the execution of the works. The successful bidder shall provide proof of payment for the insurance premiums, whenever requested to do so.
C4 - GOODS/WORKS PROCUREMENT FLOWCHART

START

Procurement Plans

Is Procurement for Works & Goods or Services

Goods/Works

Are goods/works costing >Rwf 1 million

No

Use Request for Quotations

Yes

National Tender - use Open Competitive Bidding

Evaluate Bids and Award

Goods >Rwf600 million? Works >Rwf1200 million?

No

Evaluate Bids and Award

International Tender - use Open Competitive Bidding

Evaluate Bids and Award

Maintain procurement records

END
Consultant Services

“Consulting services” refers to services of a professional nature provided by consultants using their skills to study, design, organize, and manage projects; advise the Procuring Entity; and, when required, build their capacity. Consultants offer Procuring Entities the possibility of a more effective and efficient allocation of their resources by providing specialized services for limited time without any obligation of permanent employment. Consulting services can include crafting of sector policies and institutional reforms, specialist advice and integrated solutions, change management and financial advisory services, planning and engineering studies, and architectural design services, project supervision, social and environmental assessments, technical assistance, and program implementation.

The selection of consultants involves many steps which are crucial for the selection of the appropriately qualified consultant to undertake an assignment successfully. In brief the Procuring Entity needs to undertake the following activities:

- prepare terms of reference for the assignment,
- prepare cost estimates for the assignment,
- prepare the request for expression of interest (EOI) or advertisement
- Evaluate expressions of interest (shortlisting)
- Prepare Request for Proposal (RFP) document
- Issue RFP to the shortlist and receive proposals
- Evaluate Technical and Financial Proposals
- Negotiate and award a contract to the successful consultant

5.26 Terms of Reference (TOR)

The TOR must define clearly the objectives and scope of the assignment and provide background information (including a list of existing relevant studies and basic data) to enable the consultant to prepare a proposal.

The TOR should:

- describe the background to the assignment;
- state the objectives of the assignment including the scope of the services and the duration of the assignment;
- detail list of the consultants’ duties and responsibilities;
• where applicable, the required inputs in terms of man days, months or years;
• detail outputs (deliverables), e.g.: designs, reports, recommendations, draft laws etc.
• set the time periods for the deliverables;
• list any services and surveys necessary to carry out the assignment;
• detail the services, facilities and counterpart staff to be provided by the Procuring Entity.
• specify detailed requirements when transfer of knowledge or training is an objective, to allow bidders to estimate the required resources.

5.27 Request for Expressions of Interest (Advertisement or Notification)

For Consulting Services whose value is estimated to cost above one million Rwanda francs, the procuring entity shall advertise the tender in at least one newspaper of wide circulation and on internet website, where it is available.

Tenders shall be made international tenders if they are for consultant services with an estimated value exceeding one hundred million Rwandan francs (Rwf 100 000 000). Depending on its nature, any tender may be made an international tender regardless of its size.

5.28 Short listing and expressions of interest

A procuring entity shall call for expressions of interest by publishing a notice in a national and international newspaper of wide circulation or professional journal in order to establish a short list of bidders. The threshold for tenders that shall not be awarded through the expression of interest is provided in Annex B.

The procuring entity shall establish a shortlist comprising of bidders with capacity to perform the required services. The shortlist shall have as many consultants as possible but no less than three.

The notice inviting expressions of interest shall set out the following:

1° the name and address of the procuring entity;
2° a brief description of the services to be provided;
3° the qualification necessary to be invited to submit a proposal;
4° a statement of where and when expression of interest shall be submitted.

Consultants shall be individuals or firms. Requests for proposals shall be addressed to either individual consultants or firms, but not both under the same tender.
5.29 Request for proposals

The procuring entity shall issue the request for proposals to the short listed consultants, asking them to confirm their participation. The request for proposals shall include, a minimum of the following information:

1° the name and address of the procuring entity;
2° the nature, time frame and location of the services to be provided, terms of reference, required tasks and outputs;
3° the general and specific conditions to which the contract will be subject;
4° instructions for the preparation and submission of proposals which shall require that a proposal include a technical proposal and a financial proposal;
5° an explanation of where and when proposals shall be submitted;
6° the procedures and criteria to be used to evaluate and compare the proposals including:

a) the procedures and criteria for evaluating technical proposals which shall provide the basis on which to decide on the responsive proposal. Care should be taken to follow the standard request for proposals in defining the criteria and procedures for evaluating technical proposals
b) the procedures and criteria for evaluating the financial proposals

c) any other additional evaluation method which may include interviews or presentations. The procedures and interviews criteria for that additional method shall be included in the bidding document;
d) notice of conflict of interest restrictions and anti-fraud and corruption rules, including the grounds for potential disqualifications from future participation in public procurement;
e) any other matters provided for in the procurement regulations.

5.30 Selection method and criteria

The procuring entity shall, in order to select successful proposal, use one of the following procedures which must have been notified to bidders in a request for proposals, by doing the following:
1° quality and cost-based selection (QCBS) shall be the method of default;
2° quality based selection (QBS); applicable where quality is the paramount factor;
3° selection under a fixed budget may be applied when the assignment is simple and can be precisely defined and when the budget is fixed;
4° least cost selection may be applied when selecting consultants for assignments of a standard and routine nature, where well established practices and standards exist and in which the contract amount is small;

5° selection based on consultant’s specific qualifications.

Detailed procedures for the use of these methods shall be outlined in the procurement regulations.

5.31 Evaluation of technical proposals

The Tender Committee shall evaluate each technical proposal on the basis of criteria disclosed in the request for proposals including the following:

1° the consultant’s relevant experience for the assignment;

2° the quality of the methodology presented;

3° qualifications of key personnel proposed for the assignment;

4° transfer of knowledge, if required in the terms of reference;

5° the extent of participation by nationals among key staff in case of international tendering.

Indicative weights to be attached to the above criteria shall be provided in the procurement regulations.

5.32 Evaluation of financial proposals

The financial proposals shall be opened and evaluated only after completion of the technical proposal. When the quality and cost-based selection procedure is used, only financial proposals of bidders who attained the minimum technical score shall be opened.

The total score shall be obtained by adding the importance of quality and cost scores. The quality and cost shall be established based on the complexity and the nature of the assignment. The coefficient for quality and cost score to be used in determining the winning proposal shall be specified in the request for proposals and in accordance with the procurement regulations.

Similarly, the same shall apply to the fixed budget and least cost selection. Only financial proposals whose technical proposals obtained the minimum technical score prescribed shall be opened. Under the fixed budget method, proposals whose cost is above the budget ceiling shall be rejected and the bidder whose proposal attained the highest technical score shall be selected.
Under the least cost method, the bidder whose proposal attained the minimum technical score and proposed the lowest cost shall be selected.

Under quality based selection, only the financial proposal of the bidder whose technical proposal attained the highest score shall be opened.

5.33 Negotiations with selected consultant

Negotiations with the selected consultant shall cover the terms of reference, deliverable, progress reports, facilities to be provided by the procuring entity and the successful bidder’s financial proposal subject to the following:

1° whenever price has been a factor, such as in the QCBS, fixed budget or least cost selection procedures, consultant fees shall not be subject to negotiation. Only reimbursable expenses may be negotiated;

2° if the negotiations fail to result in a procurement contract, the procuring entity shall proceed to the next ranked bidder and so on. Negotiations shall not be simultaneously engaged with several consultants.

5.34 Notification and Publication of tender award

The bidder whose proposal attains the highest score, in accordance with the evaluation criteria in the request for proposals shall be selected for award, subject to satisfactory conclusion of negotiations. Furthermore check all documents specified in RPPA circular No 010/09-018/RPPA of 09/01/2009. The procuring entity shall notify the successful bidder of its selection and at the same time inform all the short listed consultants of the decision. In the absence of a challenge by any other bidder within seven (7) days of that notice, the contract shall be signed by both parties.

The procuring entity shall publish the results of the tender as soon as the contract is signed. The results so published shall include at least the following: winner of the tender, amount of the tender awarded and duration of the contract. The results shall be posted on the internet of the procuring entity, posted on the RPPA internet, and displayed on the procuring entity’s notice board.
5.35 Guarantee for tenders of consultancy services

Tenders for Consultants services shall not require performance security. Tenders for other services whose amount exceeds five million (Rwf 5 000 000), in general shall require performance security. However, performance security may not be required depending on the special nature of the tender whose characteristics does not show any risk of poor performance.

QCBS Selection Cycle

Diagram C5
C6 – Consultant Services Selection Chart

Is Consultant Service for Individual or firm?

- Firm
  - Is Cost less than Rwf 200 million?
    - Yes
      - No need for No Objection
      - PE to select using LCS or CQ or QBs or QCBS methods.
      - Award Contract
    - No
      - No need for No Objection - RFP & Evaluation
      - PE to select using LCS or CQ or QBs or QCBS methods.
      - Award Contract
  - Need RPPA No Objection - Evaluation
  - PE to select using IC or SSS method.
  - Award Contract

- Individual
  - Is Cost less than Rwf 200 million?
    - Yes
      - No need for No Objection
      - PE to Select Using IC or SSS Method
      - Award Contract
    - No
      - Need RPPA No Objection - Evaluation
      - PE to select using IC or SSS method.
      - Award Contract

Maintain procurement records

END
## C7 - Steps for Quality and Cost Based Selection

<table>
<thead>
<tr>
<th>Step No</th>
<th>Recruiting a Consultant using QCBS</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Terms of Reference (TOR) for the assignment when ready should be checked by the Procurement Unit to ensure the format is correct</td>
<td>The TOR shall be prepared by knowledgeable people (experts). It shall provide relevant background information, define clearly the objectives, goals, and scope of the assignment and the tasks to be undertaken, reporting time schedules, staff requirements and data &amp; facilities to be provided by the procuring entity.</td>
</tr>
<tr>
<td>2</td>
<td>Prepare Cost Estimate &amp; Budget (The cost estimate shall be based on the assessment of the resources needed to carry out the assignment: staff time, logistical support, and physical inputs.)</td>
<td>Costs shall be divided into two broad categories: (a) fee or remuneration, depending on type of contract used, and (b) reimbursables, and further divided into foreign and local costs. The preparation of a cost estimate is essential for realistic budgetary resources to be allocated.</td>
</tr>
<tr>
<td>3</td>
<td>Advertise for Expression of Interest (EOI)</td>
<td>For Consulting Services whose value is estimated to cost above one million Rwanda francs, the procuring entity shall advertise the tender in at least one newspaper of wide circulation and on internet website, where it is available. Tenders shall be made international tenders if they are for consultant services with an estimated value exceeding one hundred million Rwandan francs (Rwf 100 000 000). Depending on its nature, any tender may be made an international tender regardless of its size.</td>
</tr>
<tr>
<td>4</td>
<td>Receive Consultants’ EOI on the due date</td>
<td>Timing should allow for effective preparation and submission of dossiers(EOI) depending on its complexity.</td>
</tr>
<tr>
<td>5</td>
<td>Review and Evaluate the EOIs, Award points and Rank them</td>
<td>A team evaluates the EOIs in accordance with evaluation criteria derived from the request for expression of interest. A minimum qualifying score should be agreed upon.</td>
</tr>
<tr>
<td>6</td>
<td>Select the Consultants who met minimum set requirements or minimum qualifying score and rank them.</td>
<td>This is the list of qualified consultants from which you select the shortlist of 3 to 6 consultants from which you can request proposals. Reference checks should be carried out on the shortlisted consultants.</td>
</tr>
<tr>
<td>7</td>
<td>The tender committee’s EOI evaluation report should include expert advice received if any.</td>
<td>If the tender committee has engaged a consultant(expert) to provide advice then any report produced by the expert should become part of the evaluation report.</td>
</tr>
<tr>
<td>8</td>
<td>Prepare an appropriate RFP in accordance with the Standard Request for Proposals (SRFP) in Annex B</td>
<td>The contents of the Request for Proposals (RFP) are: (i) Letter of Invitation (LOI) should contain at least the 3-6 short-listed names, (ii) Information to Consultants (which would include the Evaluation Criteria, Conditions of Contract, Forms etc.) , (iii) Terms of Reference, (iv) Sample Contract. The RFP will indicate the deadline for submitting the proposals as not less than 30 days after receipt of the RFP.</td>
</tr>
<tr>
<td>9</td>
<td>The RFP is to be issued to the shortlisted consultants.</td>
<td>The short-list of Consultants will bid or compete for the particular assignment. (In certain instances, e.g. for lack of adequate response, at least the listing of 3 consultants may be permitted).</td>
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<tr>
<td>10</td>
<td>Notify the short-listed consultants of the issuance of the RFP by mail, fax, e-mail, etc.</td>
<td>If, for some reason, some decline to submit proposals, the shortlist can be refreshed and date of submission extended, if necessary.</td>
</tr>
<tr>
<td>11</td>
<td>Arrange to receive the Technical and Financial Proposals on the appointed day and time for evaluation to commence.</td>
<td>The evaluation of the proposals shall be carried out in two stages: first the quality, and then the cost. The Tender Committee, would comprise of three or more members. (To safeguard the integrity of the process, the technical and financial proposals are submitted in separate sealed envelopes.)</td>
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<tr>
<td>Step No</td>
<td>Recruiting a Consultant using QCBS</td>
<td>Remarks</td>
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<tr>
<td>12</td>
<td>The technical envelopes shall be opened as soon as possible by the Tender Committee after the closing time for submission of proposals. <em>(This QCBS method also applies to (i) Fixed Budget Selection (FBS), and (ii) Least Cost Selection (LCS) methods.)</em></td>
<td>Each technical proposal shall be evaluated on the basis of its responsiveness to the TOR. A proposal shall be rejected at this stage if it does not respond to important aspects of the TOR or it fails to achieve the minimum technical score specified in the RFP. The committee will evaluate the responsive Technical proposals and award the deserving points, in accordance with the Evaluation Criteria.</td>
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<td></td>
<td><em>(The financial proposals shall remain sealed until they are opened publicly)</em></td>
<td>The relative strengths and weaknesses of each proposals shall be picked to be included in the Evaluation Report. The respective points from the TC members are then consolidated as average marks.</td>
</tr>
<tr>
<td>13</td>
<td>The procuring Entity (the Client) shall inform the Consultants who have submitted proposals, the technical points assigned to each Consultant</td>
<td>It shall also notify those Consultants whose proposals did not meet the minimum qualifying mark or were considered non-responsive to the RFP and TOR that their financial proposals will be returned unopened.</td>
</tr>
<tr>
<td>14</td>
<td>Under the QCBS <em>(also FBS, and LCS methods)</em>, the Client shall promptly notify the consultants who met the minimum points, the date, time and place for the public opening of their Financial proposals.</td>
<td>The timing for the opening of the financial proposals shall be at least 3 working days for national tenders and international tenders when all bidders are represented in Rwanda and at least 6 working days for international tenders when some bidders are not represented in Rwanda.</td>
</tr>
<tr>
<td>15</td>
<td>Open the Financial proposals, in the presence of the consultant’s representatives who choose to attend. The names of the consultants, the technical points, and the proposed prices shall be read aloud and recorded when the financial proposals are opened.</td>
<td>The procuring entity will keep a register of the representatives and prepare the minutes of the public opening.</td>
</tr>
<tr>
<td>16</td>
<td>The procuring entity shall then review the financial proposals. If there are any arithmetical errors, they shall be corrected. For the purpose of comparing proposals, the costs shall be converted to a single currency selected by the Client (local currency or fully convertible foreign currency) as stated in the RFP. The Client shall make this conversion by using the selling (exchange) rates for those currencies quoted by an official source stated in the RFP e.g. (BNR). This includes checking computational errors and adding to the initial price all items of the Technical proposals, whose cost was omitted in the financial proposals.</td>
<td></td>
</tr>
<tr>
<td>17</td>
<td>For QCBS the bidder who submitted the least Financial proposals is assigned 100 points. The points awarded to the competitors are the inversely proportional to their prices. Under QCBS, the total score of each bidder shall be obtained by weighting the quality and cost scores and adding them; then ranking them to determine the successful bidder. If the technical score is weighted 0.8, for example, the financial score shall be weighted 0.2, such that the sum of the weights is equal to 1.</td>
<td></td>
</tr>
<tr>
<td>18</td>
<td><em>Under QCBS</em>, the highest ranked firm, in terms of the combined weight scores becomes the successful bidder, and is invited to negotiate a contract.</td>
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</table>
### C8 - Steps for Fixed Budget Selection (FBS)

