



**GOVERNMENT OF THE
REPUBLIC OF SIERRA LEONE**

**PUBLIC PROCUREMENT
MANUAL**

First Edition, 2006

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DEFINITIONS

The terms used in this Manual have the following meanings assigned to them.

WORD OR TERM	DEFINITION/DESCRIPTION
Asset Disposal	The formal process of disposal, and removal from the books, of assets which are no longer of use to a Procuring Entity. This also includes the removal from circulation of assets not immediately needed by the Procuring Entity
Authorised Person	Any person who has been granted the power to authorise a transaction or otherwise commit the Procuring Entity.
Bid Opening Committee	A committee established by a Procurement Committee to conduct the opening of bids for procurement.
Code of Ethics	A statement of the standards of practice and conduct to be followed by all Civil Servants and officials of Government owned organisations in procurement activities.
Donor	An International Financing Institution (such as the World Bank or African Development Bank) providing external funds to the Government
Procuring Entity	A Ministry, Department, Agency, Public Corporation, Public Authority or State owned company with responsibility to undertake procurement using Government funds.
Evaluation Committee	A committee established by the Procurement Committee to undertake evaluation and ranking of bids and quotations for procurement.
Head of Procuring Entity	The Chief Executive of the entity such as the Minister of a Ministry or the overall head of an organization
INCOTERMS	A set of internationally accepted definitions of trade terms (e.g. CIF, CIP and FOB) issued by the International Chamber of Commerce. A guide to INCOTERMS is attached in Annex 2..
Lowest evaluated responsive bid	The bid which is rated in first place after evaluation. For avoidance of doubt, the lowest priced bid may not be the winning bid where merit point or price adjustment evaluation systems are used. "Best-evaluated bid" is synonymous with the World Bank term "Lowest evaluated bid".
Originating Officer	An officer of the Procuring Entity having formal authority to initiate a procurement process.
Procurement	The formal process of acquisition of goods, works or services.
Purchasing Officer	An officer of the Procuring Entity having formal authority to undertake procurement activity.
Request for Proposals	The term commonly used for bidding documents in the procurement of consultancy services.
Request for Quotations	A simple procurement procedure for the purchase of low value goods, works and simple non-consultancy services.
Procurement Committee	A general term covering all Government Procurement Committees including both the main Procurement Committee for a Procuring Entity and any subsidiary Procurement Committees.
Vote Controller	Means Permanent Secretary of a Government Ministry, Chief Administrator of a Local Government Council, Chief Executive of a State-owned enterprise, or Head of a Government Department, Agency or Commission; who is responsible and accountable for the financial management of the entity.

ACRONYMS AND ABBREVIATIONS

ACC	Anti-Corruption Commission
BOQ	Bill of Quantities
CFR	Cost and Freight
CIF	Carriage Insurance and Freight
CIP	Carriage and Insurance Paid
CPT	Carriage Paid to
EOI	Expression of Interest
EXW	Ex-Works
FOB	Free on Board
GCC	General Conditions of Contract
IPRP	Independent Procurement Review Panel
ISO	International Standards Organisation
ITB	Instructions to Bidders
LC or L/C	Letter of Credit
Le	Leones
LOI	Letter of Invitation
MDA	Ministry, Department or Agency
MOF	Ministry of Finance
MODEP	Ministry of Development and Economic Planning
MOHS	Ministry of Health and Sanitation
MOWHTM	Ministry of Works Housing and Technical Maintenance
PIU	Project Implementation Unit
NPPA	National Public Procurement Authority
PPM	Public Procurement Manual
RFP	Request for Proposals
RFQ	Request for Quotations
SBD	Standard Bidding Document
SCC	Special Conditions of Contract
SPF	Standard Procurement Form
TOR	Terms of Reference

SECTION 1: INTRODUCTION

CHAPTER 1:INTRODUCTION

1.1 INTRODUCTION AND PURPOSE OF MANUAL

1.1.1 Introduction

Public procurement in Sierra Leone is subject to the Public Procurement Act 2004 (Gazette Vol. CXXV, No. 70). Legislation can only provide the overall rules to be followed, and with the increasing value and complexity of procurement, effective guidelines and step-by-step procedures are required to assist Civil Servants involved in the procurement process.

The lack of a strong procurement profession and inadequate training of staff has led to many different interpretations of procurement procedures throughout the Civil Service and Government owned organisations. Inefficiencies, poor specification of requirements, inadequate bidding documentation and procedures, corrupt practices, payment delays and inadequate contract management, have increased the cost of much public procurement to prices well above market rates.

