



PUNTLAND STATE OF SOMALIA

Local Government Procurement Manual: Goods and Services

DRAFT

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Table of Contents

ACRONYMS AND ABBREVIATIONS.....	7
1. INTRODUCTION.....	8
1.1. INTRODUCTION AND PURPOSE OF THE MANUAL.....	8
1.1.1. Introduction	8
1.1.2. Purpose of the manual.....	8
1.1.3. Application	8
1.2. DEPARTURES FROM THE MANUAL.....	9
1.3. REVISIONS TO THE MANUAL.....	10
1.3.1. Reasons for Revision.....	10
1.3.2. Request for Revisions by a District	10
1.4. PUBLIC PROCUREMENT PRINCIPLES.....	11
1.5. TRANSPARENCY, ACCOUNTABILITY, AND ETHICS	11
1.6. CODE OF ETHICS	11
1.6.1. Ethical principles	12
1.6.2. Conflict of interest	12
1.6.3. Confidentiality and accuracy of information	12
1.6.4. Competition	12
1.6.5. Business gifts.....	12
1.6.6. Hospitality.....	12
1.6.7. Reporting.....	13
1.6.8. Examples of Unethical Conduct	13
1.7. OBLIGATIONS OF PUBLIC OFFICIALS	13
1.7.1. Declaration of conflict of interest	14
1.7.2. Responsibilities of Officers	14
1.7.3. Responsibility of staff.....	14
1.7.4. Responsibilities of the Private Sector.....	14
1.8. SANCTIONS FOR NON-COMPLIANCE.....	15
1.9. INTERNAL AND INDEPENDENT MONITORING	16
2. PROCUREMENT RESPONSIBILITY.....	17
2.1. MINISTRY OF INTERIOR AND LOCAL GOVERNANCE (MOILG) ...	17

2.2. PUNTLAND NATIONAL TENDER BOARD (PNTB).....	17
2.3. COMPLAINTS REVIEW PANEL (CRP).....	18
2.4. EXECUTIVE SECRETARY	18
2.5. PROCUREMENT COMMITTEE	19
2.5.1. General Responsibilities of Procurement committees	19
2.5.2. Approval by the procurement committee	20
2.6. PROCUREMENT UNITS.....	20
2.7. USER/ORIGINATING DEPARTMENTS	21
2.8. BID EVALUATION COMMITTEES.....	21
2.9. INSPECTION COMMITTEES.....	22
2.10. INTERNAL AUDIT	22
3. METHODS OF PROCUREMENT.....	23
3.1. PROCUREMENT METHODS	23
3.2. OPEN COMPETITIVE BIDDING.....	23
3.3. RESTRICTED BIDDING.....	24
3.4. REQUEST FOR QUOTATIONS (RFQ)	25
3.5. SINGLE SOURCE	26
3.6. MICRO VALUE PROCUREMENT	27
3.7. PROCUREMENT OF COMMON USE ITEMS AND SERVICES	27
3.8. THE SELECTION AND EMPLOYMENT OF CONSULTANTS	28
3.8.1. Quality and Cost Based Selection (QCBS).....	29
3.8.2. Quality-Based Selection (QBS)	29
3.8.3. Selection under a Fixed Budget	30
3.8.4. Least-Cost Selection.....	30
3.8.5. Selection Based on Consultants' Qualifications.....	31
3.8.6. Single-Source Selection	31
3.9. TYPES OF CONTRACT AGREEMENT FOR THE EMPLOYMENT OF CONSULTANTS	31
3.9.1. Lump Sum (Fixed Price) Contracts	31
3.9.2. Time-Based Contract.....	32
3.9.3. Retainer and/or Contingency (Success) Fee Contract	32
3.9.4. Percentage Contract.....	32
3.9.5. Indefinite Delivery Contract (Price Agreement).....	32

3.10. USE OF INDIVIDUAL CONSULTANTS.....	33
4. PROCUREMENT PLANNING AND BUDGETING.....	34
4.1. PROCUREMENT PLANNING.....	34
4.2. THE BUDGET PREPARATION PROCESS.....	34
4.3. BUDGET APPROVING AUTHORITY	35
4.4. PROCUREMENT UNIT	35
4.5. HEADS OF DEPARTMENTS	35
4.6. PERIODIC REVIEWS AND UPDATES.....	36
5. PREPARATION AND ISSUE OF BIDDING DOCUMENTS.....	37
5.1. IDENTIFICATION OF REQUIREMENT	37
5.2. SPECIFICATION OF REQUIREMENT	37
5.3. DRAFTING OF BID DOCUMENTS	38
5.4. JOINT VENTURES/CONSORTIUMS AND SUB-CONTRACTORS ..	39
5.5. APPROVAL OF DRAFT BIDDING DOCUMENTS	40
5.6. ANNOUNCEMENT OF THE BID	40
5.7. PRE-QUALIFICATION OF BIDDERS	40
5.7.1. Pre-qualification Criteria	40
5.7.2. Advertisement for pre-qualification.....	41
5.7.3. Pre-qualification evaluation	41
5.8. ISSUE OF BIDDING DOCUMENTS	42
5.9. INVITATIONS FOR RESTRICTED BIDDING AND SHOPPING.....	42
5.10. BID CLARIFICATIONS	42
5.11. EXTENSION OF BID CLOSING DATE.....	43
5.12. CANCELLATION OF BIDDING PROCESS.....	43
6. RECEIPT OF BIDS AND BID OPENING	44
6.1. RECEIPT OF BIDS.....	44
6.2. OPENING OF BIDS.....	44
6.2.1. Overview	44
6.2.2. Public tender opening procedure	44
6.2.3. Information to be read out	46
6.3. CANCELLATION OF BIDS AND RFQS AFTER THE BID OPENING	47
6.4. EXTENSION OF BID VALIDITY.....	47
6.5. BID SECURITY.....	48

7. EVALUATION AND CONTRACT AWARD.....	49
7.1. APPOINTMENT OF EVALUATION COMMITTEE.....	49
7.2. EVALUATION OF BIDS.....	49
7.2.1. Overview	49
7.2.2. Evaluation process	49
7.2.3. Preliminary examination of bids	51
7.2.4. Technical evaluation of bids	52
7.2.5. Financial evaluation	53
7.2.6. Correction of errors.....	53
7.3. POST-QUALIFICATION OF BIDS	54
7.4. EVALUATION REPORT AND RECOMMENDATION	54
7.5. APPROVAL OF RECOMMENDATION FOR CONTRACT AWARD ..	55
7.6. NOTICE OF INTENTION TO AWARD.....	55
7.7. REJECTION OF ALL BIDS	56
7.8. NEGOTIATIONS.....	56
7.9. APPROVAL OF CONTRACT DOCUMENT	58
7.10. COMPLAINTS BY BIDDERS	59
7.11. CONTRACT AWARD AND CONTRACT SIGNATURE.....	60
8. CONTRACT MANAGEMENT, DELIVERY AND PAYMENT	61
8.1. CONTRACT EFFECTIVENESS.....	61
8.2. CONTRACT SUPERVISION AND ADMINISTRATION - GOODS	61
8.2.1. Inspection of goods.....	61
8.2.2. Delays in delivery	62
8.2.3. Payments	62
8.3. CONTRACT SUPERVISION AND ADMINISTRATION - SERVICES	62
8.3.1. Non consultancy services	62
8.3.2. Consultancy Services	62
8.3.3. Delays in contract completion and Time extension of contract .	63
8.3.4. Payment for services	63
8.3.5. Timing of payments	63
8.4. CONTRACT PERFORMANCE.....	63
8.4.1. Monitoring Consultant, Supplier or Contractor’s Obligations	63
8.4.2. Monitoring and Performing the District’s Obligations	64