<table>
<thead>
<tr>
<th>Step No</th>
<th>Recruiting a Consultant using FBS</th>
<th>Remarks</th>
</tr>
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<tbody>
<tr>
<td>1-16</td>
<td>Steps 1 through 16 of the FBS methods is the same as steps 1 through 16 of the QCBS and LCS methods above.</td>
<td>Remarks on steps 1 through 16 of the FBS method is the same as steps 1 through 16 of the QCBS and LCS methods above</td>
</tr>
<tr>
<td>17</td>
<td>In the FBS method, identify all the financial proposals outside the fixed budget; they will all be rejected. Then from among the consultants whose financial proposals were within budget, select as the successful bidder, the one who offered the best (high ranked technical proposal), and invite him to negotiate a contract.</td>
<td>In the FBS, the proposals at the set (fixed) level and within the fixed budget are accepted and from among the bidders, the one who offered the best technical proposal is selected. Here, it is seen that the deciding factor becomes not the cost, but the quality of the technical proposals.</td>
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</tbody>
</table>

### C9 - Steps for the Least Cost Selection (LCS)

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<tr>
<th>Step No</th>
<th>Recruiting a Consultant using LCS</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-16</td>
<td>Steps 1 through 16 of the LCS methods is the same as steps 1 through 16 of the QCBS method above.</td>
<td>Remarks on steps 1 through 16 of the LCS method is the same as steps 1 through 16 of the QCBS methods above</td>
</tr>
<tr>
<td>17</td>
<td>Under the LCS method, selected as the successful bidder, the consultant who offered the least cost and invite him to negotiate the contract.</td>
<td>It must be borne in mind that under LCS, all proposals that met the minimum points compete only on “cost” afterwards. The setting of the minimum points for the technical proposals, which shall be stated in the RFP (Not less than 70%), is therefore crucial to getting quality proposals.</td>
</tr>
</tbody>
</table>

### C10 - Steps for the Quality Based Selection (QBS)

<table>
<thead>
<tr>
<th>Step No</th>
<th>Recruiting a Consultant using QBS</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-10</td>
<td>Steps 1 through 10 of the QBS methods is the same as steps 1 through 10 of the QCBS method above.</td>
<td>Remarks on steps 1 through 16 of the QBS method is the same as steps 1 through 16 of the QCBS methods above</td>
</tr>
<tr>
<td>11</td>
<td>Arrange to receive the Technical Proposals (including the financial proposals if also requested) on the appointed day and time for evaluation to commence.</td>
<td>The technical evaluation of the proposals shall be carried out by the Tender Committee. The committee would comprise of three or more members and at least 2/3 of the committee. The financial proposal should be safely locked away if received together with the technical proposal.</td>
</tr>
<tr>
<td>12</td>
<td>The technical envelopes shall be opened as soon as possible by the Tender Committee after the closing time for submission of proposals.</td>
<td>Each technical proposal shall be evaluated on the basis of its responsiveness to the TOR. A proposal shall be rejected at this stage if it does not respond to important aspects of the TOR or if it fails to achieve the minimum technical score specified in the RFP. The committee will evaluate the responsive Technical proposals and award the deserving points, in accordance with the Evaluation Criteria. The relative strengths and weaknesses of each proposals shall be analyzed to be included in the Evaluation Report. The respective points from the Tender Committee members</td>
</tr>
<tr>
<td>Step No</td>
<td>Recruiting a Consultant using QBS</td>
<td>Remarks</td>
</tr>
<tr>
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</tr>
<tr>
<td>13</td>
<td>If financial proposal was not submitted before, the Procuring Entity (the Client) shall inform the Consultant with the highest technical score that his proposal has been accepted and should submit a financial proposal in order to negotiate a contract.</td>
<td>It shall also notify those Consultants whose proposals did not meet the minimum qualifying points or were considered non-responsive to the RFP and TOR that they were unsuccessful.</td>
</tr>
<tr>
<td>14</td>
<td>Review the financial proposal of the consultant with the highest technical score. If there are any arithmetical errors, they shall be corrected.</td>
<td>This includes checking computational errors and adding to the initial price all items of the Technical proposals, whose cost was omitted in the financial proposals.</td>
</tr>
<tr>
<td>15</td>
<td>The Procuring Entity shall invite the consultant for contract negotiations. During contract negotiations the procuring entity and the consultant will discuss technical proposal issues, financial proposal issues and the contract.</td>
<td>Technical issues may include TOR comments, methodology, availability of staff, work plan etc. Financial issues may include remuneration, reimbursable, taxation, advance payment etc. Contract issues may include payment terms, commencement etc.</td>
</tr>
</tbody>
</table>

C11 - Steps for the Consultant Qualification Selection

<table>
<thead>
<tr>
<th>Step No</th>
<th>Recruiting a Consultant using CQS</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-4</td>
<td>Steps 1 through 4 of the CQS methods is the same as steps 1 through 4 of the QCBS method above.</td>
<td>Remarks on steps 1 through 4 of the CQS method is the same as steps 1 through 4 of the QCBS methods above</td>
</tr>
<tr>
<td>5</td>
<td>Review and Evaluate the EOIs, Award points and Rank them</td>
<td>The committee evaluates the EOIs in accordance with evaluation criteria derived from the request for expression of interest. A minimum qualifying score should be agreed upon.</td>
</tr>
<tr>
<td>6</td>
<td>Select the Consultant who attains the highest score from the ones who meet minimum qualifying score.</td>
<td>From the list of evaluated consultants which are ranked you will select the qualified consultants. Reference checks should be carried out on the selected consultant.</td>
</tr>
<tr>
<td>7</td>
<td>Prepare an appropriate RFP in accordance with the Standard Request for Proposals (SRFP) in Annex B and issue to the selected consultant. Some simple assignments may not require a technical proposal and only a financial proposal is requested.</td>
<td>The contents of the Request for Proposals (RFP) are: (i) Letter of Invitation (LOI)  (ii) Information to Consultants (which would include the Evaluation Criteria, Conditions of Contract, Forms etc.),  (iii) Terms of Reference, (iv) Sample Contract. The deadline for submission of Financial Proposal only can be as short as one week.</td>
</tr>
<tr>
<td>8</td>
<td>Receive the technical and financial proposals. The tender committee will undertake the technical proposal evaluation.</td>
<td>The technical proposal shall be evaluated on the basis of its responsiveness to the TOR. The proposal shall be rejected at this stage if it does not respond to important aspects of the TOR or it fails to achieve the minimum technical score specified in the RFP. If proposal is rejected then an RFP will be issued to the consultant with the second highest score.</td>
</tr>
<tr>
<td>9</td>
<td>If technical proposal achieves more than the minimum qualifying score, then the financial proposal will be opened and reviewed.</td>
<td>This includes checking computational errors and adding to the initial price all items of the Technical proposals, whose cost was omitted in the financial proposals.</td>
</tr>
<tr>
<td>10</td>
<td>Procuring Entity shall invite the consultant for contract negotiations. During contract negotiations the entity and the consultant will discuss technical proposal issues, financial proposal issues and the contract.</td>
<td>Technical issues may include TOR comments, methodology, availability of staff, work plan etc. Financial issues may include remuneration, reimbursable, taxation, advance payment etc. Contract issues may include payment terms, commencement etc.</td>
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</table>
Chapter 6: Procurement Methods

6.1 Open Competitive Bidding

The procuring entities shall apply open competitive bidding for procurement of supplies, works, goods and other services except when it is not ideal. Foreign bidders are allowed to participate. The standard bidding documents to be used are in Annex B. The following are some of the requirements for open competitive bidding:

(a) For international tender the invitation to tender and the bidding documents must be in both English and French;
(b) the procuring entity shall advertise the invitation to tender in at least one newspaper with the most widespread circulation at national or international level as the case may be, or with any other means of communication.
(c) the period of time between the advertisement under paragraph (b) and the deadline for submitting tenders must be not less than 30 days. For an international tender, the period of its publication in an internationally most widely read newspaper shall be between forty five (45) and ninety (90) calendar from the day on which the newspaper is issued, depending on interest and importance of the tender.
(d) the technical requirements must, to the extent possible be compatible with requirements under Rwandese law, be based on international standards or standards widely used in international trade;
(e) a bidder submitting a tender may, in quoting prices or providing security, use a currency that is widely used in international trade and that the tender documents specifically allow to be used; and any general and specific conditions to which the contract will be subject must be of a kind generally used in international trade.
(f) any general and specific conditions to which the contract will be subject shall be of a kind generally used in international trade.
(g) An open international tender shall be carried out on the basis of the size of the tender and technical capacity and know how that may not be available in the country.
Other Procurement Methods

6.2 Request for Quotations

The method of procurement is used for procurement of goods or works below the threshold indicated in Annex B. The method is also well known in procurement practice as shopping.

The procuring entity may obtain quotations using a format in Annex B from as many bidders as possible, but not less than three. The time limit given to the bidders for them to request for quotations shall be at least three (3) working days. Such time shall be counted from the date of receipt of the invitation to quotation submission date by the bidder.

Each bidder from whom a quotation is requested shall be informed whether any elements other than the charges for the goods or works themselves, or any other element related to transportation and insurance charges, customs duties and taxes, shall be included in the price. Request for quotations shall indicate the description and quantity of goods as well as the desired delivery time and place.

The procurement contract shall be awarded to the bidder that gave the lowest-priced quotation meeting the delivery period of the procuring entity.

The procuring entity may engage in procurement by means of a request for quotations for the procurement of readily available goods or works that have standard specifications for which there is an established market and are of a very low cost in accordance with a threshold specified in Annex B.

The procuring entity shall not split its tender into separate contracts for the purpose of applying this method of procurement. Such a procurement method cannot be used more than once within three months for a tender of the same category of goods or works.

6.3 Single-source procurement/Direct contracting

The procuring entity may procure the goods or works and services by soliciting a price quotation from a single qualified bidder.
The procuring entity, may engage in a single-source procurement when:

1° the total cost does not exceed the total amount which is determined by an order of the Minister in charge of public procurement found in Annex B;

2° additional works that cannot be technically separated from initial tender. For example an additional 5km road works extending a current contract of 25km road works. The value of additional works shall not exceed twenty per cent (20%) of the initial tender value. The additional works shall be subject to additional contract,

3° there is a case of force majeure. The circumstances giving rise to the urgency should not be neither foreseeable by the procuring entity nor the result of dilatory conduct on its part. The procurement shall only be in respect of those goods, works or services that are necessary to cater for the emergency;

4° procurement related to items that are available only from a monopolist.

