

Local Government Procurement Guidelines: Puntland State of Somalia

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ACRONYMS AND ABBREVIATIONS

BOQ	Bill of Quantities
EOI	Expression of Interest
GCC	General Conditions of Contract
ICB	International Competitive Bidding
ITB	Instructions to Bidders
ITC	Instructions to Consultants
LCS	Least Cost Selection
LOI	Letter of Invitation
MOILG	Ministry of Interior and Local Government
NCB	National Competitive Bidding
PPP	Public Private Partnerships
QBS	Quality Based Selection
QCBS	Quality and Cost Based Selection
RFP	Request for Proposals
RFQ	Request for Quotations
RT	Restricted Tendering
SBD	Standard Bidding Document
SCC	Special Conditions of Contract
TOR	Terms of Reference

1. INTRODUCTION

1.1. INTRODUCTION AND PURPOSE OF THE GUIDELINES

1.1.1. Introduction

Procurement is one of the key support functions in the public service. Effective and efficient delivery of public goods and services by the core functions/departments of the local government depend to a large extent on the effectiveness and efficiency of the procurement function. Therefore strengthening public procurement systems in the local government in [PuntlandPuntland](#) is expected to contribute to improved governance and service delivery.

The preparation of these procurement guidelines for local government in [PuntlandPuntland](#) has come in response to an assessment of the existing procurement practices and systems in the districts. Among the issues identified by the assessments include: weak legal and institutional framework; absence of clear guidelines; overlap of duties and responsibilities in relation to procurement; weak transparency and accountability and a general lack of awareness of the procurement procedures.

The lack of a strong procurement profession and inadequate training of staff has led to failure to employ good practices in procurement, creating inefficiencies and high costs to the districts. A general lack of understanding of the procedures or non compliance further creates opportunities for corruption and inefficient use of public funds. The inefficient use of funds can be generated from problems across the entire procurement process-from the poor procurement planning, definition of the needs and creation of the bidding documents, to a lack of transparency and competition in the process followed for announcements, bidding, evaluation and award of contracts, to poor contract supervision. Effective procurement guidelines and step-by-step procedures are required to assist district staff involved in the procurement process to perform their duties effectively and efficiently. The guidelines are based on best practices in public procurement and are prepared as a short term measure to assist the districts to improve their procurement systems while awaiting for the long term

solution involving reforming the whole procurement systems in the public sector as part of public financial management reforms.

1.1.2. Purpose of the guidelines

This document provides the standards, policies and procedures to be followed in the procurement of goods, works and services and disposal of assets within the local government in [PuntlandPuntland](#). These standards, policies and procedures are designed to:

- a) guide the procurement processes;
- b) provide uniform procedures for the procurement of goods, works and services;
- c) ensure transparency and accountability in all operations, and consistency with the guidelines of donors where necessary;
- d) improve the efficiency and effectiveness of operations;
- e) promote the consistent application of best procurement practices and international standards.

1.1.3. Application

The procurement guidelines apply to the procurement operations of all the districts in [PuntlandPuntland](#). Where procurement is financed by a donor the provisions of these guidelines will only apply when there is no conflict with the terms of the financing agreement, the guidelines, procedures or standard documentation required by the donor. In the case of any conflict the procedures and decisions of the donor will prevail.

The guidelines cover the standard procurement cycle from initiation of procurement to final delivery or performance and contract completion. It will help to:

- a) eliminate or minimise the need for making new decisions every time a comparable situation arises;
- b) introduce standard bidding documents and procedures for all routine procurement activities; and
- c) provide a point of reference against which principles and practices can be evaluated..

Consistent application of the provisions and procedures of these guidelines is essential to achieve improved efficiency, transparency, uniformity of documents and decisions, and reduced costs of procurement for the Local Government.

It is intended that these guidelines will be subjected to continuous upgrading to reflect changes in legislation, changing needs, the commercial environment, and the adoption of new improved procedures and practices, including passing of a new legislation in procurement and revised institutional framework for procurement in accordance with the new legislation.

1.2. DEPARTURES FROM THE GUIDELINES

Departures from the provisions of these guidelines may arise for the following reasons:

- a) a special situation, such as an extreme emergency;
- b) the necessary use of non-standard bidding documents for specialist procurements;
- c) new legislation or government policy change which causes any part of these guidelines to be inconsistent with the new provisions until an appropriate revision has been approved.

Where an activity or procedure is inconsistent with the provisions of these guidelines, it must be approved as a deviation before the relevant activity or procedure can be undertaken. Departures may not be approved if they conflict directly with:

- a) professional procurement standards and the Code of Ethics; or
- b) the Constitution of [PuntlandPuntland](#), or
- c) established National and International Law and International Treaties.

Departures should normally be of a short-term and one-off nature. Where they are recurrent, or become repetitive, then the Ministry of Interior and Local Government (MOILG) shall decide whether there is a need to introduce revisions in the guidelines to reflect the necessary change.

Where a deviation is considered essential, the Chairman of a Tender Committee will submit a formal request to the MOILG detailing the circumstances and including a full justification for the request of the Committee. The MOILG shall formally reject such requests, or approve by issue of a specific waiver.

Departures and waivers shall be carefully reviewed in the monitoring activities of MOILG and audited by the District Internal Auditor and the Auditor General. The MOILG will review all deviation requests to determine whether the relevant provisions in the guidelines need to be amended.

1.3. REVISIONS TO THE GUIDELINES

1.3.1. Reasons for Revision

The following factors may necessitate a need for revision of these guidelines:

- a) new legislation;
- b) policy changes by the Government;
- c) introduction of new improved practices, policies or procedures;
- d) removal of outdated practices, policies or procedures; and
- e) lessons gained from practical experience.

1.3.2. Request for Revisions by a District

Where a revision to the guidelines is deemed necessary, a formal request may be submitted to MOILG in accordance with the following procedure:

- a) The request shall be prepared and approved by the relevant Tender Committee, and authorised by the Executive Secretary.
- b) The request shall state the purpose of the revision and provide a comprehensive justification, together with the precise changes suggested to the relevant text of the guidelines.
- c) The MOILG will formally consider each request, seek legal and procurement practice advice and may agree to a general modification of the guidelines, a specific exemption to be granted to the requesting District, or may reject the request giving reasons.

1.4. PUBLIC PROCUREMENT PRINCIPLES

The overall objective of the public procurement system is to provide value for money to the districts by ensuring that public funds are spent in a transparent, efficient and fair manner. These guidelines incorporate policy provisions and procedures to promote competition, fairness/equity, transparency, accountability and ethics, and value for money. Further, the guidelines provide opportunities for those participating in procurement to appeal in case they are aggrieved. All public servants shall

consistently apply these policies and procedures, together with professional judgement and good management

1.5. TRANSPARENCY, ACCOUNTABILITY, AND ETHICS

The procurement system must ensure value for money in the procurement of goods, services and works. The procurement system aims at procuring goods, services and works of the right quality, at the right price, at the right time and at the right place through an open competitive bidding process. The districts are entrusted with public funds to provide services to the public. The use of public money must be conducted in a transparent and open manner, allowing stakeholders and the general public access to information on procurement actions by the districts as well as a means to control and audit all procurement cases. Furthermore, the rules governing public procurement must be readily available to all interested parties.

The guidelines require that:

- a) all public officials and practitioners of procurement shall be held accountable and responsible for their actions;
- b) all suppliers, contractors and consultants will be treated fairly and given equal opportunity to obtain contracts;
- c) procurement shall be done in the most efficient manner, upholding the principles of value for money, transparency and fairness;
- d) funds shall be used solely for the purposes for which they have been entrusted;
- e) appropriate procurement procedures be applied;
- f) all transactions are properly authorised and fully supported by written records;
- g) value for money can be demonstrated by comparison with market rates; and
- h) an appropriate Code of Ethics be followed by all staff involved in the procurement process.

1.6. CODE OF ETHICS

The principles of the Code of Ethics governing all officials involved in public procurement for the districts in [PuntlandPuntland](#) are as follows:

1.6.1. Ethical principles

A district employee shall not use his or her authority or office for personal gain. Personal gain includes accepting or requesting anything of material value from

bidders, prospective bidders or suppliers for the district employee, his or her spouse, parents, children or other close relatives, or for other persons from whom the staff might gain direct or indirect benefit of the gift. A district employee shall seek to maintain and enhance the reputation of the district by:

- a) maintaining the highest standards of honesty and integrity in all relationships both inside and outside the district in which he works;
- b) developing the highest possible standards of professional competence;
- c) using funds and other resources for which he or she is responsible to provide the maximum benefit to the district; and
- d) complying both with the letter and the spirit of: the laws and regulations of the Somalia State of ~~Puntland~~Puntland; accepted professional ethics; and contractual obligations.

1.6.2. Conflict of interest

A district employee shall declare any personal interest that may affect or might reasonably be deemed by others to affect impartiality in any matter relevant to his duties. In a situation of this nature, the employee should not participate in any way in the bidding process.