Local Government Procurement Manual: Goods and Services

8.4.3. Delays in Performance 64

8.4.4. Resolution of Disputes..... 65

8.4.5. Termination of the Contract 65

8.5. CONTRACT AMENDMENTS 65

9. PROCUREMENT REPORTING, MONITORING & EVALUATION..... 65

9.1. PROCUREMENT REPORTING..... 65

9.2. PROCUREMENT MONITORING AND EVALUATION..... 65

9.3. RECORD KEEPING 67

10. ANNEXES..... 68

10.1. Personal Covenant Form (Declaration of conflict of interest) 68

10.2. Procurement Filing Checklist..... 68

ACRONYMS AND ABBREVIATIONS

BDS	Bid Data Sheet
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 Governance
NCB	National Competitive Bidding
PPA	Public Procurement Authority
CRP	Complaints Review Panel
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 MANUAL

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 Puntland is expected to contribute to improved governance and service delivery.

The procurement manual for goods and services to a large extent draws from the procurement guidelines that were prepared in 2009 and implemented by districts. The main focus of this manual is on the procedures to be followed by the districts when procuring goods and services. The manual is based on best practices in public procurement and provides standard bidding documents to be used by districts to ensure consistency in approach and easy of implementation.

1.1.2. Purpose of the manual

This manual provides the standards, policies and procedures to be followed in the procurement of goods and services within the local government in Puntland. These standards, policies and procedures are designed to:

- a) guide the procurement processes;
- b) provide uniform procedures for the procurement of goods 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 manual apply to the procurement of goods and services for all the districts in Puntland. Where procurement is financed by a donor the provisions of this manual 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 manual 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 this manual is essential to achieve improved efficiency, transparency, uniformity of documents and decisions, and reduced costs of procurement for the districts.

It is intended that the manual 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 procurement legislation and revised institutional framework for procurement in accordance with the procurement law.

1.2. DEPARTURES FROM THE MANUAL

Departures from the provisions of this manual may arise for the following reasons:

- a) a special situation, such as an extreme emergency;
- b) one-off requirements introduced as special provisions in a loan or credit facility which are not otherwise covered in the manual and do not constitute a revision to the manual,
- c) the necessary use of non-standard bidding documents for specialist procurements;
- d) new legislation or government policy change which causes any part of the manual 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 the manual, 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 Puntland, 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 Governance (MOILG) shall decide whether there is a need to introduce revisions in the manual to reflect the necessary change.

Where a deviation is considered essential, the Chairman of a Procurement 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 manual need to be amended.

1.3. REVISIONS TO THE MANUAL

1.3.1. Reasons for Revision

The following factors may necessitate a need for revision of the manual:

- 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 Procurement 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 manual.
- c) The MOILG will formally consider each request, seek legal and procurement practice advice and may agree to a general modification of the manual, 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. This manual incorporate policy provisions and procedures to promote: competition, fairness/equity, transparency, accountability and ethics, and value for money. Further, the manual 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 and services 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 manual require that:

- a) all public officials and practitioners of procurement shall be held accountable and responsible for their actions;
- b) all suppliers, service providers 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 Puntland 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 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 Procurement 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/service provider or potential supplier/service provider;*
- *I will ensure that all information pertaining to this procurement process is kept confidential; and*
- *Personal reasons will not affect the selection of suppliers/service providers.”*

1.7.2. Responsibilities of Officers

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.

1.7.3. Responsibility of staff

Staffs 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.

1.7.4. 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

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 sanctions.

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 manual, to ensure the overall effectiveness of procurement. Regular monitoring of procurement in a district will continue to be undertaken by Auditor General. In addition the manual puts in place a formal system of routine reporting on procurement to the MOILG and Public Procurement Authority. The PPA 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 GOVERNANCE (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 this manual. In undertaking this responsibility the MOILG shall work closely with the PNTB.

2.2. PUNTLAND NATIONAL TENDER BOARD (PNTB)

The Puntland National Tender Board shall have oversight role and shall be responsible for:

- a) Disseminate information related to the Public Procurement Act;
- b) Monitor and enforce compliance with the Public Procurement Act;
- c) Formulate, promote, support, and implement capacity-building programs;
- d) Formulate policy and standards for procurement, disposal, and concession;
- e) Develop and issue procurement, disposal, and concession standard documents;
- f) Review and assess the operations of public procurement, disposal, and concession and make improvements as and when necessary;
- g) Prepare an annual report on the overall functioning of the public procurement, disposal, and concession system, including a profile of procurement activities, to be presented to the Minister of Finance to be tabled before Parliament;
- h) Conduct, at least annually, a public procurement forum bringing together public sector, private sector, members of public, and development partners to address issues related to public procurement;
- i) Publish a quarterly bulletin on public procurement, disposal, and concession, which shall include as applicable, procurement notices, notices on concessions, list of debarred firms, notices of invitation to bid, and information on contract awards; and a list of complaints and appeals received and their outcomes;
- j) Advise Government on issues related to public procurement, disposal and concessions;
- k) Investigate and debar from participating in public procurement, disposal, and concession any bidders who have committed fraud and corruption or who have seriously neglected their obligations under a public procurement disposal and concession contract or done anything in contravention of the procurement legislation;

- l) Maintain a list of suppliers, contractors, consultants, and prospective bidders who have been debarred from public procurement disposal and concession and communicate the list to procurement entities on a regular basis;
- m) Provide interpretations of the public procurement legislation and other instruments governing the procurement processes under the Public Procurement Act;
- n) Provide administrative and secretarial services to the Independent COMPLAINTS REVIEW PANEL; and
- o) Perform such other functions as are incidental to the attainment of the objectives of the Public Procurement Act.

2.3. COMPLAINTS REVIEW PANEL (CRP)

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

2.4. EXECUTIVE SECRETARY

The District Executive Secretary is the Chief Executive Officer (Accountable 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 the provisions of this manual are complied with. The Executive Secretary's responsibility in relation to procurement include to:

- a) Establish procurement committee;
- b) Establish Procurement Unit staffed to an appropriate level;
- c) Advertising tender opportunities;
- d) Appointing evaluation committees;
- e) Communicating tender award decisions;
- f) Signing contracts for procurement activities on behalf of the district;
- g) Investigating complaints by suppliers, service providers and consultants;
- h) Ensure implementation of awarded contracts is in line with the terms and conditions of the award.
- i) Confirming availability of funds for each procurement activity undertaken by a district
- j) Ensure that the procurement staffs comply with the requirements of the procurement manual issued by the MOILG.

2.5. PROCUREMENT COMMITTEE

There shall be in each district a procurement committee for procurement of goods and services.

The district procurement 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 Procurement Committee should not include politicians (councilors). A quorum of procurement committee's meetings shall be the chairperson and two other members.