Single source procurement shall not be justified on the grounds that only one bidder has the capacity or the exclusive right to manufacture or deliver goods, works or services if functionally equivalent goods, works or services from other bidders would meet the needs of the procuring entity. Single source procurement should have a written justification provided by either the tender committee, the user department or the chief budget manager.

6.4 Restricted tendering

This method is open only to bidders appearing on the invitation to bid. A procuring entity may use restricted tendering for procurement, if either:

- the goods or construction by reason of their highly complex or specialized nature, or otherwise are available only from a limited number of suppliers or contractors; or

- the time and cost required to examine and evaluate a large number of bids would be disproportionate to the value of the goods, construction or services to be procured in accordance with the threshold set in the procurement regulations;

The following procedures in relation to restricted tendering shall be applied:

1. the procuring entity shall, instead of advertising the invitation to tender, give the invitation to tender to at least three bidders selected in a fair and non-discriminatory manner from a list of prequalified bidders;
2. when bidders based in foreign countries are short listed, only two bidders in the same country should be contacted.

3. an invitation to apply for inclusion on the prequalified list shall be advertised, at least annually, in at least one newspaper of the largest nationwide circulation.

4. The time provided for bidders to prepare their bids shall be the same as the open competitive bidding method. However such time limit may be reduced but shall not be less than twenty-one (21) calendar days for an international restricted tender and fourteen (14) calendar days for the national restricted tender.

6.5 Force Account

Public procurement may be carried out through force account by making recourse to the civil servants and using public equipment. This method shall be used where:

1. quantities of work involved cannot be defined in advance;
2. works are small and scattered or in remote locations for which qualified construction firms are unlikely to bid at reasonable price;
3. work is required to be carried out without disrupting ongoing operations;
4. there are emergencies needing prompt attention;
5. the procuring entity is to complete works delayed by the contractor after the written warnings did not yield any tangible results.

6.6 Community Participation

The beneficiary community may participate in delivery of services within the context to be defined by the procurement regulations and below the threshold in Annex B. This shall be carried out by an award of a procurement contract to the beneficiary community by the procuring entity and a contract shall be signed between the two parties specifying the obligations of each party. The value of the contract may exceed the threshold if the contract is for making terraces, anti erosion trenches or planting trees. In such cases, the procuring entity can hire an expert, to support the community in the activities. This method shall be used if it is established that, it will contribute to the economy, create employment and involvement of the beneficiary community.

The beneficiary community shall elect an Executive committee and Inspection Committee as follows: Execution committee composed of seven (7) persons including Chairperson, Vice-Chairperson, treasurer, secretary and three committee members. Inspection committee composed of five (5) persons including Chairperson, Vice-Chairperson, secretary and two (2) committee members.
The Chairperson of the Execution committee shall sign the contract with the procuring entity on behalf of the beneficiary community.
CONSULTANT SELECTION METHODS

The selection of consultants is carried out using the following selection methods depending on the nature of the assignment:

(a) Quality-and Cost-Based Selection (QCBS),
(b) Quality Based Selection (QBS)
(c) Least Cost Selection (LCS) for technical and financial audits and the engineering designs of non-complex works;
(d) Consultants’ Qualifications Selection (CQS) for technical studies and training,
(e) Fixed-Budget Selection (FBS) for training of MDAs and LGs
(f) Selection of Individual Consultants (IC), and
(i) Single -Source Selection (SSS)

6.7 Quality and Cost Based Selection (QCBS)

The Quality and Cost-Based Selection (QCBS) procurement method is a competitive process among short listed firms that considers both the quality of the proposal and cost of the services in the selection of the successful firm. The relative weight to be given to the quality and cost shall be determined for each case depending on the nature of the assignment.

The overall score shall be obtained by adding the technical and financial scores. The technical and the financial scores shall be determined according to the complexity and nature of the assignment. The coefficient for quality and cost score to be used in determining the winning proposal shall be specified in the request for proposals as follows:

Formula:

Combined scores:
S = (TS x Tw%) + (FS x Fw%) where:

S = Final score
TS = Technical score
FS = Financial score
Tw = Weight of technical score
percentage (between 70% and 90%)
Fw = Weight of financial score
percentage (between 10% and 30%)

Tw+Fw = 1
How the financial score of each bidder is determined:

\[ FS = \frac{(LF \times 100)}{Fi} \]

\( LF = \) The lowest proposal;
\( Fi = \) the proposal to be evaluated.

If the bidders obtain the same combined score, the contract shall be awarded to the bidder whose technical score is the highest.

The provisional notification of evaluation results for consultant services shall be done in two phases. The first notification shall be carried out after the evaluation of technical proposals prior to the opening of financial proposals. The second notification shall be done when the whole evaluation process is completed.

6.8 Quality Based Selection (QBS)

Quality Based Selection (QBS) may be appropriate for complex or highly specialised assignments, or those which invite innovations. The selection is based solely on the quality of the proposal without consideration of the cost. QBS is suitable for the following types of assignments:

- complex or highly specialised assignments where it is difficult to define precise TOR and the required input from the consultants, and for which the client expects the consultants to demonstrate innovation in their proposals (for example, country economic or sector studies, multi-sector feasibility studies, design of a hazardous waste remediation plant or of an urban master plan, financial sector reforms);

- assignments that have a long term impact and in which the objective is to have the best experts available (for example, feasibility and structural engineering design of such major infrastructure as large dams, policy studies of national significance, management studies of large government agencies); and

- assignments that can be carried out in very different ways, and therefore proposals may not be directly comparable (for example, management advice, or policy studies in which the value of the services depends on the quality of the analysis).

- The Request for Proposals (RFP) should not indicate the estimated budget, but may provide the estimated number of key staff and time, specifying that this information is given as an indication only, and that consultants are free to propose their own estimates.
- The RFP may require submission of a technical proposal only (without a financial proposal), or request submission of both technical and financial proposals at the same time, but in separate envelopes (two-envelope system). Only the financial envelope of the highest ranked technical proposal is opened. The rest are returned unopened to the bidders, after the negotiations are successfully concluded.

- If technical proposals only are invited, after evaluating the technical proposals, the Consultant with the highest ranked technical proposal will be invited to submit a detailed financial proposal.

The Procuring Entity and the Consultant shall then negotiate the financial proposal and the contract. Other aspects of the selection process are identical to those of QCBS.

6.9 Least Cost Selection (LCS)

() This method is only appropriate for selecting consultants for assignments of a standard or routine nature (audits, engineering design of noncomplex works, and so forth) where well-established practices and standards exist. Under this method, a “minimum” qualifying mark for the “quality” is established, keeping in view that all proposals above the minimum compete only on “cost”. The minimum qualifying mark, not less than 70%, shall be stated in the RFP. Proposals, to be submitted in two envelopes, are invited from a short list. Technical proposals are opened first and evaluated. Those securing less than the minimum qualifying points are rejected, and the financial proposals of the rest are opened in public.

6.10 Consultant’s Qualifications Selection (CQS)

This method may be used for small assignments for which the need for preparing and evaluating competitive proposals is not justified. In such cases, the Procuring entity shall prepare the TOR, request expressions of interest and information on the consultants’ experience and competence relevant to the assignment, establish a short list, and select the firm with the most appropriate qualifications and references. The selected firm shall be asked to submit a combined technical-financial proposal and then be invited to negotiate the contract.
6.11 Individual Consultant Selection (IC)

(1) Individual consultants are recruited on assignments for which (a) teams of personnel are not required, (b) no additional outside (home office) professional support is required, and (c) the experience and qualifications of the individual are the paramount requirement.

(2) These consultants are selected on the basis of their qualifications for the assignment. Advertisement is not required, however, in some cases the Client may consider the advantage of advertising as an option. These Consultants do not need to submit proposals. The Client shall select Consultants through comparison of qualifications of at least three candidates among those who have expressed interest in the assignment or have been approached directly by the Clients.

(3) Individuals considered for comparison of qualifications shall meet the minimum relevant qualifications and those selected to be employed by the procuring entity shall be the best qualified and shall be fully capable of carrying out the assignment. Capability is judged on the basis of academic background, experience, and, as appropriate, knowledge of the local conditions, such as local language, culture, administrative system, and government organization. The selection process continues with negotiations based on the financial proposals and the Draft Contract, and ends with award of contract.

6.12 Fixed Budget Selection (FBS)

(1) This method is appropriate only when the assignment is simple and can be precisely defined and when the budget is fixed. The RFP shall indicate the available budget and request the consultants to provide their best technical and financial proposals in separate envelopes, within the budget. The TOR should be particularly well prepared to make sure that the budget is sufficient for the consultants to perform the expected tasks.

(2) Evaluation of all technical proposals shall be carried out first as in the QCBS method. Then the price proposals shall be opened in public and prices shall be read out aloud. Proposals that exceed the indicated budget shall be rejected. The Consultant who has submitted the highest ranked technical proposal among the rest shall be selected and invited to negotiate a contract. A detailed step by step description of the application of the Fixed Budget method is outlined in Chapter 5.
6.13 Single Source Selection  (SSS)

Single-Source Selection of consultants or firms does not provide the benefits of competition in regard to quality and cost; it lacks transparency in selection, and could encourage unacceptable practices. Therefore, single-source selection shall be used only in exceptional cases. The method may be appropriate only if it presents a clear advantage over competition: (a) for tasks that represent a natural continuation of previous work carried out by the firm, (b) in emergency cases, such as in response to disasters and for consulting services required during the period of time immediately following the emergency, (c) for very small assignments, or (d) when only one firm is qualified or has experience of exceptional worth for the assignment. For these reasons, Single –Source Selection services estimated to cost less than $50,000 equivalent per contract are subject to prior review.

Individual consultants may be selected on a sole-source basis with due justification in exceptional cases such as: (a) tasks that are a continuation of previous work that the consultant has carried out and for which the consultant was selected competitively; (b) assignments with total expected duration of less than six months; (c) emergency situations resulting from natural disasters; and (d) when the individual is the only consultant qualified for the assignment.
Chapter 7: Contract Management

7.1 General

In accordance with the law on public procurement contract management is part of the responsibility of the Procurement Unit within the procuring entity. However it must be noted from the outset that the beneficiary department plays a crucial role in contract management. As the department with vested interest in the success of the contract they have to play a very big part in receiving the supplies and quality assessment and acceptance. Effective management of contracts is essential to ensure that the objectives of the procurement process are achieved and that all contractual obligations and activities are completed efficiently by both parties to the contract. The Procurement Unit must ensure that routine monitoring of all current contracts is maintained so that swift remedial measures can be taken when problems arise, or preventative action taken when problems are foreseen.

However where the procuring entity’s procurement unit is short staffed i.e. with only one person (procurement officer) in the unit, the beneficiary department will have to undertake much of the Procuring Entity’s contract management duties and responsibilities whilst the procurement unit provides guidance.

If during contract implementation there are any serious disputes with the supplier, contractor, consultant or service provider regarding the interpretation of the provisions of the contract the procurement unit can refer the issue(s) to the legal department for advice or to the attorneys of the procuring entity.

There are many post-contract issues that need to be dealt with, monitored and resolved before the contract reaches its conclusion including:

- Contract Effectiveness;
- Delivery and Inspections of Goods;
- Insurance Claims;
- Payments to the Consultant, Supplier or Contractor;
- Performance Monitoring for Services and Works;
- Contractual Disputes;
- Delays in Performance;
- Claims for Damages;
- Initial and Final Takeover of construction works;
- Installation and Commissioning of Equipment;
- Acceptance of Deliverables;
- Release of Performance Securities and Retentions;
- Contract Closure.
Contract Effectiveness

Although the Contract Form may have been signed by both parties, the legal effectiveness of the Contract may be dependent on one or more of the following conditions:

- Receipt by the Procuring Entity of the Performance Security;
- Receipt by the Procuring Entity of an Advance Payment Security;
- Receipt by the Supplier/Contractor of the Advance Payment; or
- Receipt by the Supplier/Contractor of an acceptable Letter of Credit.

- The Procurement Unit’s responsibility is to follow-up with Supplier/Contractor for the submission of the performance and advance payment securities which can be a source of delay if not submitted timely. Furthermore the PU must request the supplier/contractor to submit details required by finance department for the opening of the letter of credit.

- The Procurement Unit’s responsibility is to follow-up with the finance department to ensure that the advance payment is paid in time and any letter of credit is open.

Goods Contract Management

Contract supervision and administration for goods will be the primary responsibility of the Procurement Unit. Supervision and administration is straightforward in most procurements of goods but monitoring delivery schedules, processing of documents and the inspection of goods are essential to ensure that the correct goods are delivered on time.

The Procurement Unit will:

- Monitor the delivery schedules of all purchases to ensure that they are dispatched, delivered or collected on time.
- Receive reports on pre-shipment inspection of goods and contact the Supplier in writing requesting rectification of any discrepancies or deficiencies.
- Contact the Supplier or shipper to identify the causes of any delay in delivery;
- Initiate and supervise any process for claims against insurance or the supplier.
- Report to the Tender Committee any failure by the Supplier in his contractual obligations.
7.2 Pre-Shipment Inspection of Goods

Pre-shipment inspection of goods is required for imports into Rwanda. It is also essential for expensive imported goods and items likely to suffer damage or deterioration during transit if not packed in accordance with the specifications in the contract. When pre-shipment inspection of goods is specified in the contract, this will normally be undertaken by a nominated international third-party agent for imported goods.