1.6.3. Confidentiality and accuracy of information

A district employee shall respect the confidentiality of information gained in the course of duty and shall not use such information for personal gain or for the unfair benefit of any bidder or supplier. Information given by an employee in the course of his or her duty shall be true, fair and not designed to mislead.

1.6.4. Competition

An employee of the district shall treat all bidders and suppliers with fairness and impartiality, and avoid any business arrangement that might prevent the effective operation of fair competition.

1.6.5. Business gifts

A public servant shall not accept business gifts from current or potential suppliers/service providers unless such gifts are of very small intrinsic value such as a calendar or business diary.

1.6.6.Hospitality

A public servant shall refrain from accepting any business hospitality that might be viewed by others as having an influence in making a business decision as a result of accepting that hospitality.

1.6.7.Reporting

A public servant has a duty to report any unethical conduct by a colleague, a bidder or a supplier to his superiors or to the auditors.

1.6.8.Examples of Unethical Conduct

The following are examples of the type of conduct prohibited by the Code of Ethics:

- a) Revealing confidential or “inside information” either directly or indirectly to any bidder or prospective bidder;
- b) Discussing a procurement with any bidder or prospective bidder outside the official rules and procedures for conducting procurements;
- c) Favouring or discriminating against any bidder or prospective bidder in the drafting of technical specifications or standards or the evaluation of bids;
- d) Destroying, damaging, hiding, removing, or improperly changing any official procurement document;
- e) Accepting or requesting money, travel, meals, entertainment, gifts, favours, discounts or anything of material value from bidders or prospective bidders;
- f) Discussing or accepting future employment with a bidder or prospective bidder;
- g) Requesting any other public servant or government official representing the district in a procurement to violate the public procurement rules or procedures;
- h) Ignoring evidence that the Code of Ethics has been violated by a member of the Tender committee, public servant or other employee or representative of the district;
- i) Ignoring illegal or unethical activity by bidders or prospective bidders, including any offer of personal inducements or rewards.

1.7.OBLIGATIONS OF PUBLIC OFFICIALS

The guiding principles of ethical behaviour are impartiality, independence and integrity. Ethical behaviour must be promoted and supported by appropriate systems and procedures. Procurement officers are obliged to follow an ethical code of behavior for the public service and the guidelines governing public procurement. The

procurement process must allow suppliers, contractors and consultants to compete for business on a fair basis. Public officials associated with the procurement function, therefore, are responsible for protecting the integrity of the procurement process and maintaining fairness in the treatment of all suppliers, contractors and consultants.

1.7.1. Declaration of conflict of interest

In the interest of fairness and equity in procurement, members of bid evaluation committees are required to sign and attach a declaration of conflict of interest to each and every evaluation report in which they participate as follows:

“In undertaking my role in this Evaluation Committee, I will uphold the highest ethical values:

- ✓ *I will declare any personal interest which may possibly have a conflict with any interest in this evaluation process;*
- ✓ *I will not accept cash, loans, credit, presents, recreation, favours or services from any supplier or potential supplier;*
- ✓ *I will ensure that all information pertaining to this procurement process is kept confidential; and*
- ✓ *Personal reasons will not affect the selection of suppliers.”*

1.7.2. Responsibilities of Officers

1.7.2.1 The District Executive Secretary and heads of departments in a district have responsibility to:

- a) Provide instructions and guidance to staff, especially where they may be exposed to opportunities for accusations of fraud or corruption;
- b) Encourage staff to follow ethical principles and practices and create an environment where transparency and openness are the standard;
- c) Ensure that all staff comply with instructions and guidelines, including the maintenance of documented records;
- d) Set appropriate levels of financial delegation, and ensure a proper separation and rotation of duties.

1.7.2.2 Staff in a district have responsibility to:

- a) Follow management instructions and procedural guidelines;
- b) Be alert to and report any indications of unethical behaviour;

- c) Seek guidance from a manager or auditor on any concerns that may arise.

1.7.3. Responsibilities of the Private Sector

The private sector is not exempt from responsibility to act ethically and transparently in procurement proceedings with the districts. This message is to be reinforced by requiring bidders to sign a formal declaration before participating in any procurement process:

“This company places importance on competitive tendering taking place on a basis that is free, fair, competitive and not open to abuse. It is pleased to confirm that it will not offer or facilitate, directly or indirectly, any improper inducement or reward to any public officer, their relations or business associates, in connection with its tender, or in the subsequent performance of the contract if it is successful.

This company has an anti-bribery policy/code of conduct and a compliance program which includes all reasonable steps necessary to assure that the no-bribery commitment given in this statement will be complied with by its managers and employees as well as by all third parties working with this company on the district projects, or contract including agents, consultants, consortium partners, sub contractors and suppliers. Copies of our anti-bribery policy/code of conduct and compliance program are attached”.

(Alternatively: This company has issued, for the purpose of this tender, a Compliance Program copy attached – which includes all reasonable steps necessary to assure that the no bribery commitment given in this statement will be complied with by its managers and employees, as well as by all third parties working with this company or the district projects or contract including agents, consultants, consortium partners, subcontractors and suppliers”).

1.8. SANCTIONS FOR NON-COMPLIANCE WITH ETHICAL STANDARDS

Due to the special and additional public trust placed on procurement professionals as custodians of public funds, a special and additional level of rules, compliance, obligations and sanctions governing the activities of all officials engaged in any way in public procurement regardless of their rank or function will be applied.

Adherence to the provisions of these guidelines by district officials is obligatory and failure to do so will be considered an offence subject to sanctions. Any official suspected of non-adherence to the rules and regulations will be suspended and his or her benefits, including salary, withheld pending investigation.

Officials found misappropriating government funds, regardless of the value, will be summarily dismissed. Other offences involving non-adherence to the rules and regulations, including negligence and irresponsibility will result in disciplinary action.

Any bidder, supplier, contractor or consultant who attempts to influence a procurement process, or the administration of a contract by any unfair method, will be subject to sanctions. This may include debarment of the company from Government contracts for a period of five years, in addition to any remedies that may be sought in a court of law.

1.9. INTERNAL AND INDEPENDENT MONITORING

Each district shall ensure that regular internal monitoring of procurement activity is undertaken in accordance with the principles and provisions of the guidelines, to ensure the overall effectiveness of procurement. Regular monitoring of procurement in a district will continue to be undertaken by Auditor General, but the guidelines also introduces a formal system of routine reporting on procurement to the MOILG. The MOILG will assess issues of professional efficiency and effectiveness in procurement, may call for detailed assessments or explanations on individual procurements, and will issue reports of findings in consultation with the Auditor General.

All reports arising from such monitoring activities shall be communicated to the District Executive Secretary for appropriate action. Additionally, independent monitoring and external audit reports may be communicated to donors or other funding agencies where the report covers contracts and/or projects funded by them.

2. PROCUREMENT RESPONSIBILITY

2.1. MINISTRY OF INTERIOR AND LOCAL GOVERNMENT (MOILG)

The MOILG has responsibility for the overall coordination, direction and development of procurement practices and procedures in Local Government. This includes responsibility for the professional development and training of staff and officials engaged in procurement to ensure improved standards and compliance with these guidelines.

The MOILG is also responsible for independent review of procurement complaints by aggrieved bidders, suppliers and the general public. The MOILG has full investigatory powers and authority to order the re-evaluation or re-bidding of disputed procurements.

2.2. EXECUTIVE SECRETARY

The District Executive Secretary is the Chief Executive Officer of the district with overall responsibilities for the operations of the district including service delivery. The Executive Secretary is the head of all staff in the district and has overall responsibilities for procurement, and therefore ensuring that these guidelines are complied with. The Executive Secretary's responsibility in relation to procurement include to:

- a) Establish tender committee;
- b) Advertising tender opportunities;
- c) Appointing evaluation committee;
- d) Communicating tender award decisions;
- e) ~~Signing Co-signatory to contracts with Mayor~~ for procurement activities on behalf of the district;
- f) Investigating complaints by suppliers, contractors, service providers;
- g) Ensure implementation of awarded contracts is in line with the terms and conditions of the award.

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2.3. TENDER COMMITTEE

There shall be in each district a tender committee for procurement of goods, services and works. The district tender committee shall consist of:

- a) Chairperson, who shall be one of the heads of department or a person of similar standing and who shall be appointed by the Executive Secretary;
- b) The Secretary shall be the Procurement Officer (head of the unit responsible for procurement), appointed by the Executive Secretary;
- c) Three other members who are heads of department or persons of similar standing within the district, appointed by the Executive Secretary.

The chairperson and other members shall be appointed for a period of three years and shall be eligible for re-appointment. Members shall be appointed with regard to their technical competence and skills required to discharge the functions of the committee. Membership of the tender committee should not include politicians (councillors).

2.3.1. Why procurement is important for councillors?

A significant amount of district councils spending goes through some form of procurement process: works, goods, and services bought by the district council to meet the needs of local communities.

Councillors need to ensure that the processes of procurement and strategic commissioning are in place to secure the council's objectives, e.g. broaden the supplier base to include new Micro, Small and Medium Enterprises (MSME), and to favour labour intensive approaches in the delivery of works. They also need to ensure that the communities and NGOs alongside private contractors are able to compete for council contracts, and ensure that equal opportunities and, where possible, sustainable procurement rules are being applied.