2.5.1. General Responsibilities of Procurement committees

All Procurement Committees have responsibility to:

- a) Review procurement plans in order to ensure that they support the objectives and operations of the Procuring Entity and comply with the national budget process;
- b) Monitor on a quarterly basis the implementation of the procurement plan and take appropriate action in cases of poor or inadequate performance;
- c) Approve entries and removals from the Register of Suppliers/service providers and Consultants;
- b) Review and approve prior to any announcement of a procurement process:
 - ✓ the method of procurement;
 - ✓ the bidding documents;
 - ✓ the specifications, statement of requirements 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) Approval of negotiation plan and results of negotiations;
- g) Maintain detailed minutes of meetings and records of all decisions and recommendations.
Minutes shall be recorded by the Secretary of the Procurement committee and shall be

confirmed by the committee in its following meeting and signed by the Chairperson and Secretary

- h) Report quarterly to the MOILG and PNTB on all procurement activities undertaken by the district.

2.5.2. Approval by the procurement committee

A district shall not advertise, invite, solicit, or call for tenders or proposals in respect of a contract unless authorized by the procurement committee. Likewise, a district shall not award any contract unless the Procurement Committee has approved the award.

2.6. PROCUREMENT UNITS

Each Procurement Committee is supported by a procurement unit of qualified procurement staff to co-ordinate the professional aspects of procurement within the district. The Procurement Unit is headed by a Procurement Officer and is responsible for:

- a) Requesting detailed information from Heads of user departments for development of the Annual Procurement Plan (APP);
- b) Receiving and analysing information for the development of annual procurement plans from all user departments;
- c) Developing and costing detailed annual procurement plans for approval of the Procurement Committee;
- d) Notifying Heads of user departments of their approved annual procurement plans;
- e) Undertaking all procurement activities within the district;
- f) Responding to requests for clarifications from bidders;
- g) Notifying bidders of any approved revisions to closing dates for the submission of bids;
- h) Requesting extensions of bid validity from bidders if necessary;
- i) Registering and maintaining any samples submitted by bidders;
- j) Conducting bid opening;
- k) Ensuring that all contractual obligations of the District are performed promptly and efficiently;
- l) Registering and maintaining warranties and retentions;
- m) Notifying the supplier immediately of any failings in performance of his obligations;
- n) Processing claims against retentions;
- o) Monitoring delivery schedules and the inspection and certification of delivery or performance;
- p) Coordinating the process for payment to suppliers;

- q) Reporting to the Procurement Committee on all procurements processed by the Procurement Unit under the delegated authority, for retrospective approval;
- r) Providing general secretariat support and advice to the Procurement Committee;
- s) Maintaining the Contracts Registers;
- t) Liaising with and keeping informed Originating Officers/user departments, technical staff, Bid Opening Committees, Bid Evaluation Committees as necessary for efficiency and transparency during the procurement process;
- u) Maintaining a Register of pre-qualified suppliers and consultants;
- v) Keeping procurement records;
- w) Carrying out any other associated procurement tasks as assigned by the Procurement Committee.

2.7. USER/ORIGINATING DEPARTMENTS

The User/Originating Department is the initiator of requests for procurement action and has responsibility to:

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

2.8. BID EVALUATION COMMITTEES

Evaluation of tenders received by the district will be carried out by an Evaluation Committee appointed by the Executive Secretary upon recommendation made by the Procurement Officer.

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 Procurement 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. The Executive Secretary should make sure that Procurement Committee members are not included as members of bid evaluation committees.

2.9. INSPECTION COMMITTEES

The receipt of all goods is subject to inspection and verification by a formal committee. Members of these committees should not also be Members of the Procurement Committee that approved or supervised the procurement process. When appointing members of Inspection Committee the Executive Secretary should ensure the inclusion of officers possessing specialist knowledge relevant to the procurement activity.

2.10. INTERNAL AUDIT

The Internal Audit Unit of the district shall be responsible for periodic reviews (quarterly) of the procurement processes and prepare a report with recommendations to management on improving the procurement systems, including compliance with the manual and the Procurement Act, regulations, guidelines, standard bidding documents and circulars issued by the PNTB. The Internal Auditor shall provide a copy of the report to PNTB, Auditor General and to the MOILG.

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
- e) Micro procurement

Procurement of goods and services through international and national competitive bidding shall be considered first prior to the use of other methods of tendering. 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 Procurement 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 (open tendering methods).

3.2. OPEN COMPETITIVE BIDDING

Open competitive bidding by public advertisement is the preferred method of public 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 Puntland, to submit priced bids for goods and services.

A district shall employ national competitive bidding procedures when the estimated contract amount is within the value threshold specified, namely:

- Goods: values above US \$ 40,000 but below US \$ 100,000
- Services: values below US \$ 40,000

The thresholds for ICB are as follows:

- Goods: values above US \$ 100,000
- Services: values above US \$ 40,000

Generally, NCB may be used in cases where:

- a) Payment may be made wholly in Puntland Shillings;
- b) The goods and services 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) 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 in the international media and to allow a longer time before bid closing to reflect the slower communications involved in ICB. Under NCB bidders are allowed a minimum period of 10 working days to prepare and submit bids, whereas under ICB bidders are allowed a minimum of 30 working days. ICB is appropriate for high value or complex procurements and where the goods 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 or service providers. This may directly follow a formal pre-qualification of suppliers/service providers 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);
- 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.

The minimum bidding period for restricted tendering shall be ten (10) working days where shortlisted bidders are nationals only and twenty (20) working days where shortlisted bidders include foreign bidders (International restricted bidding)

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 Procurement 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. The thresholds for RFQ are as follows:

- Goods: values below US \$ 40,000
- Services: values below US \$ 40,000

Quotations shall be obtained from at least three suppliers. The list of suppliers to be contacted shall be submitted to the Procurement 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 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;
- e) whether any alternatives to the required specifications or characteristics of the goods or services or to other contractual conditions, are to be permitted;
- f) 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;
- g) the criteria for evaluation of quotations including any weighting factors that may be applied to technical, price or other factors;
- h) the period during which the quotations are to remain valid (bid validity period);
- i) the form of contract or Local Purchase Order, to include all conditions and terms of payment;
- j) a statement of the currency in which the successful supplier or service provider will be paid, if different from the quoted price;
- k) a statement that the procuring entity does not bind itself to accept any quotation and may reject all quotations;
- l) the manner in which the quotations shall be submitted; and
- m) 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 contracting) may be appropriate upon securing a specific waiver by the PNTB usually when:

- a) only one supplier has the exclusive right to the manufacture of the goods 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) 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;

- d) 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.

A notice of holding a single source (direct contracting) proceedings shall be published in dedicated mandatory procurement bulletin of wide circulation, in the National Gazette or procurement electronic website.

3.6. MICRO VALUE PROCUREMENT

A micro procurement may be conducted when a district purchases directly from established supermarkets, shops or drug stores, or similar establishments if the value of such procurement does not exceed the threshold set for micro procurements. A micro value procurement process does not require a:

- a) Written solicitation document;
- b) Written bid;
- c) Public bid opening;
- d) Notice of best evaluated bidder;
- e) Signed contract document.

A under micro procurements original invoice or receipt for the procurement of goods or services and the price paid shall be obtained and annotated with the name of the officer who undertakes the procurement. The district may use petty cash or imprest to effect payments under micro procurement. The district shall be responsible for ensuring that value for money is obtained to the extent practicable.

All micro procurements shall be reported to the Procurement Committee on a monthly basis and to the PNTB on quarterly basis. Where appropriate, a district shall use framework contracts for procurement of regularly required items.