The inspector (who must be experienced and appropriately skilled) will carry out the following tests – on a random sampling basis where appropriate -to ensure that the goods and packing are in strict conformity with the requirements:

- Obtain and verify Suppliers’ Certificates of Analysis or Compliance to verify physical characteristics and chemical details, type, batch numbers and shelf life as appropriate.
- that all necessary instructions and manuals are enclosed and are printed in the required language.
- that all packages are serially numbered and complete and that labelling and marking is exactly as specified in the contract.
- that dimensions of the packing are as specified in the contract and that pallet markings and handling descriptions are clearly displayed to ensure proper handling in transit and at the delivery destination.
- that all individual items, internal packing and external packages are exactly as specified in the contract.
- that the primary packing is not damaged, opened or tampered with and that the shipping mark requirements are correct.
- the packing against appropriate transportation and commodity regulations, and ensure that it is adequate for the safe shipment of goods by the contracted mode of transport.
- the stability of cartons/pallets and that all waterproofing of the packing is sufficient if the consignment is to be transported by open truck, or left exposed during transit.
- Prepare a detailed report against each of the above items and arrange for those present at the inspection to sign the report in agreement of the findings.
- Take photographs wherever possible and relevant and attach these to the report.
- Submit the report immediately to the Procuring Entity.

7.3 Before accepting the consignment:

- carefully examine the packages to check they are all present according to the Shipping Documents or Airway Bill and to look for signs of any physical damage.
- Look also for signs of tampering with any of the packages e.g. cases with broken seals, loose or open tops.
- Have the packages re-weighed if there is any suspicion that items have been removed, and compare the result with the shipping documents.
- Note any deficiency either in quantity or in condition on the receipt given in exchange for the goods.
- If there are shortages a short-landed or discrepancy certificate should also be obtained to assist claims against the Supplier or insurance companies.

Any rejected goods should be removed by the Supplier in accordance with the contract.

### 7.4 Payment of Goods

For simple payments against invoices, the Procurement Unit will:

Complete a Payment Voucher ensuring the deduction of any advance payments already made and any contractual penalties incurred by the Supplier and attach the following:

- original invoice from the Supplier;
- the shipping documents or airway bill, or a delivery note;
- original of the Inspection Report;
- original Goods Receipt Note;
- results of any laboratory analysis;
- calculation of any penalties if allowable under the contract;
- copies of relevant information from the contract document and records of approval.
- Record the payment in the Contract Register.
- Forward the Payment Voucher to the Finance Department for processing.
- On expiry of any guarantee period release the retention balance to the Supplier.

### 7.5 Payment by Letter of Credit

Payments by Letter of Credit will depend on the contract agreement between the Supplier and the Procuring Entity for the terms and conditions of the LC. The Procurement Unit will provide to the Finance Department all supporting information and documents.
**Works Contracts Management**

Contract supervision and administration of works contracts is often complex due to factors which are not foreseen at the start of the works. The use of Supervising Engineers or Project Managers also means that daily control and supervision of the contract is not practical for the Procuring Entity. Entities must therefore ensure that they are kept informed of progress and problems which arise through routine reports.

Works supervision services shall be carried out by either registered consultancy firms or any registered individual consultant or any skilled person who may conclude a contract with the client. Where the price of services is below the threshold provided in the RPPA circular in Annex C, those services may be carried out by the individual consultant or the skilled person referred to who may conclude contract with the client, the contract shall run for the same period as for the execution of works. Whereas tenders exceeding the threshold, the services shall be carried out by a registered firm.

**7.6 Contract Supervision**

Day to day supervision of a works contract is carried out by the Supervising Engineer or Project Manager who acts for the Procuring Entity to supervise and administer the contract. For large contracts this may involve a team of engineers, inspectors, quantity surveyors etc.

- The Supervising Engineer/Project Manager usually acts at the first level in settlement of disputes and he should ensure that the Procuring Entity is informed of any disputes and their resolution. Any serious disputes which may require an amendment or addendum to the original contract must be reported immediately to the Procuring Entity.
- Claims by Contractors for additional work or costs which are not covered under the terms of the existing contract and total contract value, must be referred to the Tender Committee for approval.
- Claims for extension of time, with or without additional costs, or for additional payment to the contractor must be resolved quickly, subject to the approval of the Tender Committee.

**7.7 Payment for Works**

Payment for works contracts will normally be made against Payment Certificates approved by the supervising engineer.
For all works contracts, materials delivered to the site but not yet used will be excluded from the works measurement approved and the value of Payment Certificates.

Supervision and approval of the takeover of buildings and construction works is the responsibility of the Procuring Entity whose issuance of a Certificate of Completion is required before payments due to the Contractor may be made.

The Supervising Engineer will ensure that:

- any required retention specified under the contract is deducted from the value of the Certificate before payment;
- agreed deductions in respect of the repayment schedule for any advance payment are deducted from the value of the Certificate before payment;
- on issue of an interim takeover certificate, part of any retention monies held may be paid to the contractor if specified in the contract;
- on issue of a final takeover certificate, the balance of any retention monies is paid to the contractor.

Supervising Technical Department or in its absence the PU shall:

Complete a Payment Voucher ensuring the deduction of repayments for any advance payment, retention sums and penalties incurred by the Contractor and attach the following:

- the Payment Certificate;
- the report for interim or final takeover (if appropriate);
- calculations of any retentions, liquidated damages or other penalties applicable under the contract;
- copies of relevant information from the contract document, records of approval and financial authorizations.
- Record the payment in the Contracts Register
- Forward the approved Payment Voucher and supporting documents to the Finance Department.
Consultant Services and Non-Consultant Services Contract Management

Contract supervision and administration for simple routine services such as office cleaning, provision of transport or contract maintenance, will be undertaken by the User Department and the Procurement Unit as appropriate.

For consultancy services, the contract will usually nominate a Project Manager to coordinate supervision and administration.

The contract may specify payments on the basis of inputs (time), deliverables, retainers, unit rates or commission fees, and administrative and supervision activities must therefore be based on the specific terms of each contract.

The Procurement Unit (or Project Manager) will:

- Monitor the activity and performance in accordance with the contract to ensure that levels of service are maintained and that deliverables are submitted or completed on time. For consultancy services, the contract may specify key reports to be submitted, or timesheets and routine reports to be submitted on a monthly or quarterly basis.

- Ensure that all contractual obligations of the Procuring Entity are performed promptly and efficiently.

- Ensure that all deliverables (and especially reports) are reviewed immediately and responded to in writing where necessary.

- Contact the service provider to identify the causes of any failings in performance or failure to meet targets.

- Issue a formal letter to the service provider detailing the complaint if the explanation given is unsatisfactory or if performance is not improved within a reasonable period of time.

- Report to the Tender Committee any continued breach by the service provider of his contractual obligations.

7.8 Payment for Services

Payment for service contracts will be made according to the specific terms of each contract against invoiced claims by the service provider.

The Procurement Unit (or Project Manager) will ensure that:

- the invoice claim is justified by the evidence of timesheets, submission and acceptance of deliverables, or other criteria as specified in the contract;

- agreed deductions in respect of the repayment schedule for any advance payment are deducted from the value of the invoice before payment;

- any retention sum specified in the contract is deducted from the value of the
invoice before payment.

The Procurement Unit (or Project Manager) will:

Complete the Payment Voucher ensuring the deduction of repayments for any advance payment, retentions or penalties specified in the contract and attach:
the invoice;
calculations of any retentions, liquidated damages or other penalties applicable under the contract;
copies of relevant information from the contract document, records of approval and financial authorizations.

Forward the Payment Voucher and supporting documents to the Finance Department. Record the payment in the Contracts Register.

7.9 Prompt Payments

The Procuring Entity has a responsibility to make payments promptly in accordance with the contract. Payment delays, not only create a bad impression of the Procuring Entity, but may also ultimately be passed on to Government in higher prices if suppliers build in the cost of payment delays in their prices, when they take government to court.

The Procurement Unit or Project Manager must ensure that:

- all invoices and certificates which are not in dispute are paid within the agreed payment period.

7.10 Contract Performance

7.10.1 Monitoring Consultant, Supplier or Contractor’s Obligations.

The Consultant, Supplier or Contractor’s performance against the contract must be monitored on a routine basis.

The Procurement Unit or Project Manager will:

- notify the Service provider immediately in writing of any failings in performance and seek an agreed solution;
- In the case of a consultant this takes the form of comments on consultancy reports
- update the contract file and Contract Register regularly to reflect the monitoring of performance;
• ensure that the Tender Committee and Head of the Procuring Entity is informed of any serious failings in performance.

7.10.2 Monitoring and Performing the Procuring Entity’s Obligations

The Contract may impose certain conditions on the Procuring Entity which, if not complied with, may affect the Supplier or Contractor’s performance including:

- Payment of stage payments within the contracted time limits;
- Assistance with import licences etc.;
- Approval of drawings or reports within the set time periods;
- Provision of storage or working facilities and access permits;
- Conditions relating to the supplier’s provision of staff services (e.g. letters of invitation for visas, provision of office space, etc.).
- Ensure that all such obligations of the Procuring Entity are planned and performed without undue delay.

7.10.3 Delays in Performance

Delivery of goods, construction of works and the performance of services should be completed by the Supplier or Contractor in accordance with the time schedule prescribed in the Schedule of Requirements. Where delays exist and in terms of the contract conditions:

- the Supplier, Contractor, or its subcontractor, must notify the Procuring Entity in writing of the conditions delaying performance, including full details of the delay, the likely duration and the cause(s).
- The Procuring Entity will immediately assess the situation, and may at its discretion extend the Supplier or Contractor's time for performance, with or without liquidated damages as specified in the Contract.
- If the time for performance is extended, both parties shall ratify such extension by a formal addendum to the Contract as recommended by the Tender Committee subject to approval by the Chief Budget Officer.
- A delay by the Supplier or Contractor in the performance of his obligations may render him liable to liquidated damages if specified in the contract document, except where:
  - the delay is as a result of Force Majeure;
  - there is no provision for liquidated damages in the contract;
  - an extension of time is agreed between the two parties without the application of liquidated damages.

The Procurement Unit or Project Manager will:

- Refer to the relevant clauses in the General or Special Conditions of Contract for the procedure to be followed to apply, calculate and claim liquidated
damages.

- Update the Procurement Dossier and Contract Register to reflect any delays in the supplier’s performance.
- Notify the end-user department immediately of all such delays.

### 7.10.4 Temporary suspension of works

In accordance with article 127 of the law, the decision to suspend the works temporarily may be taken:

1° by the procuring entity for public interests;

2° by the successful bidder in accordance with the provisions of this Law.

The temporary suspension of works shall not exceed thirty (30) calendar days; if it exceeds those days, the contract shall be automatically cancelled. However, if the procuring entity takes a decision to suspend the works temporarily for a period exceeding thirty (30) days, the successful bidder shall have sufficient grounds to claim for damages from the procuring entity for the loss incurred during that period. The period during which the works are suspended shall result into the extension of the execution period of the contract.

When the execution of works is temporarily suspended, the successful bidder shall at his or her own costs take sufficient measures to insure the security of works already executed and materials and to protect them from degradation.
7.11 Resolution of Disputes

Most minor disputes may be resolved by sensible discussion and agreement between the responsible officer and the Supplier or Contractor to rectify the cause of complaint.

Any formal written complaints received from a Supplier or Contractor should be fully investigated and referred to the Head of the Procuring Entity to authorise correspondence or formal negotiations with the Supplier or Contractor.

The Procurement Unit will

- Examine the Contract carefully to be aware of all contract conditions relating to the Resolution of Disputes.
- Determine if the Procuring Entity is at fault or partly at fault, and if so, take appropriate action to rectify the problem.
- Invite the Supplier or Contractor to a formal meeting, within 7 days of the complaint, to discuss the issues and try to agree a compromise acceptable to both parties. Ensure that accurate written Minutes are kept of any such meeting. If an agreement is reached which changes any of the conditions of the Contract, the Tender Committee shall consider and recommend and the Chief Budget Manager shall approve before the agreement can be implemented.
- If no initial agreement is reached and negotiations conducted by the Head of the Procuring Entity also fail, consider the use of conciliation or arbitration services as specified in the contract.
- Prepare any necessary addendum to the Contract for signature.
- On contracts funded by a donor, ensure that the donor is kept informed of disputes and seek advice, and a formal “no objection” where required, before any contract addendum is signed.

7.12 Termination of the Contract

The parties to the contract normally have the right to terminate the contract, but to protect the Procuring Entity, advice of the Legal Department should always be sought if the Procuring Entity is considering such action. For donor funded procurements, donor “no objection” must be sought before any action to terminate a contract is initiated.

Contracts should not normally be terminated without examining all possible alternatives, unless the termination is agreed by all parties to the contract.

Examine the Contract carefully to be aware of all contract conditions and penalties
relating to the Termination of Contract.

Follow the advice of the Legal Department in the preparation of any correspondence and settlement of any contractual penalties.

### 7.13 Contract Amendment

Contract amendment may become necessary as a result of the application of price variations specified in the contract, the resolution of disputes, additional or reduced requirements by the Procuring Entity, agreements to extend the time schedule, or from accepted increases or decreases in prices. The contract may allow the Procuring Entity to modify contract values by a pre-determined percentage when this is in the public interest and essential for the work of the Procuring Entity.

All other amendments to costs, quantities, time-periods and other terms and conditions of the contract must be recommended by the Tender Committee subject to approval by the Chief Budget Officer and confirmed in a formal contract amendment or addendum.