2.3.2. What is the role of councillors in procurement?

Procurement and contract management should be a strategic priority in every local council. Seizing opportunities to improve public services through new service delivery models and ensuring that the councils have the necessary corporate capacity and capability to delivery change successfully are key leadership tasks for councillors. The strategic importance of procurement for councillors should be reflected in an executive portfolio, creating a member champion for procurement, and be clearly understood on two main fronts:

- i) Ensuring that the procurement strategy and process that the council approves is fair, transparent and cost-effective; and
- ii) Ensuring that the effectiveness of the procurement process delivers social, economic and corporate objectives through regular monitoring and evaluation reviews.

Below are questions that councillors might ask about the councils corporate arrangements for procurement, which the procurement officer will have to respond to:

- What are we spending as a council?
- What are we spending the money on?
- Are we clear which works, goods and services are critical to the council?
- Are we getting value for money and the outcomes we want?
- What does it cost us to order works, goods and services?
- Do we have a strategic approach?
- Do we really challenge the status quo in our reviews?
- Are we seizing appropriate opportunities?
- Are our procedures sound?
- How are we keeping fraud and corruption in check?
- Are we complying with procurement rules from the centre?
- Do we have a team of experts?
- Do we have the necessary skills?
- How do we ensure there is good practice throughout the council?
- Can we deliver projects successfully?
- How well do we manage contracts?

- Are relationships with suppliers/contractors good?

The Executive Secretary may determine the appointment of chairperson and members at any time for: abuse of office; corruption; incompetence; physical or mental incapacity that renders a person incapable of performing the duties of that office; and conviction of an offence.

The tender committee may invite government officers from within the district or other public institutions to attend its meetings for the purpose of assisting the committee on technical matters. However, such invitees shall have no vote.

2.3.3. General Responsibilities of Tender committees

All Tender committees have responsibility to:

- a) Coordinate the development and approval of the Annual Procurement Plan;
- b) Approve entries and removals from the Register of Suppliers and Consultants;
- c) Recommending the appointment of ad hoc Sub-Committees as required for preparation of specifications, bid opening, bid evaluation, receipt of goods and certification of works;
- d) Review and approve prior to any announcement of a procurement process:
 - ✓ the method of procurement;
 - ✓ the bidding documents;
 - ✓ the specifications, classifications, bills of quantities, plans, drawings and terms of reference as appropriate; and
 - ✓ advertisements, letters of invitation and shortlists;
- e) Review evaluation reports, and approve the award of contract to the selected bidder;
- f) Ensure that all guidelines on procurement issued by the MOILG are followed by procurement staff.
- g) Maintain detailed minutes of meetings and records of all decisions and recommendations. Minutes shall be recorded by the Secretary of the tender committee and shall be confirmed by the committee in its following meeting and signed by the Chairperson and Secretary.

2.3.4. Approval by the tender committee

All approvals for award of contract must be within the annual procurement plan for the financial year and the Committee must confirm that sufficient funding is available. A district shall not advertise, invite, solicit, or call for tenders or proposals in respect of a contract unless authorized by the tender committee. Likewise, a district shall not award any contract unless the award has been approved by the tender committee.

The Tender Committee will be required to approve the detailed annual procurement plans for goods, works and services, as part of the annual budget submission process, and to revise the procurement plan based on priorities. A copy of the detailed final Procurement Plan for the district must be provided to the MOILG. The Tender Committee will report quarterly to the MOILG on all procurement activities undertaken by the local government.

2.4. PROCUREMENT UNITS

Each Tender Committee is supported by a procurement unit of qualified procurement staff to co-ordinate the professional aspects of procurement within the district. Responsibility for procurement falls under the department of Finance. The head of Finance department should designate one staff (Procurement Officer) to undertake procurement activities. The responsibilities of the Procurement Officer are to:

- a) request detailed information from, Heads of departments, projects and programmes for development of the Annual Procurement Plan;
- b) receive and analyse information for the development of annual procurement plans from all Procurement Units, projects, programmes and other Originating Officers;
- c) develop and cost detailed annual procurement plans for approval of the Tender Committee;
- d) review and prioritise the final annual procurement plan to the approved vote funding for approval of the Tender Committee;
- e) notify Heads of departments, units, projects and programmes of their approved annual budget for procurement;
- f) undertake all procurement activities including participating in the evaluation of bids and award of contract;

- g) respond to requests for clarifications from bidders;
- h) notify bidders of any approved revisions to closing dates for the submission of bids;
- i) request extensions of bid validity from bidders if necessary;
- j) register and maintain any samples submitted by bidders;
- k) ensure that all contractual obligations of the District are performed promptly and efficiently;
- l) register and maintain warranties and retentions;
- m) notify the supplier immediately of any failings in performance of his obligations;
- n) process claims against retentions;
- o) monitor delivery schedules and the inspection and certification of delivery or performance;
- p) coordinate the process for payment to suppliers;
- q) report to the Tender Committee on all procurements processed by the Procurement Unit under the delegated authority, for retrospective approval;
- r) provide general secretariat support and advice to the Tender Committee;
- s) maintain the Contracts Registers;
- t) liaise with and keep informed Originating Officers/user departments, technical staff, Bid Opening Committees, Bid Evaluation Committees as necessary for efficiency and transparency during the procurement process;
- u) Maintain a Register of pre-qualified suppliers, and consultants.
- v) Carry out any other associated procurement tasks as assigned by the Tender Committee.

2.5. USER/ORIGINATING DEPARTMENTS

- a) The User/Originating Department is the initiator of requests for procurement action and has responsibility to:
- b) Ensure that the requirement for procurement is:
 - ✓ justified by the needs of the department;
 - ✓ not for goods already available in the Stores;
 - ✓ within the annual procurement plan; and
 - ✓ covered by available funding in the recurrent budget or development plan;

- c) Prepare the initial specification of the requirement;
- d) Prepare procurement requisition;
- e) Provide input in the technical evaluation of tenders;
- f) Certify for payments to contractors, suppliers and consultants;
- g) Report any departure from the terms and conditions of an awarded contract to the procurement unit; and
- h) Prepare reports required for submission to procurement unit or tender committee or Executive Secretary.

2.6. BID OPENING COMMITTEES

Bid Opening Committees are formed as required by the tender committee to conduct and supervise each opening session in accordance with the required procedures for bid openings.

2.7. BID EVALUATION COMMITTEES

The Bid Evaluation Committee must be constituted by officers that possess specialist knowledge in the procurement undertaken. For example, engineers' input will be required for infrastructure projects. Evaluations will be carried out by an Evaluation Committee appointed by the Executive Secretary upon recommendation made by the tender committee. Responsibilities of the evaluation committee include to:

- a) Check bids for arithmetic errors;
- b) Review the bids and samples received for conformity with all specifications and conditions stated in the bidding documents;
- c) Report on the technical and commercial compliance of each bid in a technical evaluation;
- d) Analyse the financial bids and report the results in a financial evaluation; and
- e) Prepare an Evaluation Report, including justified recommendations for rejection of bids and for the award of contract, for approval by the tender committee.

Members of the evaluation committee may be external to the district, where the required skills or experience are not available within the district or where members from within the district have a conflict of interest.

2.8. INSPECTION/TAKEOVER COMMITTEES

The receipt of all goods, and the validation of work completed for works and services is subject to inspection and verification by a formal committee. This includes initial and final takeover inspections for works, and the Inspection and Receipt Committees for goods. Members of these committees should not also be Members of the Tender Committee that approved or supervised the procurement process. The Inspection/Takeover Committee must be constituted by officers that possess specialist knowledge in the procurement undertaken.

3. METHODS OF PROCUREMENT

3.1. PROCUREMENT METHODS

The procurement methods which can be used are as follows:

- a) Open Competitive Bidding (National and International)
- b) Restricted Bidding (National and International)
- c) Request for Quotations (RFQ), also referred to as shopping
- d) Single Source

Procurement of goods, works and services through international and national competitive bidding shall be considered first before other methods of tendering are used. Other forms of procurement may be used whenever it can be established that this is done with due regard for transparency, economy and efficiency in implementation of the project. However, prior written approval of the tender committee must be obtained. Further, the district shall include in the procurement proceedings a statement of the grounds and circumstances on which it relied to justify the use of methods other than international and national competitive bidding.

3.2. OPEN COMPETITIVE BIDDING

Open competitive bidding by public advertisement is the preferred method of Government procurement. In national competitive bidding (NCB) a district shall invite suppliers, service providers or contractors regardless of their nationality, by means of a tender advertised only in [PuntlandPuntland](#), to submit priced bids for goods, services and works. NCB may be used in cases where:

- a) Payment may be made wholly in Somalia Shillings;
- b) The goods, services and works are available locally at prices below international markets;
- c) The estimated cost of the goods, works or services is small and does not exceed the threshold for open international tendering;
- d) Works or services are scattered geographically or spread over time;
- e) Works are labour intensive;
- f) The advantages of international competitive bidding are clearly outweighed by the administrative or financial burden involved.