3.7. PROCUREMENT OF COMMON USE ITEMS AND SERVICES

A district shall procure common use items and services through framework agreements. A framework agreement shall not be less than one year and not more than two years. The following procedure shall be followed when procuring common use items through framework agreements:

- a) a district shall prepare the annual estimates of required common use items and services which shall include descriptions, specifications, statement of requirements and quantities. The estimates shall be prepared and approved as part of the annual procurement plan prior to commencement of a financial year;

- b) on the basis of the annual estimates, a district shall advertise tenders for the supply of these items and services. The procedure for advertisement, receipt of bids, evaluation and approval are similar to procedures under open competitive tendering except that a few successful tenderers are approved and offered framework agreements for a specific period of time at approved prices;
- c) during the financial year, when the items are required a district places a “call off order” for specific quantities of the items at contracted prices (reflected in the framework agreement);
- d) a district may conduct a mini competition amongst suppliers or service providers awarded framework agreements. The Procurement Committee shall in this case approve a shortlist of suppliers/service providers for mini competition as well as decision on the lowest evaluated bidder;
- e) a district may on annual basis provide an opportunity to new tenderers to participate in tendering process for common use items and services and the names of successful tenderers shall be included in the current list of suppliers and service providers.

A tenderer who has entered into a framework agreement shall comply with terms and conditions of the agreement and shall:

- a) honor call off orders prepared and submitted by the district in respect of the agreement signed;
- b) supply and deliver all goods and services to the district at the rates, prices and at places stated in the framework agreement and call off order;
- c) indemnify the procuring entity in case of damage or loss of benefit caused by delay in delivery.

3.8. 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 from those for standard goods and services. 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 Procurement 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.

3.8.1. 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.

3.8.2. 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 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.

3.8.3. 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.

3.8.4. Least-Cost Selection

This method is more appropriate to selection of consultants for assignments of a standard or routine nature (e.g. audits etc) 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.

3.8.5. 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.

3.8.6. 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.

3.9. 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.

3.9.1. 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, preparation of data processing systems, etc.

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

3.9.2. Time-Based Contract

This type of contract is widely used for complex studies, 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.

3.9.3. 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.

3.9.4. 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.

3.9.5. 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.

3.10. 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 emergency procurements and splitting of procurements to defeat the use of appropriate procurement methods
- c) 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.
- d) Procurement of common user items may also be aggregated into Framework (Call-off) Contracts for a year or two, to permit further economies of bulk purchasing, saving of time wasted by separate procurements, and a reduction of the procurement costs.
- e) 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 Procurement Committees and monitoring of procurement activity by both the MOILG and PNTB.

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 shall commence 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. BUDGET APPROVING AUTHORITY

The Budget Approving Authority has overall responsibility for control of the preparation and the approval of the detailed budget 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 role of the Procurement Committee 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 and PNTB.

4.4. PROCUREMENT UNIT

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 Procurement Committee for review and approval.
- c) Make adjustments to the plan according to service priorities as recommended by the Procurement Committee in its review of the plan;
- d) Compile the final annual procurement plan and submit to the Procurement 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 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.

4.6. PERIODIC REVIEWS AND UPDATES

The Procurement Unit shall review and update the APP on quarterly basis and accordingly notify the:

- Procurement Committee for review and approval;
- Accounting Officer; and
- Ministry of Finance.

The approved revised APP shall be submitted to the PNTB and the MOILG.

5. PREPARATION AND ISSUE 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 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 shall be based on relevant characteristics and/or performance requirements. 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 it is necessary to quote a brand name or catalogue number of a particular manufacturer to clarify an otherwise incomplete specification, the words “or equivalent” shall be added after such reference. The specification shall permit the acceptance of offers for goods which have similar characteristics and which provide performance at least substantially equivalent to those specified.

As far as possible the specified standards shall be internationally accepted such as those issued by the International Standards Organisation with which the goods shall comply. Where such international standards are not available or are inappropriate, national standards may be specified.

If the user department cannot prepare detailed specifications, the advice of the procurement unit may be sought for assistance or the appointment of a specialist technical advisor.

The specification shall contain a complete, precise and unambiguous description of the goods required (statement of requirements for goods) and shall include where appropriate:

- a) A clear scope definition;
- b) The purpose and objectives of the proposed procurement;

- c) A full description of the requirement;
- d) A generic specification to an appropriate level of detail;
- e) A functional description of the qualities required (including any environmental or safety features);
- f) Performance parameters including outputs, timescales, and any indicators or criteria by which the satisfactory performance of the specification can be judged;
- g) Dimensions, symbols, terminology, language, packaging, marking and labeling; and
- h) Any relevant national or international standards.

5.3. DRAFTING OF BID DOCUMENTS

The Procurement Officer is responsible for preparation of bid documents. He does this with inputs from other departments such as technical inputs on specifications for goods from the user departments. The Procurement Officer shall ensure that appropriate standard bidding documents are used when drafting the bid documents for specific procurement activities.

Bidding documents shall be so worded as to permit and encourage competition and shall set forth clearly and precisely the services to be provided, the location of services, goods to be supplied, the place of delivery or installation, schedule of delivery or completion, minimum performance requirements, warranty requirements and any other terms and conditions.

The documents shall specify any factors, in addition to price, which will be taken into account in evaluating bids, and how such factors will be quantified or otherwise evaluated.

Generally, standard bidding documents include:

- a) Invitations for Bids;
- b) Instructions to bidders;
- c) Bid data sheet;
- d) Forms of Tender;
- e) General Conditions of Contract;
- f) Special Conditions of Contract;
- g) Specifications;
- h) Forms of Security; and
- i) Integrity Form

In drafting the bidding documents the procurement officer shall modify the standard bidding documents in accordance with the following rules:

- a) no textual or other changes are permitted to the instructions to bidders;
- b) no textual or other changes are permitted to the General Conditions of Contract (GCC);
- c) No textual or other changes are permitted to the Forms of Tender (Bid Forms);
- d) Changes to the terms or conditions described in the Instructions to Bidders are effected by entries in the Bid Data Sheet (BDS);
- e) Changes to the terms and conditions in the GCC are effected by entries in Special Conditions of Contract (SCC);
- f) The statement of requirements may be modified as required.

5.4. JOINT VENTURES/CONSORTIUMS AND SUB-CONTRACTORS

Bidders may form a consortium/joint venture or an association to increase their capacity and competitiveness for tendering purposes. Where bidders form a consortium for purposes of bidding, one of the bidders shall be considered as the lead bidder and serve as their representative in all activities related to the bid.

A bid submitted by a consortium shall be a single document and bear the name of the consortium or the lead bidder. A bidder shall not participate in two different consortiums in the same tender and a person shall not submit a bid in that person's own name and as part of a consortium for the same tender. Persons participating in a consortium shall be individually and collectively liable towards the procuring entity.

The bidding documents shall clearly state whether:

- a) Qualification criteria apply to lead suppliers, subcontractors or partners in a joint venture, consortium or association;
- b) Criteria will be applied individually or collectively to each supplier, subcontractor or partner; and
- c) Any alternative criteria which apply to subcontractors or partners in a joint venture, consortium or association.

5.5. APPROVAL OF DRAFT BIDDING DOCUMENTS

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

5.6. ANNOUNCEMENT OF THE BID

Following approval of the procurement method, the draft bidding documents and the draft advertisement by the Procurement 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.

5.7. PRE-QUALIFICATION OF BIDDERS

Pre-qualification of bidders:

- a) is appropriate for large or complex works in which the costs of preparing bids is high;
- 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.