The Procurement Unit/Project Manager will:

- identify and agree with the Supplier or Contractor the specific clauses in the contract which need to be changed, and the new values or terms and conditions which are to apply;

- prepare a draft contract amendment document for Tender Committee’s consideration subject to approval by the Chief Budget Manager together with a report justifying the reasons for the amendment.

- record any change in contract value and conditions in the Contract Register;

- obtain from the supplier/contractor any necessary addition to the performance security;

- distribute contract amendment copies in the same way as the original contract.
Chapter 8: Procurement Reporting, Monitoring and Evaluation

8.1 Monitoring by RPPA

In accordance with article no. 9 of the law on public procurement, all public procurement proceedings shall be subject to regular monitoring by the Rwanda Public Procurement Authority to ensure compliance with the prevailing Procurement legal framework. Every procuring entity and any body in charge of contract execution shall cooperate with Rwanda Public Procurement Authority in carrying out this mission.

8.2 Procurement Reporting

The routine reporting of procurement activity by all Procuring Entities is essential for procurement planning and budgeting, and for the monitoring, tracking and evaluation of procurement. Under article 10 of the procurement regulations a monthly report must be submitted to RPPA showing how the procurement plan is being implemented. In brief this report will provide the following information:

- Procurement which is in progress and at various steps of the procurement cycle
- Procurement contracts signed and date signed during the period
- Procurements which have been cancelled, when they were cancelled and reasons for cancellation
- Procurement Contracts completed and dates completed during the period
- Procurements scheduled to have commenced but still not commenced.
- Procurement plan performance as indicated by procurements on schedule versus the total procurements on the procurement plan.

8.3 Procurement Monitoring and Evaluation

Procurement monitoring and evaluation is a process that must be routinely conducted both by Procuring Entities and by the RPPA to:

- ensure that procurements are within the annual procurement plan for the Procuring Entity;
- identify weaknesses and delays in the procurement process;
- compare prices against market standards;
- assess performance of Procurement Units and Tender Committees;
- assess performance of suppliers, contractors and consultants; and to
- identify any necessary remedial action plan to improve performance.

RPPA will co-ordinate and lead the monitoring and evaluation process through the methodologies described below.

Procurement monitoring and evaluation information is obtained from:
- Requests for deviation from procurement procedures submitted by Procuring Entities;
- Monthly Reports of Procurement;
- Regular meetings with stakeholders (including representatives of the Private Sector);
- Routine review and certification of Procuring Entities for decentralised procurement;
- Reports of the Auditor General and the Internal Audit Department;
- Reports of specialist external procurement audits;
- Bidder and supplier complaints made to Procuring Entities;
- Complaints by bidders referred to the Independent Procurement Review Panel (IPRP);
- Examination of the bids or proposals for any procurement which appears to deviate from compliance with the regulations and procedures.

**RPPA will check monthly reports whether:**
- procurement activities recorded are in line with the annual procurement plan
- there are new activities which are not on the annual procurement plan
- there are any procurement decisions which appear to deviate from the regulations and procedures
- there are serious breaches of the Regulations or Code of Ethics which require immediate verification with the original bids and carrying out other investigations.

RPPA will review procurement procedures, systems, guidelines and standard documentation on a routine basis, and make or introduce recommendations for improvement.

### 8.4 Procuring Entity

The Tender Committee has the general responsibility to monitor procurement activity and remedy any defects before giving approval for procurement actions.
Chapter 9: Communication and Records Management

9.1 Communications

All procurement correspondence and communications issued by a Procuring Entity shall be made by persons authorised in accordance with their duties and responsibilities. In accordance with article 7 of the Law on Public Procurement any communication between the procuring entity and the bidder shall be made in writing. Therefore it is important that such communication is done after careful consideration to ensure that the procuring entity is not unintentionally or mistakenly legally bound which can result in unnecessary financial implications.

9.2 Records Management

Documentary records, both in print or electronic format, are essential for efficient and effective management of activities, provide evidence in support of decisions and actions taken, and provide an audit trail for verification of transparency, accountability and effectiveness. Efficient records management is essential to ensure effective storage, retrieval and use with due regard to security, integrity and confidentiality.

All officers shall ensure they obtain, retain and maintain appropriate documentation supporting the activities for which they are responsible.

Senior officers involved in approval or authorisation shall ensure that any transactions they approve or authorise are backed by appropriate supporting documentation.

In accordance with article 8 of the law on public procurement, the procuring entity shall keep record of the procurement proceedings containing the following information for a minimum period of five (5) years from the period of the award of tender relating to works, goods or services:

1 Bidding document;
2 Bids;
3 Bid opening and evaluation reports;
4 Tender award notification;
5 A copy of the contract concluded between the procuring entity and the successful bidder;
6 Certificate of completion;
7 All correspondences between the procuring entity and the bidder;
8 Any other useful information, instructions and reports that are related to the tender. Archived public procurement documents may be consulted from where they are kept by any authorized person wishing to do so.

9.3 Record Management System

Procurement Units have a general responsibility for maintaining procurement documents, but each Procuring Entity must ensure that complete documentation is maintained in respect of all procurement activities and for contracts and agreements entered into. Responsibility for the official maintenance of record files, authority to access files, and coordination of management and follow-up actions must be clearly defined in each Procuring Entity to avoid:

- partial and incomplete records being held by several different departments and individuals;
- unauthorised access to records; or
- failure to take any necessary action at the right time.

9.4 Procurement Unit Records Management

All documents regarding a particular procurement case shall be kept for future reference and monitoring and control purposes for a period of five years. The recommended filing structure for a procurement dossier is divided into four main sections with relevant details of each category as follows:

**CORRESPONDENCE:**
- Internal Correspondence between PU and other departments within Procuring Entity
- External Correspondence between PU and outside Procuring Entity
- Correspondence with Suppliers/(post-order only)
- Internal Correspondence within Procurement Unit

**BIDDING PROCESS**
- Request for Expressions of Interest
- Shortlist or Advertisement
- Bidding documents and Specifications/Terms of Reference
- Correspondence with suppliers relating to Bidding (pre-order)
- Bids, Quotations or Pro-forma invoices received
BID EVALUATION
- Bid opening records
- Record of Bid Securities
- Evaluation Report
- Submission to Tender Committee & relevant Minutes of decisions

CONTRACT MANAGEMENT
- Notice of Contract Award and publication
- Contract/Purchase Order & Acknowledgement of receipt
- Delivery Documentation
- Inspection and Acceptance Reports
- After sales warranty and performance claims
- Copy Invoices or Certificates
- Copy Payment Vouchers
- Record of Retentions and release
- Performance Security and release.
Chapter 10: Complaints, Appeals and Review Panel

10.1 The Right to Review

A prospective bidder or actual bidder may, at any stage of the procurement proceedings and in accordance with the law, apply for a review of any conduct in the procurement proceedings with respect to the Law or any other procurement regulations. The normal order of appeal is first to the Procuring Entity and if not resolved then to the Independent Review Panel.

10.2 Request for Review

The request for review shall be acceptable if it explains a specific act of omission or commission contravening the law on public procurement or other procurement regulations. The complainant shall show the injustice committed against him/her resulting from the contested decision and the appeal shall be done in writing.

The request for review shall include the following:

1 Identification of the complainant: names address and telephone number;
2 Identification of the procuring entity;
3 Decision against which the review is requested;
4 Date on which the decision was taken and when the complainant became aware of it;
5 The organ to which the review is addressed;
6 Signature or thumb print of the applicant;
7 Payment slip for appeal fee
8 Copy of trading licence

10.3 Suspension of Procurement Proceedings

Once the complaint is lodged, the procurement proceedings shall be suspended until a decision on the complaint is issued by the Independent Review Panel. If the procuring entity considers that a suspension of the procurement proceedings would not be in public interest, it shall request the Independent Review Panel for a waiver of the suspension.
10.4 Review by the Procuring Entity (PPL Article 69)

(1) A bidder who submitted a tender, proposal or quotation in respect of a Procurement or who might have wished to do so may apply for a review of any conduct in the procurement proceedings with respect to an alleged breach of the existing procurement regulatory framework as long as the request is submitted within 7 days of discovering the breach.

(2) Unless the matter is resolved to the satisfaction of the bidder who requested for review, the head of the procuring entity shall suspend the procurement proceedings and shall within seven (7) days after receipt of the request for review, issue a written decision explaining the reasons, and where it is grounded, indicating the corrective measures to be taken if the request is valid.

(3) If the head of the procuring entity fails to issue a decision within seven (7) days from receipt of the complaint or if the bidder is not satisfied with the decision, the bidder shall lodge a complaint to the Independent Review Panel provided for by Article 70 of the Law.

10.5 Review by Independent Review Panels (PPL Article 70)

**District level**

1. A request for review against any procurement related decision taken at the level of the District shall be made to the Independent Review Panel at the relevant District level in accordance with the provisions of paragraph 4 of Article 69 of the Law or, when the procurement contract has already been signed without fulfilling the debriefing requirements in the paragraph 2 Article 43 of the Law, the request shall be made within seven (7) days following the time the complainant became aware of the circumstances giving rise to the complaint or should have become aware of those circumstances.

**National Level**

1. Decisions of all district independent panels shall be examined by the Independent Review Panel at the National level.
2. The Panel shall make a decision within thirty (30) days following the receipt of the complaint. If the panel is unable to reach a decision within a thirty-day (30) period, it shall inform both the procuring entity and the complainant of
the need for the extra time. The additional time shall not go beyond thirty (30) days. Failure to reach a decision with thirty (30) days or inform both the procuring entity and the complainant of the need for the extra time, the claimant’s claim shall be deemed sound and trustworthy.

10.6 Providing documents related to the tender

The procuring entity that has taken the decision relating to the request for review shall provide the Independent Review Panel at the national level with all the required documents on the tender contract within five (5) complete days from the date on which the entity concerned received the letter of the Independent Review requesting it for the required documents.

The number of days mentioned in the previous Paragraph shall be three (3) complete days if the entities concerned by the review are those within Kigali City or requested by a District Independent Review to a district.

10.7 Remedies (PPL Article 71)

The Independent Review Panel may recommend one or more of the following remedies, unless it dismisses the complaint:

1. denouncing actions or decisions of the procuring entity which are contrary to the provisions of this Law or other applicable rules;

2. requiring the procuring entity that has acted or proceeded in a manner that is contrary to the provisions of these procedures to decide consistently with them;

3. annulling in whole or in part an act or decision of the procuring entity contrary to the Law or decision which resulted into the procurement contract;

4. if a decision of the procuring entity, other than any decision bringing the procurement contract into force, is found to be contrary to these procedures, revising the decision or substituting its own recommendation for such a decision,

5. ordering re-evaluation of the bids citing the grounds for such an order.

6. recommending the payment of reasonable costs incurred in participating in the bidding process when a legally binding contract has been awarded which in the opinion of the panel should have been awarded to the complainant.

7. ordering that the procurement proceedings be terminated.
The decision of the Independent Review Panel at the national level shall be final unless judicial proceedings are to be taken.

10.8 Decision by the Independent Review Panel

The quorum required for the Independent Review Panel to make valid resolutions shall be at least two thirds (2/3) of all members. The decisions to be taken by the Independent Review Panel shall take into account all the aspects of the tender documents and the law and regulations governing public procurement in an impartial manner.

When a member of the Independent Review Panel has applied for review, he/she will not take part in the deliberations on the request until the decision thereof has been taken.

If a member of the Independent Review Panel has any relationship or misunderstanding with the complainant, the former shall inform, in writing, the Panel of the issue and request for not taking part in the review proceedings.

The panel’s decision shall be addressed to the procuring entity with copy to the relevant organ or to the individual that requested for the review. The Procuring Entity should implement the decision unless if the decision has been suspended by another appeal.

10.9 Publication of the decisions of the Independent Review Panel

The decisions of the Independent Review Panel shall be published. They shall be posted on the internet of the procuring entity, posted on the RPPA internet and displayed on the procuring entity’s notice board.

However no information shall be disclosed or published if such disclosure would be contrary to Law, would impede Law enforcement, would not be in the public interest, would jeopardise commercial interests of the parties or would inhibit fair competition.
Chapter 11: Procurement Review/Audit

In accordance with article 9 of the Law on Public procurement, public procurement proceedings shall be subject to regular monitoring by the Rwanda Public Procurement Authority to ensure compliance with the prevailing Procurement legal framework. Every procuring entity and anybody in charge of contract execution shall cooperate with Rwanda Public Procurement Authority in carrying out this mission. Whilst RPPA is responsible for carrying out the procurement review, the Office of the Auditor General and internal audit department will undertake financial audit of the procuring entity. This means even though these financial audits look at all financial transactions and performance of the procuring entity, it would also include procurement transactions.

11.1 The Process and Objectives of Procurement Review

To review procurement, contracting and implementation processes for a selected sample of contracts and check if the procuring entity complied with the law and regulations. The sample percentage can apply across the nature of contracts i.e. goods, works, services contracts and consultant services, complexity of contracts, value(low medium and high) and methods of procurement.

To check if the procuring entity is in compliance of the country’s fundamental procurement principles: transparency; competition; economy; efficiency; fairness and accountability.

To make physical inspections of quality and quantity of goods, works and services procured where possible.

To compare prices with similar contracts elsewhere in other procuring entities

To determine, to the extent possible, whether identified non-compliance with procedures, inappropriate practices or questionable decisions/actions, may have been related to corrupt practices

To review the capacity of the concerned procuring entity in handling procurement efficiently; comment on the quality of procurement and contracting; and identify reasons for delays, if any.