There are no procedural differences between International Competitive Bidding (ICB) and National Competitive Bidding apart from the need to advertise international bids in the international media and to allow a longer time before bid closing to reflect the slower communications involved. ICB is appropriate for high value or complex procurements and where the goods, works or services by their nature or scope, are unlikely to attract adequate local competition.

3.3. RESTRICTED BIDDING

Restricted tendering (RT) is a process of direct invitation to a shortlist of prequalified, pre-registered or known suppliers. This may directly follow a formal pre-qualification of suppliers for the specific requirement. It is an appropriate method of procurement where:

- a) the estimated contract values are within the limit for restricted tendering;
- b) the requirement is of a specialised nature or has requirements of public safety, or public security which make an open competitive bid impossible;
- c) due to the urgent nature of the requirement, an open competitive bid is not practical (provided that the circumstances giving rise to the urgency could not have been caused by negligent conduct on its part);
- d) the number of potential suppliers is limited; or
- e) an open competitive bid has failed to bring an award of contract.

Under restricted bidding, the district will invite bids from a list of pre-qualified suppliers broad enough to assure competitive prices, and including all suppliers when there are six or less. Open Competitive Bidding procedures shall apply in all respects, other than advertisement being replaced by direct invitation to a shortlist of bidders. Restricted bidding also includes requests for proposals for services, as the method to be used for the procurement of consultant services. In cases where restricted tendering is used the justification for restricting procurement must be shown in the record of procurement proceedings.

3.4. REQUEST FOR QUOTATIONS (RFQ)

This is also known as “shopping” and is based on comparing price quotations obtained from several suppliers, usually at least three, to ensure competitive prices. Shopping method is appropriate for procuring readily available off-the-shelf goods or

standard specification commodities that are small in value. A district tender committee may approve for competition to be invited through request for quotations where it has been determined that:

- a) The goods to be procured are so diversified that it would be of no commercial interest for any single supplier to tender for them; or
- b) The goods are readily available off-the-shelf or standard specification commodities of low value.

For urgent higher value or more complex requirements, a more appropriate standard bidding document and contract format should be used to protect the district.

Quotations shall be obtained from at least three suppliers. The list of suppliers to be contacted shall be submitted to the tender committee for approval and thereafter letters of invitation (LOI) for quotations addressed to all approved suppliers simultaneously. The LOI for quotations shall include:

- a) the full name and address of the procuring entity;
- b) a full description of the goods, works or services to be procured, including the required technical or quality characteristics, specifications, designs, plans and drawings, as appropriate;
- c) the quantities of any goods to be supplied and the required time and place of delivery;
- d) in the case of works, bills of quantities, the location and the required time for their completion;
- e) in the case of services, a list of targets to be achieved by a service provider, list of specific tasks or duties to be performed, a schedule of deliverables or outputs against which the achievements of the services shall be measured, the duration of the services and method of measuring the performance of services delivered;
- f) whether any alternatives to the required specifications or characteristics of the goods, works, services or to other contractual conditions, are to be permitted;
- g) Information of any elements other than the charges for the goods or services themselves, such as any applicable transportation and insurance charges customs duties and taxes, that are to be included in the price;

- h) the criteria for evaluation of quotations or tenders including any weighting factors that may be applied to technical, price or other factors;
- i) the period, generally forty five days, during which the quotations are to remain valid;
- j) the form of contract or Local Purchase Order, to include all conditions and terms of payment;
- k) a statement of the currency in which the successful supplier or contractor will be paid, if different from the quoted price;
- l) a statement that the procuring entity does not bind itself to accept any quotation and may reject all quotations;
- m) the manner in which the quotations shall be submitted; and
- n) the place, date and time for the submission and opening of quotations.

3.5. SINGLE SOURCE

Single source procurement from a supplier without competition (direct procurement) may be appropriate upon securing a specific waiver by the MOILG usually when:

- a) only one supplier has the exclusive right to the manufacture of the goods, carry out the works, or perform the services to be procured, and no suitable alternative is available;
- b) for additional deliveries of goods by the original supplier which are intended either as parts replacement for existing goods, services, or installations, or as the extension of existing goods, services, or installations where a change of supplier would compel the district to procure equipment or services not meeting requirements of inter-changeability with already existing equipment or services;
- c) additional works, which were not included in the initial contract have, through unforeseeable circumstances, become necessary since the separation of the additional works services from the initial contract would be difficult for technical or economic reasons;
- d) there is extreme urgency, provided the circumstances which gave rise to the urgency were neither foreseeable by the district nor the result of dilatory conduct on its part;

- e) the services require that a particular consultant be selected due to his unique qualifications, or when it is indispensable to continue with the same consultant.

3.6.FORCE ACCOUNT

Force account is construction by the use of public or semi-public agencies, or departments concerned, where the public or semi-public agency has its own personnel and equipment. The use of force account or direct labour may be justified where:

- a) Required works are small and scattered or in remote locations for which qualified construction firms are unlikely to tender at reasonable prices;
- b) Work is required to be carried out without disrupting ongoing operations;
- c) Risks of unavoidable work interruption are better borne by a procuring entity or public authority than by a contractor;
- d) There are emergencies needing prompt attention.

3.7.PROCUREMENT UNDER PUBLIC PRIVATE PARTNERSHIP (PPP)

Public Private Partnerships shall include the following forms or combinations of them; service contract, management contract, leasing, joint ventures, partnerships, Build Operate Transfer, Build Own Operate, Design Build Operate Finance and concessions. Services for which there are no governmental, legal or operational limitations that dictate they must be performed by public sector employees, may be outsourced under the private sector participation arrangement. As soon as the district identifies a project that may be concluded as a public private partnership, it must:

- a) ensure that it has the expertise within that district to proceed with a public private partnership;
- b) appoint a project officer from within or outside the procuring entity; and
- c) appoint a transaction advisor.

For public private partnership project, the district shall undertake a feasibility study in order to:

- a) confirm affordability of the project for the district if it will incur any financial commitments;
- b) establish factors that will determine value for money;

- c) assess the potential of a public private partnership to deliver value for money;
- d) identify the form(s) of public private partnership most likely to deliver for value for money;
- e) establish the optimum scope of the public private partnership;
- f) identify the parameters to be used to assess value for money at the procurement stage;
- g) provide a sound basis for the district to decide on procurement approach;
- h) set out the proposed allocation of financial and technical risks between the district and the private party; and
- i) explain the capacity of the procuring entity to procure, implement, manage, enforce, and monitor the public private partnership project.

Feasibility study for private sector participation in delivery of public services shall recommend service areas within the district which could, or should be offered to the private sector by:

- a) describing the current procuring entity's organisation, service areas and associated costs;
- b) presenting an analysis of the suitability of contracting out current service areas within the procuring entity to the private sector;
- c) identifying important issues that must be addressed before services are contracted out such as, but not limited to:
 - ✓ service packaging;
 - ✓ contract length and pricing mechanisms;
 - ✓ treatment of government assets;
 - ✓ tender selection procedures;
 - ✓ personnel issues;
- d) highlighting important areas where private sector participation policy issues remain to be resolved; and
- e) presenting a risk management plan.

The district shall not proceed with the procurement phase of a public private partnership or private

sector participation project if the feasibility study indicates that the proposed project will not provide value for money or improve the quality of the public service.

The district shall advertise the request for qualification in the form of the specific procurement notice in at least one newspaper of wide and general circulation in [PuntlandPuntland](#), in any international newspaper as may be directed by the appropriate tender committee, and may additionally advertise in well known technical magazines or trade publications.

The notification of the request for qualification shall be done at the same time as the advertisement in the local newspapers, and shall be given in sufficient time to enable prospective tenderers to obtain request for qualification documents, prepare and submit their responses. The notification of the request for qualification shall contain the following:

- a) A brief description of the intention of the government to undertake the project;
- b) A high level definition of the project;
- c) Identification of the specific location where interested parties may obtain a copy of the request for qualification, the dates and times during which the request for qualification will be available, including any costs for obtaining a copy;
- d) A declaration reciting the date, time and place where the request for qualification submissions must be filed with the government sponsor.
- e) A statement of where and how the submissions will be evaluated and a timeframe after which those making submissions will be notified as to the results of the evaluation.

3.8. COMMUNITY PARTICIPATION IN PROCUREMENT

Where in the interest of project sustainability or to achieve certain specific social objectives of the project, it is desirable in selected project components to:

- a) call for the participation of local communities; or
- b) increase the utilization of local know - how and materials; or

- c) employ labour-intensive and other appropriate technologies, the procurement procedures, specifications and contract packaging shall be suitably adapted as to reflect such considerations.

The beneficiary community shall be responsible for the procurement activities under the project component. The project authorities shall have the responsibility to provide the necessary training and simple standardized documents to the community to enable it carry out the procurement function in a manner acceptable to the MOILG. Further, the district shall include in the bidding documents provisions on how to monitor compliance with the requirements and sanctions for non compliance.

3.9. THE SELECTION AND EMPLOYMENT OF CONSULTANTS

The procurement of consultant services is a specialised form of procurement requiring bidding procedures and documents which are different to those for standard goods and works. The use of merit-point evaluation systems and two-envelope bidding procedures are routine features in the procurement and selection of consultants. Under a merit point system technical and financial bids are submitted in separate sealed envelopes.