5.7.1. 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 or in the country, region or internationally;
- b) capabilities with respect to personnel, equipment, and construction or manufacturing facilities;
- c) required licensing and professional registrations – this shall include the requirement for suppliers and service providers to be registered in the district which is advertising the bid;
- d) commercial and financial resources;
- e) litigation record; and
- f) any other relevant criteria..

5.7.2. 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 or pre-qualification documents.

Pre-qualification shall be open to all potential bidders following public advertisement of a pre-qualification notice inviting applicants to obtain pre-qualification documents from the district in case of goods and services or a notice requesting applicants to submit Expression of Interest directly to the district in case of consultancy services.

Where a district issues a pre-qualification document, it shall use the appropriate standard document. Pre-qualification notices or documents shall contain:

- a) Details of the scope of the procurement;
- b) A statement of the requirements and criteria for pre-qualification;
- c) A statement of the information required from applicants;
- d) Instructions on the location, date and time for submission; and
- e) Instructions on sealing and labeling of pre-qualification submissions or expressions of interest.

The information required from applicants shall be the minimum required to make judgement on the firm's suitability and not be so complex as to discourage potential bidders.

5.7.3. 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 Procurement 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.

5.8. 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. Where bidders were pre-qualified for the bid, the documents shall only be issued to an approved shortlist of bidders.

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 Procurement Committee shall approve the price of the bidding documents prior to announcement of the bid.

5.9. 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.

5.10. 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 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.

5.11. EXTENSION OF BID CLOSING DATE

The closing date for submission of bids may be extended at the discretion of the Procurement 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 Procurement Committee of an extension of time, the Procurement Officer shall notify all bidders in writing of the revised date for submission of bids and place copies of all correspondence in the relevant procurement file.

5.12. CANCELLATION OF BIDDING PROCESS

A bidding process may be cancelled at any time before the deadline for receipt of bids with the approval of the Procurement 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;
- 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 shall notify all bidders who have purchased or received the bidding documents, of the cancellation. If a bidder has already submitted his bid, this must be returned unopened.

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 date and time. The closing time for submission of bids on the date set shall be determined in advance by the Procurement Committee and communicated to bidders in the bid documents. Bids received after the deadline for submission stated in the bidding document shall not be opened and shall not be considered and shall be returned to the bidder who submitted it.

6.2. OPENING OF BIDS

6.2.1. Overview

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. The Secretary of the Bid Opening Committee shall record the names of all those present at the bid opening and the organizations they represent.

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 Procurement 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 bid opening 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.]

6.2.2. Public tender opening procedure

Prior to the bid opening session the chairman of the tender opening committee shall ensure that:

Local Government Procurement Manual: Goods and Services

- a) the venue (room) for tender opening session is available and suitably equipped for the opening;
- b) sufficient staff are available to assist at the opening session;
- c) staff involved in the opening understand the tender opening procedure and are aware of their respective duties;
- d) the procedure for opening and the information to be read out has been agreed in accordance with the tender document; and
- e) the required resources are available and ready, including any forms or checklists required.

The tender opening committee shall follow the following procedure for opening bids received:

- a) at the deadline for submission of bids, close the receipt of bids and take the tender box to the venue for bid opening;
- b) all attendees at the bid opening session shall be required to sign an attendance sheet to indicate their attendance;
- c) display the tender box to attendees to confirm that it is still locked. Then open the tender box;
- d) bidders shall be required to nominate a representative to verify read out details;
- e) envelopes marked "WITHDRAWAL" shall be opened first and read out. The envelope containing the corresponding bid shall be located and returned to the bidder(s) unopened. Tender withdrawal shall only be accepted if the tender withdrawal notice is authorized in accordance with the tender document and read out at the tender opening;
- f) envelopes marked "SUBSTITUTION" shall be opened and read out. The envelope containing the corresponding tender shall be located and returned to the bidder(s) unopened. Tender substitution shall only be accepted if the tender substitution notice is authorized in accordance with the tender document and read out at the tender opening;
- g) envelopes marked "MODIFICATION" shall be opened and read out with the corresponding tender. Tender modification shall only be accepted if the modification notice is authorized in accordance with the tender document and read out at the tender opening session. Modification tenders shall be recorded as such on the record of tender opening;

- h) all other envelopes shall be opened one at a time and the relevant details read out. When opening the bids, each envelope shall be displayed to attendees to confirm that it is sealed as required and that the envelope has not been tampered with;
- i) tenders shall be serially numbered as they are opened and the serial number shall be written on the original and copies of the bid. The serial number shall be used throughout the process of tender evaluation to award stage to identify the bidder;
- j) the Chairperson of the bid opening committee shall read out the details of the bid and pass the bid to representative of the bidders for verification. The representative of the bidders shall also read out the same details;
- k) all tenders opened shall be stamped (or embossed) on key pages and signed or initialed by the Chairperson and Secretary of the bid opening committee, and the representative of the bidders who verified the read out details of the bid;
- l) read out details shall be recorded on a record for bid opening and the Chairperson and Secretary of the bid opening committee together with the representative of the bidders shall be required to sign on this record;
- m) the attendees at bid opening session shall be permitted to ask questions after all tenders have been opened. No discussions shall be entered into on specific details of any of the tenders opened;
- n) the chairperson of the bid opening committee shall be responsible for issuing a tender opening report, which shall record all the read out details and shall be signed by the Chairperson and countersigned by the Secretary of the committee;
- o) opened tenders shall be taken immediately to a secure location until the commencement of the evaluation process. Opened tenders together with the tender opening report shall be forwarded to the evaluation team for the tender

Note that with the exception of late tenders, no tender shall be rejected or evaluated in any way at the public tender opening. Any discrepancies or missing documents shall be noted in the record of tender opening, but the chairperson shall not otherwise comment on such discrepancies or missing documents.

6.2.3. Information to be read out

The details to be read out at bid opening session shall be in accordance with the tender document. In addition to the general information that the Chairperson shall announce at the opening of the

bid opening session such as tender reference number, description of the tender (title) and a description of the lots comprising the tender; the following details shall be read out:

- a) name and address of the bidder and whether the bidder is bidding alone or in association with other firms;
- b) presence or absence of tender security and the form and amount of any tender security;
- c) total price of the bid, including the currency (for consultancy services this information is read out at opening of financial bid);
- d) technical score obtained by the bidder for consulting services, at the opening of financial bid
- e) delivery period offered; and
- f) any other details as specified in the bidding document.

6.3. CANCELLATION OF BIDS AND RFQS AFTER THE BID OPENING

Bids and RFQs may be cancelled following approval of the Procurement Committee, if:

- a) less than three bids were presented or after rejection of all other bids only one bid remains for consideration. The minimum number of bids (three) is set to ensure sufficient level of competition in the bidding process;
- b) most of the bids were presented with unacceptable reservations and conditions; or
- c) the Procurement 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 Procurement 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.

6.5. BID SECURITY

There is an option of requiring bidders to secure their bids (provide a bid security). When used, the bid security shall be in the amount and form specified in the bidding documents and shall remain valid for a period of thirty days beyond the bid validity period, in order to provide reasonable time for the district to act if the security is to be called. Bid security shall be released to unsuccessful bidders once the contract has been signed with the successful bidder.

In place of a bid security, the district may require bidders to sign a bid securing declaration, accepting that if they withdraw or modify their bids during the period of validity or they are awarded the contract and they fail to sign the contract or to submit a performance security before the deadline defined in the bidding documents, the bidder will be suspended for a period of time from being eligible for bidding in any contract with the district.