To Determine whether adequate systems are in place for procurement planning, implementation and monitoring
To review records management i.e. if all documentation is maintained as per required standards.

To verify, to the extent possible, whether Goods, Works and Consulting Services contracted were supplied/completed according to the required specifications and technical standards.

Where deficiencies exist, identify improvements in the procurement and contracting.

To check on progress made by the procuring entity regarding any plan of action for procurement improvement recommended by any previous procurement review(s).

### 11.2 Review of a Procurement File

The special focus in review of a procurement file is on documentation, approvals and procedures relating to the following:

- Procurement Plans and Monitoring;
- Advertising;
- Pre/Post Qualification;
- Bid Opening;
- Bidding Documents;
- Evaluation and Awards;
- Bid Validity Extensions;
- Protests from Bidders/Contractors;
- Signed Contracts;
- Contract Amendments and Change/Variation Orders;
- delays in payments; actual contract payments vs. contract award amount;
- Securities (for Bid, Performance, Advances, Insurance, Liability, etc.);
- Contractors’ Claims/Contractual Disputes and their Resolution;
- Damages and Penalties for Delays, non-compliance with Functional Guarantees, etc.;
- Reasons for Slow Progress of Completion;
- Imports, Customs, etc. if any;
- List of deliverables and completion (date, description, quantity, location of goods or works);
11.3 Procurement Process Distortions

Procurement reviews will check possible distortions in the procurement process and some of these could manifest themselves in the following forms:

- low participation of bidders and reduced competition;
- one or more bidders winning a disproportionate amount of contracts in a project over time;
- bid prices consistently over cost estimates and/or current market prices;
- significant number of changes from bid to contract award and to final completion; and
- significant and recurring increases in the final contract price over the original bid price and/or the original contract price.

11.4 Physical Inspections

Any physical inspection for goods, works, services and consultants services will be done for at least 20 percent of the total sample under review. The verification should be as follows:

1. Depending on the type of goods/works, the following types of inspections should be performed as appropriate:
   (a) Standard physical inspections of goods/installations: quality control (conformity with technical specifications stipulated in the contract) and confirmation that quantities were delivered;
   (b) Site visits to works: field visits should be undertaken to verify the status of works or to confirm their completion, documentary checks (certificates of acceptance/completion, defects list, tests, etc.) should also be made. and
   (c) Services: verify that the output (reports, maps, etc) has been delivered and are in line with the output requested in the Terms of Reference
Chapter 12: Code of Ethics in Public Procurement
Section 1. Purpose of Code

This Code of Ethics in public procurement is issued for the guidance of all participants i.e. individual persons, public officials, procurement entities, bidders, legal entities etc. in public procurement to conduct themselves in a manner that is considered appropriate to the procurement profession. It aims to promote ethical behavior that ensures impartiality, accountability and transparency. Transparency and accountability in public procurement gives bidders the confidence to participate in bidding for contracts, thereby increasing genuine competition which enables procuring entities to get best value for money.

The Code also describes what constitutes misconduct and the sanctions applicable for any such misconduct. Whilst the code highlights some instances of misconduct, it cannot define misconduct for all instances and therefore it follows that other instances of misconduct will be determined in the light of the circumstances of each individual case and as such the Code also provides the mechanism for determination of the sanctions applicable.
Section 2. Definitions

Without prejudices to definitions provided for in laws and regulations:

1° **Bidder** means any potential participant or participant in public procurement proceedings. It can be an individual person(s) or legal entity;

2° **Bribe** means money or something of value given or promised in order to influence the decision or conduct of staff in the procurement process or contract execution;

3° **Client** means the agency or institution with which a selected Consultant signs the Contract for the provision of consultant services;

4° **Coercion** means the practice of compelling a person or manipulating them to behave in an involuntary way (whether through action or inaction) by use of threats, intimidation or some other form of pressure or force in order to influence their participation in the procurement process, or affect the execution of a contract;

5° **Collusion** is an agreement, usually secretive, which occurs between two or more persons to deceive, mislead, or defraud others of their legal rights, or to obtain an objective forbidden by law typically involving fraud or gaining an unfair advantage or to establish prices at artificial, noncompetitive levels;

6° **Confidentiality** means the requirement to keep secret and not to disclose or divulge information obtained during the performance of official duties until there is a legal requirement to disclose.

7° **Conflict of interest** is a real, obvious or potential situation which is susceptible to compromise the independence and impartiality necessary for the assumption of a public agent duties; it also refers to the occasion whereby a staff utilizes or seeks to utilize attributes of his/her duties and take undue advantages for his own or for others;

8° **Corruption** means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the procurement process or in contract execution;
9° **Entertainment** means providing some form of enjoyment by providing food, drink, games or convenience such as transport, accommodation etc.;

10° **Ethical behavior** encompasses the concepts of honesty, integrity, diligence, fairness, trust and respect.

11° **Ethics** means moral principals or values which guide a person’s behavior especially in all aspects of his/her work.

12° **Fraud** means the intentional, false representation or concealment of a material fact for the purpose of inducing or influencing another to act up on it to his/her detriment;

13° **Gift** means anything that has monetary value, received without the need for compensation;

14° **Hospitality** means the friendly and generous treatment of guests or strangers

15° **Integrity** means: the use of funds, resources, assets, and authority, according to the intended official purposes, to be used in line with public interest. In principle, integrity imposes an obligation to be straightforward and honest in professional and business relationships including fair dealing and truthfulness

16° **Laundering** refers to the fact of facilitating by whatever means, the justification of the source of property and revenue as well as profit obtained by the author of an offence provided for by laws. Equally constituting "laundering" is the fact of lending support by safe guarding, concealing or converting by direct or indirect means, a product that is a result of an offence provided for by this code;

17° **Professional Secrecy** refers to a confidentiality obligation of becoming the depository of a secret or facts of which someone has personal knowledge or which came to his/her knowledge by virtue of his/her duties;

18° **Procuring Entity** means Central Government authority, Local Government authority, public institution, commission, Government project, parastatal, agency, or any specialized institution engaged in procurement process and entering in contract with the successful bidder.
19° **Public Agent** is a person who is authorized to act on behalf of the Government or Public Institution to represent the Government or Public Institution in dealings with third party in procurement process;

20° **Public Procurement** refers to the acquisition of supplies or goods, works, consultant services and other services by a procuring entity;

21° **Supplier**, means any physical or legal person under procurement contract with a procuring entity.
Section 3. Application of the Code

The code applies to public agents and all other participants involved in public procurement process for the procurement of goods, works, consultant services and other (non-consultant) services in accordance with Rwandan public procurement law.
Section 4. Principles, values and conduct

4.1 Guiding Principles

In the exercise of his/her duties, the public agent involved in procurement process shall respect the principles listed below, among others:

1° Respect of laws and State institutions;
2° Respect of public property;
3° Prevent and fight against corruption and injustice in public service;
4° Respect of every one (of all) in public service;
5° Transparency in making decision and accountability in public resources management;
6° Honesty;
7° Diligence and uprightness in the exercise of his/her duties;
8° Acceptance of the responsibility to act in the public interest
9° Putting public interest before personal interest;
10° Confidentiality in service.

4.2 Ethical Values

The ethical values include among others:

1° Acting at all times in a way to uphold the public trust;
2° Public agents shall perform their duties and arrange their private affairs so that public confidence and trust in the integrity, objectivity and impartiality of government are conserved and enhanced;
3° Public agents shall act at all times in a manner that will bear the closest public scrutiny;
4° Public agents, in fulfilling their official duties and responsibilities, shall make decisions in the public interest;
5° Look for help and seek for advice from qualified persons before making decisions if necessary;
4.3 Obligations of public agent

Without prejudice to other sections of this code, every public agent shall:

1° respect the timeframe to respond to his/her attributions;
2° not go beyond three working days without responding to letters except when the cause of delay doesn’t depend on him or her or where the cause depends on the nature of the work to be done;
3° provide accurate, clear and precise information on services delivered and how to proceed, on demand of his/her superior.
4° strive for genuine, fair and transparent competition.
5° respect the confidentiality of information acquired as a result of professional and business relationships and should not disclose any such information to third parties without proper and specific authority unless there is a legal or professional right or duty to disclose
6° maintain the highest standard of integrity in all business relations.
7° reject any practice which might be reasonably deemed improper.
8° remain objective and not compromise his/her professional or business judgment because of bias, conflict of interest or the undue influence of others.
9° not remove, conceal, alter, falsify, destroy or mutilate any document, paper or record within their control.
10° at all times safeguard the interests of the employers, colleagues and clients provided that they shall not knowingly be party to any illegal or unethical activity.
11° exercise integrity, honesty, diligence and due care in carrying out their duties and responsibilities.
12° refuse to follow wrongful instruction(s) which may seriously hinder fair performance of his duties after stating the reason to his superior. The wrongful instruction(s) include instructions which are given to pursue the superior’s interests or unjust interests of any third party e.g. bidders, politicians etc.
13° not allow him/her or any other persons to use the title of his/her agency or position for an unjust profit.
14° disclose any situation of actual or potential conflict of interest.
15° not discriminate against any person or bidder based on race, colour, religion, sex, marital status, nepotism, political affiliation etc. unless if prescribed by the law.

4.4 Obligations of bidder
Without prejudice to other sections of this code, every bidder shall:

1° disclose any situation of actual or potential conflict of interest
2° make all clarifications to the procuring entity in writing and within the prescribed time
3° conduct itself with integrity and transparency in all transactions and relations with the procuring entity
4° desist from engaging in any corrupt, fraudulent, collusive or coercive practices
5° present accurate information at all times
6° desist from misrepresenting facts
7° respond within prescribed time to requests for clarification from the procuring entity
8° cooperate with any investigation instituted by the procuring entity
Section 5. Incompatibilities, prohibitions and conflict of interest

5.1 Prohibitions

The staff involved in public procurement process shall avoid all situations that can compromise his /her honour or shatter the trust of the public towards Public service.

5.2 Improper inducement

In performing their duties, public agents must abstain from any action which could be interpreted as bribery or act of corruption.

Without prejudice to other laws and regulations, procuring entities and bidders shall take measures reasonably within their power to ensure that any commission or remuneration paid to any public agent, consultant or other intermediary represents no more than appropriate compensation for legitimate services, and that no part of any such payment is passed on by a public agent, consultant or other intermediary as an improper inducement in contravention of these instructions.

5.3 Entertainment and Hospitality

Bidders shall not offer entertainment or hospitality directly or indirectly, to public agents of a

procuring entity that might be viewed by others as having an influence on the entity’s procurement decisions. Public agents shall always declare to the superior any offer or acceptance of hospitality or entertainment offered regardless of the level of its significance.
5.4 Fraudulent Practices

Public agents and/or Bidders shall not-

(a) collude with other businesses and organizations with the intention of depriving a procuring entity of the benefits of free and open competition;

(b) enter into business arrangements that might prevent the effective operation of fair competition;

(c) engage in deceptive financial practices, such as bribery, double billing or other improper financial practices;

(d) misrepresent facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring Entity.

5.5 Conflict of interest

In carrying out their official duties, public agents involved in procurement process should arrange their private affairs in a manner that will prevent real, apparent or potential conflicts of interest from arising. Actual or potential conflict of interest occurs when the public agent is in a position to influence a decision that may result in a personal gain or gain for a relative or friend.

Agents involved in procurement process also have the following specific duties:
1° They should not step out of their official roles to assist private entities or persons in their dealings with the government where this would result in preferential treatment to those entities or persons.

2° They should not knowingly take advantage of, or benefit from, information that is obtained in the course of their official duties and that is not generally available to the public.

3° They should not directly or indirectly use, or allow the use of government property of any kind, including property leased to the government, for anything other than officially approved activities.

These prohibitions also cover the financial interests of working with:
(a) an organization in which the public agent serves as an employee, officer, director, member of board of Directors, or partner; and
(b) a person with whom public agent is seeking or has an arrangement for future employment.

A member of Tender Committee shall not participate in tender process or carry out an auction in favour of an outside enterprise or organization in which he has direct or indirect interests.

The Public agent shall avoid being in conflict situation between his/her own interests and work interests.

The public agent is requested to give information in writing on a conflict of interest situation, when he notices that his interests are conflicting with public interests.

5.6 Impartiality

Even though public agent may not have a financial interest that can be affected by a procurement activity or contract, circumstances might arise that could call his/her impartiality into question.

The impartiality that could be questioned include among others:
1° Public agent’s duties require him/her to work on a procurement involving Public agent’s former employer or clients, his/her spouse’s employer or clients, close relatives, or others with whom he/she has some kind of business relationship.

2° The public agent is assigned to a contract involving a person he/she is dating.
3° The public agent is required to evaluate bids, one of which was submitted by a friend.

If the public agent encounters any situation where he/she thinks his/her impartiality would reasonably be questioned, he/she should stop working on that matter, and contact his/her supervisor.

5.7 Gifts

Government employee must not solicit or accept gifts from suppliers and their employees. Even though the Public agent might work closely with suppliers’ employees on a daily basis, remember that both agency suppliers and their employees are considered “prohibited sources” of gifts to the Public agent.

The Public agent also must not accept a gift given by an organization or individual who is seeking business with his/her agency. Thus, the safest course of action is to remember this rule: The Public agent shall not solicit anything, or accept a gift, from a supplier, prospective supplier, or supplier’s employee, unless clearly permitted by an exception in the conduct rules or the Public agent has received advice from his/her superior. Examples of gifts which may be acceptable by exception include gifts of very small intrinsic value such as calendars or diaries or pens.