The financial envelopes shall only be opened after the technical evaluation is completed and approved by the tender committee, and shall involve bids that have attained the minimum technical score. In the interests of transparency, a second public opening of the financial bids of those bidders who have passed the technical evaluation stage is held. The relative weightings for technical and financial scores shall be stated in the RFP. This is usually set at 80% for the technical score and 20% for the financial score.

3.9.1. Quality and Cost Based Selection (QCBS)

Quality and Cost Based Selection (QCBS) is the standard method of selecting consultants through competition between pre-qualified short-listed firms. Selection is based on the technical quality of the consultants, the quality of the proposal, and on the cost of the services to be provided. The relative weights given to the technical quality and cost of each proposal are determined for each case depending on the nature of the assignment.

3.9.2. 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:

- a) 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;
- b) 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;
- c) 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) shall 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 District and the Consultant shall then negotiate the financial proposal and the contract.

3.9.3. Selection under a Fixed Budget

Fixed Budget Selection (FBS) is where the District seeks to obtain the best technical proposal from pre-qualified short-listed consultants within a pre-determined budget limit. This method is only appropriate when the assignment is simple and can be precisely defined; and when the budget is fixed.

The RFP will indicate the available budget and request the consultants to provide their best technical and financial proposals in separate sealed envelopes, within the stated budget. The TOR must be carefully prepared to ensure that the budget is sufficient for the consultants to perform all of the expected tasks.

Technical proposals will be evaluated and bidders who pass the minimum technical score will be invited to a public opening of their financial envelopes. Bidders whose technical proposals fail to meet the minimum technical score will have their financial envelopes returned unopened. Any financial proposals that exceed the indicated budget shall be rejected. The Consultant who has submitted the highest ranked technical proposal within the budget will be selected for award of contract.

3.9.4. Least-Cost Selection

This method is more appropriate to selection of consultants for assignments of a standard or routine nature (audits, engineering design of noncomplex works, and so forth) where well-established practices and professional standards exist, and when the contract value is small.

A minimum qualifying score for the required quality is established and is stated in the RFP. Technical and Financial Proposals are required to be submitted in separate envelopes by the short-listed bidders. Technical envelopes are opened first and evaluated. Those bids scoring less than the minimum qualifying score are rejected. The financial envelopes of the remaining bidders are opened in public. The firm with the lowest price is selected for contract award.

3.9.5. Selection Based on Consultants' Qualifications

This method may be appropriate for very small assignments where the need for submission and evaluation of detailed competitive proposals is not justified. Expressions of interest and information on the consultants' experience and

competence relevant to the assignment are requested. The firm with the most appropriate qualifications and references is selected. The selected firm is invited to submit a combined technical and financial proposal, and then invited to negotiate the proposal and the contract.

3.9.6. Single-Source Selection

Single-source selection of consultants lacks the benefit of competition in regard to quality and cost, is not transparent in selection, and may encourage unacceptable practices. Therefore, single-source selection should only be used in exceptional circumstances. The justification for single-source selection must be examined carefully to ensure economy and efficiency. Single-source selection is only appropriate if there is a clear advantage over competitive selection:

- for tasks that are a natural continuation of previous work carried out by the firm;
- where rapid selection is essential (for example, in an emergency situation);
- for very low value assignments;
- when only one firm is qualified or has the necessary experience for the assignment.

3.10. TYPES OF CONTRACT AGREEMENT FOR THE EMPLOYMENT OF CONSULTANTS

The type of contract must be selected when preparing the Request for Proposals and included as a draft with all contract terms and conditions in the RFP.

3.10.1. Lump Sum (Fixed Price) Contracts

Lump sum contracts are used mainly for assignments in which the content and the duration of the services; and the required output of the consultants are both clearly defined. Lump sum contracts are widely used for simple planning and feasibility studies, environmental studies, detailed design of standard or common structures, preparation of data processing systems, etc.

Payments are linked to defined outputs (deliverables), such as reports, drawings, bills of quantities, bidding documents, and software programs. Lump sum contracts are simple to administer because payments are due on attainment of clearly specified outputs.

3.10.2. Time-Based Contract

This type of contract is widely used for complex studies, supervision of construction, technical advisory services, and training assignments. It may also be appropriate when:

- a) it is difficult to define the full scope of services, or the input of the consultants required to attain the objectives of the assignment;
- b) the length of services can be precisely defined and deliverables are only incidental to the main purpose of the assignment;
- c) the services are related to activities by others for which the completion period may vary.

Payments are based on remuneration (Agreed hourly, daily, weekly, or monthly rates for staff) and reimbursable items using actual expenses and/or agreed unit prices. Time-based contracts need to be closely monitored and administered by the District to ensure that the assignment is progressing satisfactorily, and payments claimed by the consultants are appropriate.

3.10.3. Retainer and/or Contingency (Success) Fee Contract

Retainer and contingency fee contracts are frequently used when consultants (banks or financial firms) are undertaking specialist financial activities such as preparing companies for sale, in mergers of firms, or in privatization operations. The remuneration of the Consultant includes a retainer and a success fee, the latter being normally expressed as a percentage of the sale price of the assets.

3.10.4. Percentage Contract

Percentage based contracts may be used where it is appropriate to relate the fee paid directly to the estimated or actual cost of the contract. The contracts shall clearly define the total cost from which the percentage is to be calculated. The use of a percentage contract format for architectural services is only recommended if based on a fixed target cost and covers precisely defined services.

3.10.5. Indefinite Delivery Contract (Price Agreement).

These contracts are used when there is a need for “on call” specialised services to provide advice or services, the extent and timing of which cannot be defined in advance. These are commonly used to retain “advisers” for implementation of

complex projects expert adjudicators for dispute resolution panels, institutional reforms, procurement advice, technical troubleshooting, etc. normally for a period of a year or more. The district and the firm agree on the unit rates to be paid, and payments are made on the basis of the time and resources actually used.

3.11. USE OF INDIVIDUAL CONSULTANTS

Individual consultants are normally employed on assignments when teams of personnel are not required; additional outside (home office) professional support is not required; and the experience and qualifications of the individual are the major requirement.

Individual consultants are selected on their qualifications for the assignment. Selection may be on the basis of references or through comparison of qualifications among those expressing interest in the assignment or approached directly by the district. Individuals employed by districts must meet all relevant qualifications and be fully capable of carrying out the assignment. Capability is judged on academic and professional background, experience, knowledge of local conditions and culture, administrative systems, and government organisation, and language skills as appropriate.

4. PROCUREMENT PLANNING AND BUDGETING

4.1. PROCUREMENT PLANNING

Adequate procurement planning and prioritisation of needs by each district is an essential prerequisite to effective procurement for the following reasons:

- a) Funding for procurement is unlikely to be sufficient to meet all requirements, and scarce financial resources must be channeled to ensure that the priority public service aims of a district are adequately met before spending on less essential procurements.
- b) Procurement planning help to avoid situations where procurements are handled in a rush as emergency procurements and therefore using methods which are not appropriate. In addition, it helps to avoid splitting of procurements with the intention of deviating from the use of appropriate procurement methods. Such splitting is only acceptable if it enables wider participation of local service providers (which requires the approval of MOILG). Effective planning allows requirements to be aggregated into larger procurements at lower unit costs, rather than frequent sourcing of quotations for identical items and issuing many individual Local Purchase Orders.
- c) Procurement of common user items may also be aggregated for more than one district into Framework (Call-off) Contracts for six months or a year, to permit further economies of bulk purchasing, saving of time wasted by separate procurements, and a reduction of the procurement costs.
- d) Publication of realistic annual procurement plans allows the private sector to respond more effectively to the requirements and specifications.

Structured development of procurement plans is an essential part of the annual budget preparation process and provides an essential checklist for the approval of procurements by tender committees and monitoring of procurement activity by the MOILG.

4.2. THE BUDGET PREPARATION PROCESS

Annual budgets are prepared each year in accordance with the budgeting procedures for the districts. The Executive Secretary has responsibility for co-ordinating the preparation of the budget for the district, including procurement plans. Procurement

plans are prepared based on the requirements for activities included in the annual budget and work plan.

Preparation of the Annual Procurement Plan should be commenced at least three months before the start of the financial year to allow sufficient time for a realistic and accurately costed plan to be compiled.

4.3. TENDER COMMITTEE ACTIONS

The Tender Committee has overall responsibility for control of the preparation and the approval of the detailed Annual Procurement Plan under the authority of the Executive Secretary. The work of compilation, costing and prioritisation of expenditure for the Procurement Plan will be undertaken by the Procurement Unit.

The Tender Committee's actions in preparation of an annual procurement plan include to: issue instructions to the Procurement Unit to commence development of the Annual Procurement Plan; and to receive, review and recommend changes where necessary, and approve the annual procurement plan and forward a copy to the MOILG.