7. EVALUATION AND CONTRACT AWARD

7.1. APPOINTMENT OF EVALUATION COMMITTEE

The procurement officer 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

7.2.1. Overview

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 Procurement 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.

7.2.2. Evaluation process

The Executive Secretary shall appoint members of evaluation team based on recommendation made by the Procurement Officer. In recommending members of evaluation team the Procurement Officer shall take into consideration the appropriate level of seniority, experience and expertise of members in relation to the nature of the procurement. Where internal capacity is limited, evaluation committee members may be appointed from outside the district. The skills required shall be determined by the nature of the procurement requirement, but may include:

- a) end-user representatives;
- b) procurement and contracting skills;
- c) technical skills relevant to the Tender; and/or
- d) financial management skills or legal expertise.

The number of members of evaluation committee shall depend on the value and complexity of the procurement however, for goods and non procurement services evaluation committees shall be composed of at least three members while for consultancy services at least five members. A Chairperson shall be nominated from among the appointed members of evaluation committee. The Chairperson of the evaluation team shall be responsible for:

- a) ensuring all members have a common understanding of the evaluation methodology and criteria to be used;
- b) ensuring the evaluation is conducted in accordance with all legal requirements and the provisions of the tender document;
- c) chairing all meetings of the evaluation team and ensuring that discussions are productive, open and participatory;
- d) ensuring all members are aware of their responsibilities, including the need for confidentiality;
- e) ensuring the security of tender documentation during evaluation;
- f) ensuring that decisions are made in a timely manner;
- g) managing communications between the evaluation team and bidders or any other bodies;
- h) ensuring that the evaluation team has access to adequate resources; and
- i) ensuring the final evaluation report is prepared accurately and on time.

Prior to commencement of evaluation, members of evaluation committee shall be required to sign personal covenant forms (declaration of conflict of interest) – refer to Annex for standard form. Meetings of evaluation shall not be held unless there is a quorum of members (not less than 50%) of evaluation team. Decisions of the evaluation team shall be in accordance the technical evaluation methodologies.

Evaluation of bids shall be conducted in the following stages:

- a) preliminary examination to determine the eligibility of bidders and the responsiveness of tenders received in accordance with provisions of the tender document;
- b) technical evaluation to determine the technical compliance of the eligible and responsive tenders and to award scores where required by the evaluation methodology; and
- c) financial evaluation - to compare costs of the eligible, responsive and technically compliant tenders received and determine the best evaluated tender.

7.2.3. Preliminary examination of bids

Preliminary examination shall be conducted to determine eligibility of bidders and responsiveness of bids to the terms contained in the bid document. Eligibility and responsiveness shall be determined on a pass or fail basis. Only bids that pass the preliminary examination stage shall be considered further. The minimum eligibility requirements shall be:

- a) the bidder has the legal capacity to enter into a contract;
- b) the bidder is not insolvent, in receivership, bankrupt or being wound up;
- c) the bidder's business activities have not been suspended;
- d) the bidder is not the subject of legal proceedings.

The eligibility requirements shall be included in the bidding document and bidders shall be required to provide documentary evidence to substantiate their eligibility. Such documentary evidences shall include:

- a) a copy of the business/trading licence;
- b) a copy of the certificate of registration of a business (including evidence of registration of the bidder to operate in the district)
- c) any other documents or statements which shall be stated in the bidding documents.

The evaluation team shall verify the accuracy, validity and authenticity of the documents submitted by bidders as part of preliminary examination.

Responsiveness is determined by assessing whether a bidder has responded satisfactorily to the instructions and commercial requirements detailed in the bid document, which may include but not limited to the following:

- a) submission of bid security (or bid securing declaration) in the correct form and amount;
- b) submission of correct number of copies of the bid/proposal;
- c) submission of bid in the required format;
- d) signature and authorization of bids in accordance with the instructions in the bid document;
- e) signature of curriculum vitae (if required);
- f) correct bid validity period;
- g) submission of additional documentation or samples required;
- h) conformance with the terms and conditions of the bid documents without material deviations or reservations; and

- i) conformance with any other commercial requirements such as correct delivery, completion or warranty period.

Any bid that is not substantially responsive shall be rejected and not evaluated further. A substantially responsive and compliant bid shall be one that conforms to all the terms, conditions and requirements of the bidding documents without material deviation, reservation or omission. A material deviation, reservation or omission is one that:

- a) affects in any substantial way the scope, quality, or performance of the goods and services specified in the statement of requirements; or
- b) limits in any substantial way, inconsistent with the bidding document, the rights or the bidder's obligations under the contract; or
- c) if rectified would unfairly affect the competitive position of other bidders presenting substantially responsive and compliant bids.

7.2.4. Technical evaluation of bids

The technical evaluation of bids shall only be conducted on bids that are determined to be eligible and substantially responsive in the preliminary evaluation stage. Technical evaluation is conducted to assess technical compliance of bids to the statement of requirements/Terms of Reference (for consultancy services) and/or quality of the bids/technical proposals. The technical evaluation shall compare the details of bids received with the technical requirements and criteria specified in the bidding document. To ensure integrity of the evaluation process, transparency and fairness no any other criteria shall be allowed other than those in the bidding document. The methodology of technical evaluation shall also be in accordance with the bidding documents and may take the following forms:

- a) a pass or fail system against minimum technical standards detailed in the statement of requirements to determine whether bids reach the minimum standard required;
- b) an assessment of whether the bid conforms to all requirements of the statement of requirements, including specifications, drawings or terms of reference, without material deviation or reservation;
- c) a merit point system, with a variable number of points awarded to each bid for set criteria out of a maximum number of points stated in the statement of requirements to obtain a total score indicating the relative quality of each bid. Any bid which fail to meet the minimum score shall be rejected and not considered further.

7.2.5. Financial evaluation

The financial evaluation shall be conducted to examine the costs of the bids that have been determined to be eligible, responsive and technically compliant or meets the minimum technical standards or score. The evaluation shall be conducted to:

- a) determine bid prices;
- b) correct any arithmetic errors in the bids;
- c) determine whether the financial bids are complete, costing any missing items and adding them to the original bid price and make adjustments for any non-material non conformities or omissions;
- d) covert all bids to a single evaluation currency for purposes of comparison if required;
- e) determine the total evaluated price of each bid;
- f) apply any margin of preference in accordance with the procedure specified in the bidding document;
- g) award a financial score or rank bids in accordance with the methodology selected; determine which is the best evaluated bid in accordance with the methodology selected.

The bid document shall state which costs shall be taken into account in the financial evaluation and which costs shall be excluded. Costs may include, but not limited to:

- a) fee rates or unit prices based on either fixed or estimated total quantity;
- b) reimbursable costs such as travel, report production, communication, etc;
- c) packing, freight and inland delivery;
- d) installation and commissioning;
- e) inspection and tests;
- f) operating costs for a specified period of time;
- g) costs of service, maintenance and spare parts for a specified period of time;
- h) duties, taxes or other levies; and
- i) contingencies.

The bid document shall specify the evaluation currency and the date and source of exchange rates to be used for conversion to a single currency.

7.2.6. Correction of errors

An evaluation team may correct arithmetical errors in accordance with the procedure stated in the bid document. Bidders shall be promptly notified of any such corrections in writing and be requested to agree or otherwise within a specified period of time. If a bidder does not accept or

fails to respond to the communication on arithmetic corrections within the stated period, their bid shall be rejected.