A Public agent should not accept any gift from suppliers, unless the procuring entity’s interest dictates so. In any case acceptance should be approved by the employee’s manager.

During a bidding process, the employees involved must reject, without any exception, any kind of gift or other benefit from a participating supplier and must take all necessary steps to prevent leakage of any information which might give an advantage to a potential supplier participating in the bidding.

5.8 Professional Secrecy

Any Public agent shall keep professional secrets and confidentiality of information on his / her job or organization, even when he/she is no longer in service, except when the disclosure is required for the public interests.

In addition to the rules on disclosure of specific procurement information, rules of conduct prohibit any Public agent from disclosing any nonpublic information to
further his/her private interests, or those of another person, such as a supplier or supplier employee. Nonpublic information includes information about a contract or procurement that the Public agent gain through his/his job and that the Public agent reasonably should know has not been made available to the public.

If there is doubt about whether information is protected information, or whether the Public agent is permitted to disclose such information, the Public agent should get advice from his/her superior before disclosing or otherwise using the information.

5.9 Procurement Information

It is not allowed to obtain or disclose supplier’s bid, information related to proposal or, selection before the award of the contract, other than as permitted by law.

Information relating to the examination, clarification, evaluation and comparison of tenders and recommendations for the award of a contract shall not be disclosed to suppliers, service providers, or to any other person not involved officially in the examination, evaluation or comparison of tenders or in the decision on which tender should be accepted.

Any attempt by a bidder to influence the procuring entity or approving authority with a view to processing of tenders or award decisions may result in the rejection of his/her tender.

5.10 Public Property

It is forbidden for the staff to use directly or indirectly, during and after working hours public property for any use other than official.

5.11 Fairness in tender process

The Tender committee in public service cannot make a bid in a way that is contrary to the Law in force.
Tender documents sent to potential suppliers must be identical and all suppliers should be granted the same time to prepare their bids. Any additional information or clarification must be sent to all potential suppliers simultaneously.

Technical specifications of a product or service should exactly match needs of the entity (no more no less), should be explicit and detailed and should not describe, directly or indirectly, the product of a specific supplier.

No person shall:

1° open an envelope or any other container of a tender, other than in the due and proper execution of his duties under these instructions;
2° burn, tear or otherwise destroy any tender; or
3° erase or do any other act which falsifies or renders incomplete or misleading any tender.

For the purposes of this code, “tender’ includes documents or things submitted together with the tender and which are relevant to the tender and which are in the possession of a tender board, tender evaluation committee, procuring entity or any person.

All bids are opened during the same opening session and are signed by the members of the relevant authorized committee before being evaluated.
Section 6  Sanctions for Violations

6.1 Sanctions to Public agents

Without prejudice to criminal provisions in force, the staff in Public Administration who is reproached for not meeting ethical principles and values is subjected to disciplinary sanctions provided for in the legal and regulatory provisions.

6.2 Sanctions to Bidders

Bidder’s submission of false or misleading information may lead to the disqualification of the bidder or the termination of its Contract.

Bidder’s failure to disclose conflict of interest situation may lead to the disqualification of the bidder or the termination of its Contract.

If bidder has directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for a contract it shall lead to the disqualification of the bidder or the termination of its Contract.

Any criminal act will result in the bidder being subject to criminal prosecution as well as debarment by RPPA in accordance with the Rwandan law.

6.3 Right to defense

No disciplinary sanction can be pronounced without the concerned person having had the possibility to be heard or present in writing his/her means of defense. No sanction can be effective for the period prior to its pronouncement.
6.4 Categories of sanctions

Disciplinary sanctions are divided into two categories: first degree sanctions and those of the second degree. First degree sanctions deal with less serious breaches or violations while those of the second degree are related to the most serious breaches or violations.

First degree sanctions are a formal warning, official blaming, and deduction of a quarter of the salary for a period of one month maximum. The first degree sanction is applicable in case of:

1° Service provided with delay without permission or valid reason;
2° Leave service early without permission or valid reason;
3° Unauthorized absence from the workplace during working hours;
4° Violating legal or regulatory provisions which do not generate serious consequences;
5° A threatening or aggressive behaviour towards his/her superior or bidders.

The list of misconducts enumerated above is not exhaustive but gives indication of such misconducts, which can be applied for the first degree sanctions.

Second degree sanctions are suspension for a period of three months maximum, delay in promotion and expulsion. A second degree disciplinary sanction must be notified in draft first to the concerned person who will provide additional explanations if need be. The Second degree sanction is applicable in case of:

1° Theft;
2° Embezzlement of an asset;
3° Being guilty of fraud or corruption;
4° Being drunk or in intoxication state during service hours;
5° Fighting or making obstruction or attack a person;
6° Damaging asset deliberately;
7° An act of omission at work, which exposes people or the procuring entity to danger;
8° Revealing professional confidentialities;
9° Being guilty of criminal acts at or outside the service.

The list of misconduct enumerated above is not exhaustive but gives indication of such misconducts, which can be applied for the second degree sanctions.

First degree sanctions are imposed by the competent authority. Second degree sanctions are imposed by the competent authority after taking into account views from the Commission.

6.5 Disciplinary process

Any disciplinary sanction taken by procuring entities will be brought in accordance with the procedures set forth in this code, by taking into account the principles of natural justice and all other provisions of the Rwandan legislation regarding labour.

No disciplinary action or other proceedings shall be instituted against a public agent empowered by the law to perform or undertake a procurement process for or in respect of any act or omission or error which is done in good faith and proven so.

1° First degree sanction

The Department or Unit of the concerned employee, in collaboration with the Human Resource Office will carry out the necessary investigation and transmit the report of investigation to the Head of the disciplinary committee.

The Head of the disciplinary committee of the concerned procuring entity shall address a request for explanations and reserves a copy for the supervisor of the employee.

The reply to the request should be provided by the employee within a time not exceeding two working days.
If the competent authority is not satisfied with the provided explanations, it addresses to the employee the sanction of written warning and gives copies to the supervisor of the employee and to the Human Resources Officer.

2° Second degree sanction

If necessary, the Head of the Procuring entity can ask the Quality Assurance Team to carry out investigation on any case involving serious faults or misconduct. The concerned team shall carry out necessary investigations before the disciplinary committee meets.

The Quality Assurance Team is entrusted to:

i. identify the rules or procedures, which were violated;
ii. gather all necessary documentation relating to the case;
iii. leading a hearing of the suspect and witnesses;
iv. prepare a report of investigation;
v. Transmit the investigation report to the Head of the procuring entity.

If the case requires to be examined by the disciplinary committee, the Head of the procuring entity shall refer the file to the Human Resource Officer and request him to organize a disciplinary committee.

6.6 The Disciplinary committee and the Management Team

Without prejudice to the organizational structure of procuring entities, the disciplinary committee shall be composed of:

1° Human resource Officer: President;
2° Head of Unit or Department of the suspect: Member;
3° Head of the Quality assurance team;
4° Head of another Unit or Department, (appointed by the Head of the procuring entity): Member.

After invitation and hearing of the suspect, the disciplinary committee members deliberate in secret session within sight of the explanations provided by the suspect and of the report of investigation. The disciplinary committee members shall propose sanctions to be submitted to the Management Team of the Procuring entity.
After the deliberation, the report of the meeting of the disciplinary committee shall be prepared by the secretary of that committee and signed by all the members.

The Management Team shall examine the report of the disciplinary committee and make the final decision that is notified to the employee by the competent authority. Any recommended action against the bidder or prospective bidder shall be instituted in accordance with the Rwandan law.

6.7 Administrative Appeal

Any public agent, who considers himself/her prejudiced, has the right to introduce an administrative appeal.

An administrative appeal is introduced at first level to the superior hierarchical authority and at the second level, to the Commission of Public Service, within a period which does not exceed thirty (30) days from the date decision was notified to the concerned person. The hierarchical authority or the Commission referred to must give a ruling within thirty (30) days from receipt of the request; beyond which the queried decision is null and void.

6.8 Institution of criminal proceedings,

The measures provided by this code shall not preclude the institution of criminal proceedings pursuant to the Penal Code, Law relating to prevention, repression and punishment of corruption and related offences or any other written Law against any person discharging functions or exercising powers under this code.

6.9 Confidential Reporting

The public agent is expected, through agreed procedures and without fear of recrimination, to bring to the attention of his/her immediate superior any impropriety or breach of procedure. If, for any reason, the public agent does not feel
it appropriate to express his/her concerns to his/her immediate superior, he/she should inform any responsible person in his/her organization or institutions in charge of fighting against corruption.
Chapter 13: Guide to Bidders or Consultants

13.1 Purpose of Guide

This guide aims to assist bidders wishing to bid for goods, works and services and consultants wishing to bid for consultant services assignments to ensure their submissions are responsive to the Bidding documents and Request for Proposal documents. Whilst the guide brings to your attention some of the important provisions of the bidding documents and RFP documents, it shall not be taken as a replacement of these documents. Bidders and Consultants still have the responsibility of reading carefully the bidding documents and RFP documents for each particular contract and to ensure that their proposals comply with the provisions of such documents. However, it is expected that by reading this guideline, bidders and consultants will find it easy to understand the relevant bidding documents and RFP documents for particular contracts they are bidding for.

13.2 Bidders bidding for Goods and Works

Bidders should know the Rwanda procurement legal framework in order to be aware of their rights and obligations when participating in bidding for goods, works or non-consulting services contracts. Therefore bidders should familiarize themselves with the following important legal documents for public procurement:

a) The Law on Public Procurement (Law no. 12/2007 of 27/03/2007)
b) The Procurement Regulations (MINISTERIAL ORDER N°001/08/10/MIN OF 16/01/2008 ESTABLISHING REGULATIONS ON PUBLIC PROCUREMENT AND STANDARD BIDDING DOCUMENTS)
c) The bidding documents for the particular contract as issued by the Procuring Entity.

13.2.1 Preparation of Responsive bids

As a bidder, in order to prepare and submit a responsive bid:

1. Ensure that you have read and understood the contents of the bidding documents and decide whether you are able to submit a responsive bid. In accordance with the Instructions to bidders, the bidders can seek clarifications from the procuring entity which will help in deciding to bid or not and also
enhance the preparation of the bid. The decision is crucial to start the actual process of preparing a bid.

2. Ensure to attend any scheduled site visit and pre-bid meeting if provided for in the bidding documents. Make sure you prepare well for the two events to ensure that you raise relevant queries for clarifications.

3. Ensure that your bid is complete, properly filled, and properly signed in accordance with the Instructions to Bidders (ITB) of the bidding document and make use of any forms provided.

4. Ensure that all documents requested in the bidding documents are included in the bid. This includes documents to prove eligibility, technical, production and financial capacity.

5. Ensure all amendments or corrections of the bid are signed or initialled for by the bidder’s authorised signatory.

6. Ensure you use the language specified in the ITB.

7. Ensure the bid security is furnished in form specified in the ITB.

8. Ensure the bid validity period complies with the ITB.

9. Ensure that your bid is properly addressed, sealed, submitted in time and to the correct address given in the ITB.

10. Ensure manufacturer’s authorizations requested in the ITB are also included in the bid submitted.

11. Ensure all information necessary to demonstrate compliance with qualification criteria is provided including post-qualification requirements.

12. Ensure goods to be supplied and whose origin is disclosed in the price schedules are eligible according to ITB requirements.

13. Ensure the description of essential technical and performance characteristics of the goods are provided including any brochures if possible. Furthermore make item by item commentary of the good technical specifications provided by the procuring entity.

14. Ensure your delivery schedule in the bid complies with the bidding documents’ supply requirements.

15. Ensure that you do not contact the procuring entity during the evaluation period unless you have been requested to provide clarifications.

16. Ensure that you do not engage in corrupt, fraudulent, collusive and coercive practices in accordance with the ITB.

17. If you are submitting a bid as a joint venture, ensure you fulfil the requirements for joint ventures in the ITB.

18. Ensure you send a representative to the bid opening meeting or you request for bid opening minutes from the procuring entity.
13.2.2 Debriefing and Appeals

Bidders have the legal right to appeal against breach of procurement procedures at any stage during the procurement proceedings. However normally appeals are launched once a procurement decision (e.g. evaluation completed and results communicated) has been made which ignites the appeal process.

After completion of an evaluation process and the results are announced by the procuring entity a bidder who is not satisfied with the results can request for a debriefing to get the reasons why its bid was not successful. Based on the debriefing results or if the bidder already has valid reasons to challenge the results, then the bidder can launch an appeal with the procuring entity within 7 days of receiving the evaluation results. If the bidder’s appeal is about a complaint against the procuring entity and feels that it may not be assessed fairly then the bidder can launch the appeal with the Independent Procurement Review Panel. Any appeal should clearly state what procurement procedures or section of the law has been breached.

13.3 Consultants bidding for Assignments

Consultants should know the Rwanda procurement legal framework in order to know their rights and obligations when participating in bidding for consultant assignments. Therefore in order to do that, consultants should familiarize themselves with the following important documents:

a) The Law on Public Procurement (Law no. 12/2007 of 27/03/2007)

b) The Procurement Regulations (MINISTERIAL ORDER N°001/08/10/MIN OF 16/01/2008 ESTABLISHING REGULATIONS ON PUBLIC PROCUREMENT AND STANDARD BIDDING DOCUMENTS)

c) The Request for Proposal document for the assignment as issued by the Procuring Entity
13.3.1 Preparation of Responsive Proposals

As a consultant, in order to prepare and submit a responsive proposal:

1. Ensure that you have read and understood the contents of the RFP document and decide whether you are able to submit a responsive proposal. In accordance with the Instructions to Consultants, the consultant can seek clarifications from the procuring entity which will help in deciding to bid or not and also enhance the preparation of the proposal. The decision is crucial to start the actual process of preparing a proposal.