4.4. PROCUREMENT UNIT ACTIONS

The Procurement Unit has the task of compiling the costed annual procurement plan from the individual departments, units, projects and programmes of the district. The procurement unit is responsible for issuing detailed instructions to the heads of the user departments, units, projects and programmes on the format and content of submissions for the Procurement Plan.

Other responsibilities of the procurement unit in relation to preparation of an annual procurement plan include to:

- a) Receive submissions, check quantities and costing, obtain clarifications and other responses to any queries, analyse and compile all submissions into a comprehensive procurement plan.
- b) Submit the draft annual procurement plan to the tender committee for review and approval.
- c) Make adjustments to the plan according to service priorities as recommended by the tender committee in its review of the plan;

- d) Compile the final annual procurement plan and submit to the tender committee for approval.
- e) Notify individual Heads of departments, units, projects and programmes of their approved procurement plans and annual procurement budgets.

4.5. HEADS OF DEPARTMENTS

The heads of departments are required to ensure the analysis and preparation of Annual Procurement Plans for their own and subordinate areas of control.

- a) All planned procurements of goods, works and services for the next financial year must be identified and scheduled in the annual procurement plan.
- b) Submit the annual procurement plan to the Procurement Unit, identifying all proposed procurements for the new financial year by quantity and cost.
- c) Respond to any queries raised by the Procurement Officer on requirements included in the plan.
- d) Receive notification of the final approved annual procurement plan and budget and use this as an essential guideline for all procurement processes undertaken in the new financial year.

5. PREPARATION AND APPROVAL OF BIDDING DOCUMENTS

5.1. IDENTIFICATION OF REQUIREMENT

A requirement may originate from stores for replenishment of stock items, or from any department, sub-unit or project of a district for other goods, works or services. The estimated cost of the requirement must already be included in the approved annual procurement plan and budget. The procurement officer shall estimate the cost based on previous procurements and market rates; identify the source of funding; and check if this requirement can be consolidated with similar known requirements within the district to make a more attractive package for bidders.

5.2. SPECIFICATION OF REQUIREMENT

The requirement needs to be fully identified with detailed technical specifications, drawings, plans, objectives and/or terms of reference as appropriate. Specifications must be generic and should not include brand names, model numbers, catalogue numbers or trademarks except where these are essential for compatibility with existing machinery, equipment or instruments. If detailed specifications cannot be prepared by the user department, the advice of the procurement unit may be sought for assistance or the appointment of a specialist technical advisor.

5.3. APPROVAL OF SPECIFICATIONS, PROCUREMENT METHOD AND BIDDING DOCUMENTS

The Procurement Unit shall prepare draft bidding documents and submit them together with specifications draft tender notice to the district tender committee for consideration and approval. Approval of the bidding documents by the Tender Committee is required before the tender is advertised.

5.4. ANNOUNCEMENT OF THE BID

Following approval of the procurement method, the draft bidding documents and the draft advertisement by the tender committee (and the donor where appropriate), the technical and administrative arrangements for the announcement of the bid, or issue of the RFQ must be completed.

5.5. PRE-QUALIFICATION OF BIDDERS

Pre-qualification of bidders:

- a) is appropriate for large or complex works, or in other circumstances when the high costs of preparing detailed bids could discourage competition;
- b) is often used for custom-designed equipment, industrial plant, consulting services, and contracts to be let under turnkey, design and build, or management contracting;
- c) ensures that invitations to bid are extended only to those who have adequate capabilities and resources;
- d) helps to ensure that only bids from competent suppliers and contractors are considered and eliminates disputes that may arise from rejection of lowest bids because the bidders are not considered qualified;
- e) may be required on donor funded procurements.

5.5.1. Pre-qualification Criteria

Pre-qualification is based upon the capability and resources of prospective bidders to perform the particular contract satisfactorily, taking into account their:

- a) experience and past performance on similar contracts;
- b) capabilities with respect to personnel, equipment, and construction or manufacturing facilities;
- c) required licensing and professional registrations; and
- d) commercial and financial resources.

5.5.2. Advertisement for pre-qualification

The invitation to pre-qualify for bidding on specific contracts or groups of similar contracts shall be advertised in a similar way to open competitive bidding. The scope of the contract and a detailed statement of the requirements for qualification must be provided in the advertisement.

5.5.3. Pre-qualification evaluation

A formal evaluation of the capabilities of each supplier is required by the technical committee against the criteria as stated in the advertisement.

- a) All applicants that meet all the specified criteria are pre-qualified and approval of the tender committee must be sought to add these applicants to the general Register of Pre-qualified Suppliers held by the district.

- b) Where a large number of suppliers pass the stated qualification criteria, it may not be realistic to invite more than six to participate in the specific bid. If so, only the best qualified suppliers should be selected and invited to bid.
- c) Inform all applicants of the results of pre-qualification and acceptance to the Register of pre-qualified suppliers.
- d) When pre-qualification is completed, issue the bidding documents to all qualified bidders, or to an appropriate shortlist of the qualified bidders.

5.6. ISSUE OF BIDDING DOCUMENTS

The Procurement Unit shall issue the bidding documents immediately after first publication of tender notice to all suppliers, contractors or service providers who respond to the tender notice. The bidding documents may be sold in order to recover costs therefore the price charged for the documents must only reflect the actual cost of production of the bidding document and shall not include an element of profit. The price of the bidding documents shall be approved by the tender committee prior to announcement of the bid.

5.7. ISSUE OF INVITATIONS FOR RESTRICTED BIDDING AND SHOPPING

The bidding documents for restricted bidding and shopping (request for quotations) or for pre-qualified bidders in open competitive bidding must be issued to all shortlisted bidders simultaneously, either by registered post, or by hand in return for a written receipt.

5.8. 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. The district shall respond to requests for clarifications within three working days of receipt of the request, to enable the bidder adequate time to take into consideration the responses in preparation of the bid.

In some cases bidders may be invited to attend the pre-bid conference (also referred to as orientation meeting) for purposes of getting background information on the project/bid and clarifications on any issues that the bidders have identified that require clarification. Bidders may ask questions about any aspect of the contract and have the right to hear the responses to questions asked. The district procurement unit must prepare minutes of the pre-bid conference and circulate the same simultaneously to all bidders participating in the bid, including those who were not represented in the conference. Minutes shall be prepared and circulated within three working days.

5.9. EXTENSION OF BID CLOSING DATE

The closing date for submission of bids may be extended at the discretion of the tender committee for any practical or justifiable reason. Such reasons would include: modification to the bidding documents after issue, requiring additional research or effort by bidders to submit a responsive bid; request for a time extension by two or more bidders; and unforeseen administrative issues which force a postponement of the proposed bid opening.

Following approval by the tender committee of an extension of time, the Procurement Officer should confirm a revised closing date and notify the Bid Opening Committee of the revised deadline for submission of bids. The Procurement Officer should also notify all bidders in writing of the revised date for submission of bids and place copies of all correspondence in the relevant procurement file.

5.10. CANCELLATION OF BIDDING PROCESS BEFORE BID OPENING

A bidding process may be cancelled at any time before the deadline for receipt of bids with the approval of the tender committee. Note that for donor funded procurements, the donor must be consulted before any cancellation of the bidding process. Justifications for cancellation are:

- a) the procurement need has ceased to exist or changed significantly;
- b) insufficient funding is available for the procurement;
- c) there is a significant change in the required technical details, bidding conditions, conditions of contract or other details, such that the recommencement of proceedings is necessary;

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- d) insufficient, or bids received are not responsive;
- e) there is evidence of collusion among bidders; or
- f) cancellation is deemed to be in the interest of national security.

When the bidding process is cancelled prior to bid opening, the district should notify all bidders who have purchased or received the bidding documents, of the cancellation.

6. RECEIPT OF BIDS AND BID OPENING

6.1. RECEIPT OF BIDS

All bids shall be received by the Procurement Unit, registered in a record of receipt of bids (tender register) and deposited in the designated locked tender box or kept in a secure office space until the bid opening. The closing time for submission of bids on the date set shall be determined in advance by the tender committee and communicated to bidders in the bid documents. Bids received after the deadline for submission stipulated in the bidding document shall not be opened and shall not be considered and shall be returned to the bidder that submitted it.

6.2. OPENING OF BIDS

Bid Opening shall commence immediately after the closing time for submission of bids and all work should be completed within the same session. All bids submitted before the deadline time and date for submission shall be opened in public in presence of bidders or their representatives who choose to attend. The names of all those present at the bid opening and the organizations they represent shall be recorded by the Secretary of the Tender Committee.

At a public bid opening, the bidder's names, the prices and total amount of each bid, written notifications of bid modifications or withdrawals, any discounts, and any other details as the tender committee may consider appropriate, shall be announced to those persons present. Such details shall also be communicated on request to bidders who have participated in the bid but were not represented at bid opening. The Secretary of the tender committee shall keep a record of the proceedings of bid opening.

[Note: In the case of two-envelope bidding where separate technical and financial bids are submitted for consultancy services, only the technical bid will be opened for evaluation at the initial bid opening. The Financial bids are retained unopened pending a second public opening of those bids achieving more than the minimum technical score. In this case the financial details above will not be read out.]