7.3. POST-QUALIFICATION OF BIDS

If bidders have not been pre-qualified a post-Qualification of the lowest evaluated responsive bidder should be conducted to determine his capability and resources to perform the contract. Using the criteria specified in the bidding documents, this review should include an assessment of the bidder's financial and physical resources available to undertake the contract, including his current workload.

The criteria for post-qualification shall be set out in the solicitation documents and may include:

- a) Experience and past performance on similar contracts;
- b) Knowledge of local working conditions;
- c) Capabilities with respect to personnel, equipment and construction or manufacturing facilities;
- d) Financial capability;
- e) Litigation record; or
- f) Any other relevant criteria.

If pre-qualification was conducted, the lowest evaluated responsive bid should be recommended for the award of contract, unless the bidder's qualifications have since materially deteriorated, or if the bidder has since received additional work that reduces the available capacity. Where pre-qualification has not taken place, the lowest evaluated responsive bid should be subjected to post-qualification, according to the procedures described in the bidding documents.

If the lowest evaluated responsive bidder fails post-qualification, his bid should be rejected, and the next ranked bidder should then be subject to post-qualification examination. If successful, this bidder should receive the award. If not, the process continues for the other bidders. The rejection of a bid for reasons of qualification requires substantial justification, which should be clearly documented in the text of, or in attachments to, the evaluation report. A history of poor performance may be considered a justification for failing post-qualification if the bidder is unable to demonstrate that steps have been taken to resolve previous problems.

7.4. 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, shall not be included in the contract price.

7.5. APPROVAL OF RECOMMENDATION FOR CONTRACT AWARD

The relevant Procurement Committee will review the evaluation report and recommendations presented by the evaluation committee. Before giving approval, the Procurement 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 PNTB for information. If the complaint reveals a serious breach of procedures or ethics, the Executive Secretary shall reject the evaluation report and call for re-evaluation or re-bidding, as the case may be.

The Procurement 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.

7.6. NOTICE OF INTENTION TO AWARD

After the Procurement Committee's approval of award has been obtained and consented by the Executive Secretary, the Executive Secretary shall issue a notice to all bidders who participated in the bidding process, of the intention to award a contract to the successful bidder giving the name

of the successful bidder, contract amount and period (term) of the contract and giving the bidders fourteen (14) calendar days to indicate if they are not satisfied with the bidding process.

After expiry of the fourteen-day period if no complaint has been received, the district proceeds to award a contract to the successful bidder and should under no circumstance entertain any complaint on the bidding process thereafter.

Notice that in addition to information about the successful bidder, the notice of intention to award also communicates to unsuccessful bidders the reasons for disqualifying their bids.

7.7. REJECTION OF ALL BIDS

If the Evaluation Committee recommends the rejection of all bids, the Procurement 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.

7.8. NEGOTIATIONS

Where negotiations are recommended by the evaluation committee or the Procurement 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 Executive Secretary 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 Procurement 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.

Where a competitive procurement method was used, negotiations may relate to:

- a) minor alterations to the technical details of the statement of requirements;
- b) reduction of quantities for budgetary reasons, where the reduction is in excess of any provided for in the bidding document;
- c) minor amendments to the Special Conditions of Contract;
- d) finalizing the payments arrangements;
- e) mobilization arrangements;
- f) agreeing final delivery schedules to accommodate any changes required by the district;
- g) proposed methodology or staffing;
- h) inputs required from the district; or
- i) clarifying details that were not apparent or could not be finalized at the time of bidding.

Negotiations under competitive procurement methods shall not be undertaken:

- a) to substantially change the technical quality of the requirement;
- b) to materially alter the terms and conditions of contract stated in the bid document;
- c) solely for purposes of reducing prices;

- d) to substantially alter anything which formed a crucial or deciding factor in the evaluation of the bids.

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 Procurement Committee 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 Procurement 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 Procurement 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.

7.9. APPROVAL OF CONTRACT DOCUMENT

Following notification of approval of the evaluation report and contract award by the Procurement Committee, the Procurement Unit will complete the draft contract document and submit it to the

Procurement Committee together with all relevant attachments, for approval. The Procurement 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.

7.10. COMPLAINTS BY BIDDERS

Complaints by bidders to the bid opening procedures or the evaluation and award of contract shall be submitted to the Executive Secretary in writing, giving the grounds for the complaint(s) such as breach or omission of the provisions of the procurement Act or of the bidding documents. The complaint shall include details of the procurement to which the complaint relates; details of the provisions which have been breached or omitted; an explanation of how the provision was omitted or breached, date and name(s) of staff involved if known; and documentary evidence to support the complaint. A copy of the complaint should be submitted to PNTB for information.

Upon receipt of the complaint, the Executive Secretary shall immediately:

- a) Suspend the procurement proceedings; and
- b) Institute an investigation.

The Executive Secretary shall issue his decision in writing within fifteen (15) days indicating whether the complaint was upheld or rejected, the reasons for his decision and any corrective measures to be taken. A copy of the decision is submitted to PNTB.

Where a bidder is not satisfied with the decision of the Executive Secretary or where the Executive Secretary does not issue a decision within the stipulated time frame (15 days), the bidder may lodge a complaint with the Complaints Review Panel (CRP). The complaint to CRP shall include:

- a) A copy of the original complaint and all supporting documentation including copies of relevant correspondences with the Executive Secretary;
- b) A statement by the complainant that the Executive Secretary failed to issue a decision, indicating the relevant dates; and
- c) An explanation of why the complainant is not satisfied with the decision of the Executive Secretary

The CRP shall investigate the matter and issue a decision in writing to both the complainant and the Executive Secretary within 15 days, copied to the Public Procurement Authority. The decision of the CRP is final.

7.11. CONTRACT AWARD AND CONTRACT SIGNATURE

Following notification of approval of the contract by the Procurement Committee, the Procurement Unit shall finalise the contract and prepare and send a formal notice of award to the winning bidder by hand or by registered letter, requesting the bidder's attendance to sign the contract.

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, PNTB and the Auditor General of contract award 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.

8.2.1. Inspection of goods

The inspection and acceptance committee appointed by the Executive Secretary shall be responsible for the receipt and inspection of goods and shall prepare inspection and acceptance report. The committee, composed of at least three members, shall inspect the goods to ensure that:

- a) the right quantities have been delivered;
- b) the right quality (in accordance with the technical specifications) have been delivered;
- c) there are no damaged goods;
- d) correct prices have been charged for goods delivered; and
- e) the supplier has complied with all other relevant requirements specified in the bid document.

Where there are short deliveries, or damaged items, or items that do not comply with the technical specifications in accordance with the requirements of the bid document, the supplier shall immediately be notified and instructed to rectify the order and comply with the requirements.

8.2.2. Delays in delivery

Where the supplier has failed to deliver the goods timely, provisions for liquidated damages as stated in the bid document should be applied. Where there are justifications for the delays, the supplier shall be required to submit to the district a written request for extension of time for delivery of goods.

The request shall state the reasons for the delays, additional time requested and whether the request for extension is with or without additional costs. If satisfied, the Executive Secretary shall grant the extension and an addendum to the original contract issued and signed by both parties.

8.2.3. Payments

Payments for goods should be made without delays in accordance with the provisions of the contract. Payments shall be made for goods actually received and the request for payment/supplier's invoice must be fully supported with the documents stated in the bid document (including Inspection and Acceptance reports).