2. Ensure that your proposal is complete, properly filled, and properly signed in accordance with Instructions to Consultants of the RFP and make use of any forms provided.

3. Ensure that all documents requested in the RFP are included in the proposal. This includes documents to prove eligibility, technical and financial ability.

4. Ensure all amendments of the proposal are signed or initialled for by the consultant’s authorised signatory.

5. Ensure you use the language specified in the ITC.

6. Ensure the proposal validity period complies with the ITC.

7. Ensure that your proposal is properly addressed, sealed, submitted in time and to the correct address given in the ITC.

8. Ensure all information necessary to demonstrate the fulfilment of the evaluation criteria is included.

9. Ensure you take into account specific local conditions which are necessary for preparation of the proposal.

10. Ensure that you do not contact the procuring entity during the evaluation period unless you have been requested to provide clarifications.

11. Ensure that you do not engage in corrupt, fraudulent, collusive and coercive practices in accordance with the ITC.

12. Ensure you send a representative to the financial proposal opening meeting or you request for financial proposal opening minutes from the procuring entity.
13.3.2 Debriefing and Appeals

Consultants have the legal right to appeal against breach of procurement procedures at any stage during the procurement proceedings. However normally appeals are launched once a procurement decision (e.g. evaluation completed and results communicated) has been made which ignites the appeal process.

After completion of an evaluation process and the results are announced by the procuring entity, a consultant who is not satisfied with the results can request for a debriefing to get the reasons why its proposal was not successful. Based on the debriefing results or if the consultant already has valid reasons to challenge the results, then the consultant can launch an appeal with the procuring entity within 7 days of the receiving the evaluation results. If the consultant’s appeal is about a complaint against the procuring entity and feels that it may not be assessed fairly then the bidder can launch the appeal with the Independent Procurement Review Panel. Any appeal should clearly state what procurement procedures or section of the law, that has been breached.
ANNEXES

A. Law on public procurement
B. Law establishing RPPA
C. Procurement regulations
D. Thresholds
E. Standard bidding documents
F. Ministry of finance and economic planning circulars
G. Rwanda Public Procurement Authority circulars
Thresholds for procurement methods and prior review

**PROCUREMENT OF GOODS/WORKS**

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<th>PROCUREMENT METHOD</th>
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<th>CONDITIONS TO BE FULFILLED</th>
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<tr>
<td>Open Competitive Bidding</td>
<td>National Tendering&lt;br&gt;- when adequate national suppliers or contractors are available&lt;br&gt;- within threshold</td>
<td>Minimum publication 21 days. Advertise in at least one newspaper of wide circulation &amp; on internet website, where it is available</td>
<td>Goods/Services – Rwf 600,000,000 (six hundred million) and below&lt;br&gt;Works – Rwf 1,200,000,000 (one thousand, two hundred million) and below</td>
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<td></td>
<td>International Tendering&lt;br&gt;- when above national tendering threshold</td>
<td>- Advertise in media that has sufficient circulation outside Rwanda&lt;br&gt;- Bidding documents should be in English or French&lt;br&gt;- Minimum Publication 45 days</td>
<td>Goods/Services – Above Rwf 600,000,000 (six hundred million)&lt;br&gt;Works – Above Rwf 1,200,000,000 (one thousand, two hundred million)</td>
</tr>
<tr>
<td>Restricted tendering</td>
<td>- more than two but less than ten suppliers&lt;br&gt;- For highly complex or specialized goods or works which are only available from a few suppliers or contractors</td>
<td>- Give invitation to tender to at least six bidders&lt;br&gt;- 21 days for bids preparation&lt;br&gt;- any person may apply for inclusion on the short list&lt;br&gt;- short list shall be drawn from a pre-qualified bidders.</td>
<td>Goods and works contracts less than Rwf 5,000,000 (five million)</td>
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<tr>
<td>Request for Quotation</td>
<td>- contract value is low&lt;br&gt;- off the shelf goods and standard specification works</td>
<td>- compare at least three offers&lt;br&gt;- technical specifications and drawings for works.&lt;br&gt;- not to be used more than once in 3 months for the same item.&lt;br&gt;- Minimum 3 working days in which to respond</td>
<td>Goods/Services and Works Below&lt;br&gt; Rwf 1,000,000 (one million)</td>
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<td>PROCUREMENT METHOD</td>
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<tr>
<td>Single Source Procurement/ Direct Contracting</td>
<td>- only one supplier available&lt;br&gt;- contract extension is awarded following previous open bidding&lt;br&gt;- standardization of equipment or spare parts is needed&lt;br&gt;- exceptional circumstances exist, such as natural disasters, unforeseen urgency.</td>
<td>- Negotiations may be carried out&lt;br&gt;- resulting contract must be in writing</td>
<td>Below Rwf 100,000 (one hundred thousand) RECOMMEND A HIGHER THRESHOLD</td>
</tr>
<tr>
<td>Force Account</td>
<td>Works difficult to quantify</td>
<td>Use civil servant labour &amp; public equipment</td>
<td>No threshold</td>
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<tr>
<td>Community Participation</td>
<td>To be used for community based project.</td>
<td>Communities to provide in kind services e.g. labour, local materials etc.</td>
<td>Contracts below Rwf20,000,000 (twenty million).</td>
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<tr>
<td></td>
<td>Community projects for making terraces, anti erosion trenches or planting trees.</td>
<td>Communities to provide in kind services e.g. labour, local materials etc.</td>
<td>Contracts can exceed Rwf20,000,000 (twenty million).</td>
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# SELECTION OF CONSULTANTS

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<tr>
<th>SELECTION METHOD</th>
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<th>THRESHOLD</th>
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| QCBS (Quality and Cost Based Selection) | - when both the quality and cost need to be taken into account.  
- Main method to be used whenever appropriate. | - preparation of ToR  
- preparation of shortlist of consultants  
- Technical & financial proposal opened at different times  
- public opening of financial proposal | No limit |
| QBS (Quality Based Selection) | -for complex or highly specialized assignments where precision of ToR is difficult  
-where the procuring entity expects consultants to demonstrate innovation in their proposals  
- assignments that can be carried out in substantially different ways, such that proposals will not be comparable | - The RFP shall provide estimated budget or number of key staff time  
- Only Financial offer of highest ranked technical proposal is opened | No limit |
| LCS (Least Cost Selection) | -assignments of a standard or routine nature where well established practices exist e.g. audits | -Minimum qualifying mark has to be indicated in the RFP(70%)  
- All proposals above the minimum qualifying mark compete only on cost | THRESHOLD TO BE RECOMMENDED |
| FBS (Fixed Budget Selection) | - when assignment is simple and can be precisely defined  
- when budget is fixed | -RFP shall indicate the available budget  
- ToR should be well prepared to make sure that the budget is sufficient for consultants to perform expected tasks.  
- proposals that exceed the indicated budget shall be rejected. | THRESHOLD TO BE RECOMMENDED |
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<tr>
<td><strong>CQS</strong> (Consultant Qualification Selection)</td>
<td>-for small assignments for which the need for preparing and evaluating competitive proposals is not justified.</td>
<td>-prepare ToR, request EoI, select firm with the most appropriate qualifications and experience. - selected firm shall be asked to submit a combined technical and financial proposal</td>
<td><strong>Rwf 50,000,000</strong> (fifty million and below)</td>
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<td><strong>Individual Consultant</strong></td>
<td>-when teams of personnel are not required -no additional outside professional support is required -experience and qualifications of the individual are the paramount requirement</td>
<td>-selection is based on qualifications for the assignment -compare qualifications of at least three candidates among those who expressed interest in the assignment or who were directly approached by the procuring entity</td>
<td><strong>Rwf 50,000,000</strong> (fifty million and below)</td>
</tr>
<tr>
<td><strong>SSS</strong> (Single Source Selection)</td>
<td>-only used in exceptional circumstances e.g. in emergency cases, -where assignment is a natural continuation of previous work carried out by the firm -only one firm is qualified or has experience of exceptional worth for the assignment</td>
<td>-The procuring entity shall ask the consultant to prepare technical and financial proposal on the basis of ToR furnished, which shall then be negotiated.</td>
<td><strong>THRESHOLD TO BE RECOMMENDED</strong></td>
</tr>
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Circular to all public procuring entities

Kigali, on 08 November 2007
N° 010/2007-1758/NTB

Subject: Reminder for carrying out study and supervision relating to
      tenders of works

Dear Sir/Madam,

During the monitoring exercise currently carried out by the Rwanda Public Procurement
Authority, it has been noticed that there are some tenders of works awarded where
problems arise and thus hindering the objective targeted. What has also been observed is
that on the side of the State organs most of those problems are due to lack of proper prior
feasibility study and failure to adequately follow up the execution of the tender contracts.

It is on these grounds that, Rwanda Public Procurement Authority would like to remind all
public procuring entities that any tender of works whose value is ten million of Rwanda
francs (10,000,000 RWF) or above shall require a prior study and a system of supervision
shall be provided for as it had been requested in the letter n° 010/2005-1215/NTB of

Such services of consultancy shall be carried out by either registered consultancy firms or
any registered individual consultant or any skilled person who may conclude a contract
with the client. Where the price of services is below fifty million of Rwanda francs
(50,000,000 RWF), those services may be carried out by the individual consultant or the
skilled person referred to who may conclude contract with the client, the contract shall run
for the same period as for the execution of works. Whereas tenders exceeding fifty million of
Rwanda francs, their services shall be carried out by a registered firm.

In order to allow the client to closely supervise the contract works, it will be necessary to
convene at least two site meetings per month presided over by the client or his/her
representative.

Sincerely yours,

SEMINEGA Augustus (sé)
Executive Secretary of the National Tender Board

CC:

-The Honorable Minister of Finance and Economic Planning

Kigali, on 20 March 2009
N° 1814/09/10/MIN

Subject: Thorough knowledge of the content of the tender to be advertised and the actual prices on market

Dear Sir/Madam,

Basing on the resolution of the Cabinet Meeting of 04 March 2009 requesting all Government agents to properly manage the public funds in avoiding wastage, mismanagement and unnecessary procurement of supplies, works or services or lead the Government into loss, you are requested to pay great attention to the following:

I. To know very well the nature of supplies, services or works which are necessary in order not to award tender contracts for unnecessary procurement;

II. To do research on various prices on market in relation to the tender to be awarded and do comparison between those prices in order to have them as reference in making decision of awarding tender contract to the qualified bidder presenting the most advantageous bid.

III. The research on prices must have been carried out prior to the evaluation of bids and write the minutes that must be approved by members of the tender committee at each level of public organ;

IV. The report on price survey shall be applied during the evaluation of bid prices submitted by bidders;

V. To include, all the time, those minutes in the documents accompanying the invoices of supplies delivered, services provided and works performed.

Sincerely,

James Musoni (sé)

Minister of Finance and Economic Planning

CC:
- His Excellency the President of the republic of Rwanda
- The Right Honorable Prime Minister
- Honorable Minister (All)
- Honorable Minister of State (All)
- The Governor of Province (All)
Dear Sir/Madam,

Subject: Careful analysis of criteria to award Contracts in public procurement

It has been noticed that, at times, a tender contract is awarded to a bidder who has apparently shown to be conform to the conditions of procurement and afterwards it turns to appear that a part of the winning bidder was not responsive. Therefore, the Rwanda Public Procurement Authority would like to request the tender committees of public procuring entities that before taking the decision to award any tender contract to a bidder, they should make sure that the proposed bidder has fully conformed to the requirements of the tender documents.

These are some of the elements to be carefully analyzed:

1. **Registered certificate**: since the bidder normally submits a copy in his/her bid, the time of being awarded the contract the bidder should show the original in order to verify whether it is conform to the copy presented and also check if the activities he/she bid for are the ones registered in it as well as the period in which he/she has spent in those activities are in line with the experience required.
2. **The address of the bidder**: In the bids submitted by the candidates some indicate their business address. The prospective winner of contract must be first visited to verify if the location of business he/she indicated is the real one and that it is actually operational and able to execute the contract.
3. **For companies**: The statutes of the company must have been published in the Official Gazette of the government and the members of the company must well known;
4. **Different documents**: Documents issued by the Rwanda Public Authority, Rwanda Social Security Fund, Guarantees issued by Banks and Insurance companies, Bid securities and performance securities for bidders who have won tender contracts must all be approved to be genuine;
5. **Certificates for financial capability**: Documents certifying financial capability (e.g. Balance sheet and profit and loss account) must be prior approved that they are genuine as well;
6. **Certificates proving technical capacities**: Activities (works) realized and similar to those constituting the tender which is about to be awarded; equipment (materials) in his/her possession or hired and the key personnel must be proved to be genuine;
7. **Bidders not registered (operating) in Rwanda**: For bidders neither registered nor operating their businesses in Rwanda, it will be resorted to IT facilities, Rwanda
embassies in their respective countries and any other possible means to ascertain that particulars they submitted are genuine.

8. **Any other needed evidence:** Any item requiring to be proved correct must be examined using any possible means;

9. **Besides:** It would be much better if before publishing any tender document to first consult the procurement committee on the technical and financial qualification criteria allowing the contractor/supplier/service provider to win a tender.

Yours sincerely,

SEMINEGA Augustus (sé)
Director of RPPA

**CC:**

- Honorable Minister of Finance and Economic Planning