6.3. CANCELLATION OF BIDS AND RFQS AFTER THE BID OPENING

Bids and RFQs may be cancelled by recommendation of the head of department responsible, and following approval of the tender committee, if:

- only one bid was presented or after rejection of all other bids only one bid remains for consideration;
- most of the bids were presented with unacceptable reservations and conditions;
or
- the tender committee confirms that the lowest priced bid is higher than the budgetary provision.

Prior to cancellation of bids and RFQs the Procurement Officer shall obtain approval of the head of department responsible and the tender committee for cancellation of the bid/RFQ and then notify all bidders that the bid/RFQ process has been cancelled. The Procurement Officer should then decide whether the procurement is to be cancelled completely, or to proceed later, and by what method. If the procurement is to proceed, the Procurement Officer shall re-submit all documents to the Originating Officer for preparation of revised specifications, or prepare bidding documents appropriate to a procurement method proposed.

6.4. EXTENSION OF BID VALIDITY

The duration of bid validity is specified in the bidding documents and should be confirmed in the signed bid form submitted by each bidder. Any bid which is valid for a shorter period shall be rejected by the procuring entity as being substantially non-responsive. 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. 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, due to unforeseen circumstances, the work cannot be completed within the set period, the Procurement Unit may contact bidders to seek their agreement to an extension of the bid validity. Bidders who refuse this request may withdraw from the bid without incurring any penalty.

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.

Bidders have the right to refuse to grant an extension of bid validity. If a bidder refuses to extend the validity of his bid then, upon expiry of the original bid validity period, the bid shall not be considered further. Only bidders who respond confirming their unconditional acceptance may be considered for further evaluation and award of contract.

7. EVALUATION AND CONTRACT AWARD

7.1. APPOINTMENT OF EVALUATION COMMITTEE

The tender committee will propose to the Executive Secretary the nomination of an evaluation committee to undertake the evaluation of bids received and to make recommendations for the award of contract. The bid evaluation committee shall comprise of not less than three and not more than five members. Upon acceptance of the recommendation the Executive Secretary shall formally appoint members of an evaluation committee in writing.

7.2. EVALUATION OF BIDS

Under the single envelope bidding system, the Evaluation Committee will conduct the technical evaluation, followed immediately by the financial evaluation in one stage. Where a two-envelope bidding system is used with separate technical and financial bids, the evaluation process is split into two separate stages.

An initial technical evaluation report is prepared recommending the bids reaching the minimum technical score to proceed to the opening of their financial envelopes. Following approval by the tender committee and a further public opening of the financial envelopes, the Evaluation Committee will combine the technical and financial evaluations and make recommendations for the award of contract.

7.3. EVALUATION REPORT AND RECOMMENDATION

The Evaluation Committee shall prepare a report on evaluation of bids and include the committee's recommendation of award of contract. The evaluation report shall include all supporting documents such as individual score sheets, etc. The evaluation committee may recommend that all of the bids be rejected if:

- a) none of the bids are found to be responsive;
- b) all of the bids are unreasonably high in price compared to the cost estimate;
- c) none of the bidders are qualified;
- d) there is deemed to be an absence of competition, (however lack of competition is not usually decided solely on the basis of the number of bidders).

The amount of the recommended contract award is the bid price as submitted by the best-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. Adjustments for evaluation purposes only (e.g. for deviations or margins of domestic preference) used to determine the lowest evaluated responsive bid, will not be included in the contract price.

7.4. TENDER COMMITTEE APPROVAL OF RECOMMENDATION FOR CONTRACT AWARD

The relevant tender committee will review the evaluation report and recommendations presented by the evaluation committee. Before giving approval, the tender committee will ensure that any written complaints made by bidders concerning the bid opening procedures have been reviewed and responded to.

A copy of the complaint and the response shall be sent to the Executive Secretary and to the MOILG for information. If the complaint reveals a serious breach of procedures or ethics, or if directed by the MOILG, the tender committee shall reject the evaluation report and call for re-evaluation or re-bidding, as the case may be.

The tender committee will award the contract to the bidder who has submitted the lowest-evaluated responsive bid and has been determined to be qualified to perform the contract. A bidder shall not be required, as a condition of contract award, to undertake responsibilities for work not stipulated in the bidding documents or otherwise to modify his bid as originally submitted.

7.5. REJECTION OF ALL BIDS

If the Evaluation Committee recommends the rejection of all bids, the tender committee may consider:

- a) wider advertising or sourcing of bidders if the rejection of all bids is due to lack of competition;
- b) invitation of new bids from the initially pre-qualified firms if the rejection is due to most or all of the bids being non-responsive;
- c) if the lowest evaluated responsive bid exceeds the pre-bid cost estimates by a substantial margin, investigate the causes of the excessive cost and request new bids with amendments to the specifications or bidding document.

- d) negotiations with the lowest evaluated responsive bidder with the objective of agreeing a satisfactory contract through a reduction in the scope or quantities and/or a reallocation of risk and responsibility, to reduce the contract price. However, any substantial reduction in the scope, or modification to the contract documents may require re-bidding to ensure transparency.
- e) instructing the Evaluation Committee to review the causes of the rejection and to recommend revisions, before inviting new bids, to the:
 - ✓ conditions of contract;
 - ✓ design and specifications;
 - ✓ scope of the contract;
- f) or any other relevant provision.

7.6. NEGOTIATIONS

Where negotiations are recommended by the evaluation committee or the tender committee shall recommend members of a negotiation team based on appropriate seniority and experience depending on the value and complexity of the procurement. The proposed negotiation team shall be approved by the tender committee and the team shall include members with relevant mix of skills and experience, including:

- a) Knowledge of end user requirements;
- b) Financial management skills;
- c) Negotiation skills;
- d) Procurement and contract management skills; and
- e) Technical skills relevant to the subject of procurement.

Negotiations are not permitted until after tender committee has approved the evaluation committee's recommendation.

Price negotiations with the lowest evaluated responsive evaluated bidder on a competitive bidding process where price is an evaluation factor shall not otherwise be allowed, and in no circumstances shall negotiations be conducted with two bidders simultaneously.

The negotiation committee shall prepare a negotiations plan which shall specify the issues to be negotiated and the objectives to be achieved and whenever possible, quantify the objectives and set maximum and minimum negotiating parameters for the negotiation team. The appropriate tender board shall approve the negotiations plan prior to any negotiations taking place.

The negotiation team shall produce minutes of the meeting and shall obtain the tenderer's written agreement that it is a true and accurate record of the negotiations held and submit the minutes to the procurement management unit. The procurement management unit shall submit the recommendations of the negotiation team to the tender committee to:

- a) proceed with contract award to the recommended bidder, incorporating the agreements reached during negotiations;
- b) revise the negotiation objectives and hold further negotiations, or
- c) terminate the negotiation and reject the bidder.

Where the negotiation team recommends rejection of the bidder, it may also, where appropriate, recommend inviting the next ranked bidder for negotiations in the case of competitive methods of procurement or a new bidder to submit a tender in the case of direct procurement.

The tender committee may:

- a) approve the recommendations;
- b) request further negotiations on specific points;
- c) reject the recommendations with reasons; or
- d) cancel the negotiations in their entirety.

The results of any approved negotiations shall be specified in a letter of tender acceptance and incorporated into the contract document. Where negotiations are commenced with the next ranked bidder or a new bidder is invited, the district shall not reopen earlier negotiations; and the original bidder shall be informed in writing of the reasons for termination of the negotiations.

7.7. TENDER COMMITTEE APPROVAL OF CONTRACT DOCUMENT

Following notification of approval of the evaluation report and contract award by the tender committee, the Procurement Unit will complete the draft contract document and submit it to the tender committee together with all relevant attachments, for approval. The Tender Committee will review the contract document with particular regard to compliance with any modifications requested by the Committee in issuing its approval to the evaluation report.

7.8. COMPLAINTS BY BIDDERS

Complaints by bidders to the bid opening procedures or the evaluation and award of contract must be investigated and all findings reported to the Executive Secretary and to the MOILG. The Executive Secretary shall ensure that the bidder has an opportunity to present his case in person and to receive an explanation of the decisions.

Where investigations indicate that the bidder has a valid complaint that may have affected the award of contract, no award of contract shall be made pending resolution of the dispute. In such cases it may be preferable to cancel and restart the bid process. If the matter cannot be resolved at the district level, it will be forwarded to the MOILG.

Where the complaint is in respect of a contract already signed between the district and a supplier, contractor or consultant, this procedure does not preclude a complainant from exercising contractual rights in a court of law or going to arbitration where such a provision exists in the contract.

7.9. CONTRACT AWARD AND CONTRACT SIGNATURE

Following notification of approval of the contract by the tender committee, the Procurement Unit shall finalise the contract and prepare and send a formal notice of award to the winning bidder, requesting the bidder's attendance to sign the contract. At the same time inform all unsuccessful bidders that their bids were not successful and encourage them to participate in future bids. The notification letters (to successful and unsuccessful bidders) shall be signed by the Executive Secretary.