8.3. CONTRACT SUPERVISION AND ADMINISTRATION - SERVICES

8.3.1. Non consultancy services

Contract supervision and administration for simple routine services such as office cleaning, provision of transport services, security etc. (non-consultancy services) will be undertaken by the User Department and/or the Procurement Unit as appropriate.

The **Executive Secretary shall appoint a contract Manager/Supervisor** responsible for monitoring the performance of the contract and preparation of periodic reports for submission to procurement unit. The Contract Manager/Supervisor shall immediately notify the service provider of any sub standard performance and issue instructions to make improvements. The Executive Secretary should be made aware of any shortfalls in performance of the service provider.

8.3.2. Consultancy Services

For consultancy services, **the Executive Secretary nominate a Project Manager or Project Team to coordinate supervision and administration.** The project manager/project team shall be responsible for follow up to ensure successful performance, timely completion and shall review and approve the deliverables in accordance with the contract.

8.3.3. Delays in contract completion and Time extension of contract

Where delays in completion (timely submission of deliverables) occurs the provisions for liquidated damages should be applied. Where genuine reasons for delays exist, the consultant shall be required to submit a written request for time extension. The Executive Secretary is responsible for approving the time extension of a contract or otherwise. Once approval is obtained, an addendum for contract extension shall be prepared and signed by both parties to the original contract.

Note that 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.

8.3.4. Payment for services

Payment for service contracts shall be 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.

8.3.5. 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.

8.4. CONTRACT PERFORMANCE

8.4.1. 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.

8.4.2. 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 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 Unit must ensure that all such obligations of the district are planned and performed without undue delay.

8.4.3. Delays in Performance

Delivery of goods and the performance of services should be completed by the supplier or service provider/consultant 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, consultant or service provider, 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 Executive Secretary. 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.

8.4.4. Resolution of Disputes

Most minor disputes may be resolved by sensible discussion and agreement between the responsible officer and the supplier 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.

8.4.5. 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 MOI 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.

8.5. CONTRACT AMENDMENTS

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. Amendments involving time extension only shall be approved by the Executive Secretary whereas those involving changes in scope (variations) shall be approved by the Procurement 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 PNTB and 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 PNTB and 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 PNTB and 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, service providers and consultants;
- f) assess compliance by the districts to this manual; and
- g) identify any necessary remedial action.

As part of their monitoring of procurement activities undertaken by the districts, the PNTB will:

- 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 PNTB.

At the district level, the Procurement Committee has the general responsibility to monitor procurement activity and remedy any defects before giving approval for procurement actions. The advice of the MOILG and/or PNTB should always be sought if the Procurement Committee is unsure of compliance with the guidelines.

The Executive Secretary will ensure that all issues raised by the MOILG and/or PNTB are acted on expeditiously by the district through the Procurement Committee and Procurement Unit, and that complete records of procurement are made available for audit purposes and for inspection by the MOILG and/or PNTB.

9.3. RECORD KEEPING

Procurement Unit shall maintain complete and comprehensive records of procurement proceedings and contract management. The records shall be open to inspection by the stakeholders on request. A separate file shall be kept for each procurement activity and the file shall contain a comprehensive chronological record such that a complete history of the procurement is maintained.

A tender file shall as a minimum contain the following:

- a) the request to initiate procurement proceedings;
- b) a copy of the published advertisement or shortlist;
- c) a copy of the pre-qualification bidding documents, amendments and/or clarifications issued to bidders;
- d) records of tender closing and tender opening;
- e) copies of tenders evaluated, any clarifications requested and responses received;
- f) copies of all general and specific correspondences relating to the procurement;
- g) evaluation reports including working papers and scoring sheets;
- h) minutes of any meetings related to the procurement, including pre-bid meetings;
- i) notice of intention to award a contract;
- j) acceptance letter;
- k) a copy of the signed contract;
- l) any contract amendments or change orders;
- m) minutes of Procurement Committee;
- n) minutes of meetings related to contract management;
- o) documents evidencing delivery of goods, including inspection and acceptance reports;
- p) copies of invoices and payment certificates;
- q) copies of claims made by the contract/project manager in respect of any warranty, non warranty, short supply or damage, and other claims;
- r) any other related documents or correspondences.

In order to ensure completeness of the file it is good practice to maintain a checklist of records in the file (Refer to Annex 10.2)

10. ANNEXES

10.1. Personal Covenant Form (Declaration of conflict of interest)

I,(Name and designation of member of evaluation team) being a member of the evaluation committee for(title and tender number) do hereby state as follows

- a) That, I do not have any interest, pecuniary or otherwise, directly or indirectly in any of the consultants, firms, associations or joint ventures that have submitted tenders for the above mentioned tender; that is to say:
 - a. M/S
 - b. M/S
 - c. M/S
 - d. M/S
 - e. M/S
- b) That, all knowledge, reports or any other materials not within the public domain which I may acquire from the evaluation process, by virtue of the performance of my duties as a member of the said Evaluation Committee, shall for all time and for all purposes regarded by me as strictly confidential and I shall not divulge them to persons not officially concerned with evaluation process.
- c) That, as a member of the Evaluation Committee shall at all times adhere fully with the terms and conditions contained in the Procurement legislation and its regulations.
- d) That, the breach of this Covenant or any provisions of the Procurement Legislation shall preclude the institution of criminal proceedings pursuant to the Puntland Penal Code or any other written law against me.

Signed by this Day of(month and year)

10.2. Procurement Filing Checklist

SN	Checklist of Procurement Records	Tick	
		Y	N
	Approved Annual Procurement Plan (APP)		
	Procurement Requisition fully signed with Statement of Requirements		
	Request for approval of draft tender notice, method of procurement and draft tender document		
	Contracts Committee’s approval of method, advert/shortlist, the bidding document		

Local Government Procurement Manual: Goods and Services

	Copy of the bidding document		
	Minute of the pre-bid meetings		
	Record of issue of Pre-bid meeting minutes		
	Requests for clarifications and their responses		
	Evidence that a minimum of 3 bidders were invited		
	Records of issue of bidding document fully signed		
	Records of receipt of fully signed bids		
	Records of bid Opening fully signed		
	Records of attendance of bid opening fully signed		
	Copies of all bids received		
	Appointment letters of evaluation Committee		
	Declaration of conflict of interest signed by all members		
	Request for clarifications and responses received from bidder(s),		
	Notification and Confirmation of arithmetic errors		
	The evaluation report including the templates		
	Minutes of the evaluation Committee		
	Submission of evaluation report to Procurement Committee for approval		
	Procurement Committee decision approving the recommendations of the evaluation committee		
	Notice of the intention to award a contract to the best evaluated bidder		
	Evidence that all bidders received the notice of intention to award a contract		
	Appointment of members of negotiation team		
	Negotiation plan and its approval by Procurement Committee		
	Minutes of negotiation meeting		
	Letter of acceptance		
	Acceptance letter from the bidder		
	Warranties and guarantees, and insurances where applicable		
	Approval of contract documents by Procurement Committee		
	Contract document fully signed		
	Contract management records i.e. certificate, reports, variations, appointment letters for supervision of contracts, etc		
	Inspection and acceptance reports		
	Evidence of payment/call off orders in case of a framework contract.		
	Correspondences relating to this procurement		
	Release of guarantees and retention money		
	Contract Completion Report		