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Tender awards shall be published in at least two newspapers of wide circulation as well as placed on notice boards at the district headquarters and other public places. In addition, the procurement officer shall notify the MOILG and the Auditor General of contract awards and shall send copies of signed contracts to these institutions.

8. CONTRACT MANAGEMENT, DELIVERY AND PAYMENT

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.

8.1. CONTRACT EFFECTIVENESS

The procurement contract enters into force when the contract is signed by the supplier, service provider or contractor and by the district. Where the bidding documents stipulate that the procurement contract is subject to approval by a higher authority or a financing agency, the procurement contract shall not enter into force before the approval is given and the bidding documents shall specify the estimated period of time following dispatch of the notice of acceptance of the tender that will be required to obtain the approval.

8.2. CONTRACT SUPERVISION AND ADMINISTRATION - GOODS

Contract supervision and administration for goods will be the primary responsibility of the Procurement Unit. Monitoring delivery schedules, processing of documents and the inspection of goods are essential to ensure that the correct goods are delivered on time. The inspection and receiving committee appointed by the Executive Secretary shall be responsible for the receipt and inspection of goods and shall prepare acceptance report.

8.3. CONTRACT SUPERVISION AND ADMINISTRATION -WORKS CONTRACTS

Day to day supervision of a works contract is carried out by the Technical Supervisor (usually the District Engineer) or Project Manager who acts for the district to supervise and administer the contract. For large contracts this may involve a team of engineers, inspectors, quantity surveyors etc. The technical supervisor is appointed by the Executive Secretary. If any part of work is not done to the satisfaction of the Technical Supervisor, he may instruct the contractor to rectify the shortcomings.

8.3.1. Claims for additional work and extension of time

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.

8.3.2. Payment for works

Payment for works contracts will normally be made against payment certificates approved by the technical supervisor and completion reports of the inspection and acceptance committee. For all works contracts, materials delivered to the site but not yet used will be excluded from the measurement approved and the value of payment certificates.

8.3.3. Retentions

Retentions are normally only applicable to works projects or possibly to the supply of machinery and equipment. The rates of retention to be withheld from all certificates or stage payments for works contracts are specified in the contract. Following interim takeover of the works a further payment may be made to the contractor under the terms of the contract to reduce the retention to a lower percentage of the contract price. Retention sums are only released to the supplier or contractor on satisfactory completion of the guarantee/defects liability period stated in the contract.

8.4. CONTRACT SUPERVISION AND ADMINISTRATION - SERVICES CONTRACTS

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/or 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.

8.4.1. 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:

- a) the invoice claim is justified by the evidence of timesheets, submission and acceptance of deliverables, or other criteria as specified in the contract;
- b) agreed deductions in respect of the repayment schedule for any advance payment are deducted from the value of the invoice before payment;
- c) any retention sum specified in the contract is deducted from the value of the invoice before payment.

8.4.2. Timing of payments

The district has a responsibility to make payments promptly in accordance with the contract. The periods in which payments have to be made, and the penalties for delayed payment will be those specified in the signed contract.

8.5. CONTRACT PERFORMANCE

8.5.1. 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:

- a) notify the supplier or contractor immediately in writing of any failings in performance and seek an agreed solution;
- b) In the case of a consultant this takes the form of comments on consultancy reports
- c) update the contract file regularly to reflect the monitoring of performance;
- d) ensure that the Executive Secretary is informed of any serious failings in performance.

8.5.2. Monitoring and Performing the District's Obligations

The contract may impose certain conditions on the district which, if not complied with, may affect the supplier or contractor's performance including:

- a) Payment of stage payments within the contracted time limits;
- b) Approval of drawings or reports within the set time periods;
- c) Provision of storage or working facilities and access permits;

- d) Conditions relating to the supplier's provision of staff services (e.g. letters of invitation for visas, provision of office space, etc.).

The Procurement Officer must ensure that all such obligations of the district are planned and performed without undue delay.

8.5.3.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 this is not the case, In accordance with the contract conditions, the supplier, contractor, or its subcontractor, must notify the district in writing of the conditions delaying performance, including full details of the delay, the likely duration and the cause(s). The district 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 subject to approval by the tender committee. 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:

- a) the delay is as a result of Force Majeure;
- b) there is no provision for liquidated damages in the contract;
- c) an extension of time is agreed between the two parties without the application of liquidated damages.

8.5.4.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 Executive Secretary to authorise correspondence or formal negotiations with the supplier or contractor.

8.5.5. Termination of the Contract

The parties to the contract normally have the right to terminate the contract, but to protect the district, advice of the Legal Officer and the MOILG should always be sought if the district 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.

8.6. 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/reduced requirements by the district, agreements to extend the time schedule, or from accepted increases or decreases in prices. All amendments must be approved by the Tender Committee and confirmed in a formal contract amendment or addendum.

9. PROCUREMENT REPORTING, MONITORING & EVALUATION

9.1. PROCUREMENT REPORTING

The routine reporting of procurement activity by all districts is essential for procurement planning and budgeting, and for the monitoring, tracking and evaluation of procurement. The Procurement Unit shall prepare and submit to the MOILG a quarterly report on all procurement activities undertaken. The quarterly report of procurement shall be submitted to the district council prior to submission to the MOILG.

9.2. PROCUREMENT MONITORING AND EVALUATION

Procurement monitoring and evaluation is a process that must be routinely conducted both by districts and by the MOILG to:

- a) ensure that procurements are within the annual procurement plan;
- b) identify weaknesses and delays in the procurement process;
- c) compare prices against market standards;
- d) assess performance of Procurement Units and Committees;
- e) assess performance of suppliers, contractors and consultants;
- f) assess compliance by the districts to these guidelines; and
- g) identify any necessary remedial action.

9.2.1. Other Monitoring and Evaluation Activities by the MOILG

- a) Conduct regular meetings with stakeholders (including representatives of the Private Sector) to report on procurement issues and initiatives, and to initiate investigation of complaints and proposals from stakeholders.
- b) Undertake periodic reviews of the procurement performance of districts.
- c) Review and initiate remedial action as appropriate in response to audit reports of the Auditor General, the Internal Audit Department of the district, and any specialist external procurement auditors.
- d) Review and initial remedial action as appropriate in respect of bidder and supplier complaints.
- e) Undertake a programme of routine sampling of procurement files for individual procurements and report findings and recommendations to the district.

- f) Review procurement procedures, systems, guidelines and standard documentation on a routine basis, and make or introduce recommendations for improvement.
- g) Compile all findings and action into the annual report of the MOILG.

9.2.2. Action by the District

The tender committee has the general responsibility to monitor procurement activity and remedy any defects before giving approval for procurement actions. The advice of the MOILG should always be sought if the tender committee is unsure of compliance with the guidelines. The Executive Secretary will ensure that all issues raised by the MOILG are acted on expeditiously by the district through the tender committee and Procurement Unit, and that complete records of procurement are made available for audit purposes and for inspection by the MOILG.

9.2.3. Role of user monitoring groups

User monitoring groups will be involved in monitoring and evaluation of projects implemented in their communities. This activity will include monitoring the performance of contractors/suppliers who have been awarded contracts for implementation of projects in communities. The user monitoring groups will be part of the monitoring activities undertaken by the district.

10. Annexes

10.1. Annex 1: Sample anti bribery policy/code of conduct

We,(name of contractor/service provider) places importance on competitive tendering taking place on a basis that is free, fair, competitive and not open to abuse. We are pleased to confirm that we will not offer or facilitate, directly or indirectly, any improper inducement or reward to any public officer their relations or business associates, in connection with our bid, or in the subsequent performance of the contract if we are successful.

We have an Anti-Bribery Policy/Code of Conduct and a Compliance Program which includes all reasonable steps necessary to assure that we comply with the No-bribery commitment given in this statement, as well as by all third parties working with us on the public sector projects, or contract including agents, consultants, consortium partners, sub-contractors and suppliers.

Authorised Signature: _____
Name and Title of Signatory:
Name of Contractor:
Address:
Phone:
Mobile:

10.2. Annex 2: Definitions

Service contract: an agreement between two parties where one is the customer and the other of the service provider. The agreement records a common understanding about the services, priorities, responsibilities, etc with clear definition of the level of service.

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Management Contract: an arrangement under which operational control of a public facility is vested by contract in the private sector entity.

Leasing: gives the private company the right to operate and maintain a public utility, but investment remains the responsibility of the public.

Joint venture: an entity formed jointly by two or more parties to undertake economic activity. The parties agree to create a new entity by contributing equity and share in the control of the entity as well as gains and losses.

Build Operate Transfer (BOT): a BOT contract is a type of an arrangement in which the private sector builds an infrastructure project, operates it and eventually transfers ownership of the project to the government.

Build Own Operate (BOO): public facilities funded, built and owned for a fixed number of years with the private sector company/contractor.

Design Build Finance Operate (DBFO): the responsibilities for designing, building, financing and operating are bundled together and transferred to private sector partners.

Concession: a private company enters into an agreement with the government to have the exclusive right to operate, maintain and carry out investment in public utility for a given number of years. The owner of a concession (the concessionaire) pays either a fixed sum or a percentage of revenue to the government with the ability to assign exclusive rights for a facility.