1.1.2 Purpose of Manual

This Manual details the standards, policies and procedures to be followed in the procurement of goods, works and services within the public sector, and also includes a section for guidance on asset disposal procedures. These standards, policies and procedures are designed to:

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

1.1.3 Application and Limitations of Manual

This Manual applies to the procurement operations of all Government organisations as defined in Part 1, Section 1 of the Public Procurement Act 2004.

In the event whereby Public Sector entities have their own specialist procurement regulations and procedures manuals, which have been subjected to formal certification and approval by the National Public Procurement

Authority (NPPA), the provisions of this Manual will apply when there is no conflict with procedures or standard documentation as detailed in the specialist manual.

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

- remove or minimise the need for making new decisions every time a comparable situation arises;
- introduce standard bidding documents and procedures for all routine procurement activities;
- provide a point of reference against which principles and practices can be evaluated; and
- serve as a training manual for Civil Service staff and provide guidance based on best international practices.

Consistent application of the provisions and procedures of the Manual throughout the Civil Service is essential to achieve improved efficiency, transparency, uniformity of documents and decisions, and reduced costs of procurement for the Government.

It is intended that the Manual will be subjected to continuous upgrading by the National Public Procurement Authority (NPPA) to reflect amendments in legislation, changing needs, the commercial environment, and the adoption of new improved procedures and practices.

1.2 DEVIATIONS FROM THE MANUAL

1.2.1 Reasons for Deviation

Deviations to the provisions of this Manual may arise for a number of reasons including the following:

- a special situation, such as an extreme emergency;
- one-off requirements introduced as special provisions in a loan or credit facility which are not otherwise covered in this Manual and do not constitute a revision to the Manual,
- the necessary use of non-standard bidding documents for specialist procurements;

- new legislation or government policy change which causes any part of this Manual to be inconsistent with the new provisions until an appropriate revision has been approved.

1.2.2 Deviations Policy

Where an activity or procedure is inconsistent with the provisions of this Manual, it must be approved as a Deviation before the relevant activity or procedure can be undertaken. Deviations may not be approved if they conflict directly with:

- professional procurement standards and the Code of Ethics; or
- the Constitution of Sierra Leone, or
- established National and International Law and International Treaties.

Deviations should normally be of a short-term and one-off nature. Where they are recurrent, or become repetitive, then the National Public Procurement Authority shall decide whether there is a need to introduce revisions in the Manual to reflect the necessary change, in accordance with Section 1.3 of this Manual.

1.2.3 Procedure for Approval of Deviations

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

Deviations and waivers shall be carefully reviewed in the monitoring activities of NPPA and audited by the Ministry of Finance Internal Audit Department and the Auditor General.

The NPPA 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

A number of factors may necessitate a need for revision of this Manual including:

- new legislation;
- policy changes by Government or a funding body;
- introduction of new improved practices, policies or procedures;
- removal of outdated practices, policies or procedures;
- lessons gained from practical experience.

1.3.2 Request for Revisions by an Procuring Entity

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

- The request shall be prepared and approved by the relevant Procurement Committee, and authorised by the Vote Controller of the Procuring Entity.
- 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.
- The NPPA 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 Procuring Entity, or may reject the request giving reasons.

1.4 USE OF STANDARD PROCUREMENT FORMS

To assist in the adoption and use of standard practices and procedures throughout Government, the following Standard Procurement Forms (SPFs) are introduced within this Manual:

1.4.1 SPF 1 – Procurement Requisition

This form establishes the preliminary specification, the budget availability and authority for the procurement, and requires the allocation of a Procurement Number to be used for procurement tracking and monitoring.

1.4.2 SPF 2 – Submission for Procurement Committee Approval

This Form has four Sections as follows:

- Section A – Request for Approval of Specifications, Procurement Method and Bidding Documents.
- Section B – Request for Approval of Evaluation Report and Contract Award Recommendations
- Section C – Request for Approval of Contract Document and Contract Signature
- Section D – Request for Contract Amendment

The purpose of this Form is to standardise the format of submissions to the Procurement Committee, to act as a checklist of information to be provided to the Committee, and to ensure that submissions are presented with the approval of an authorised responsible officer. Use of the Form eliminates the need for individual covering letters to be prepared on each application to the Procurement Committee.

1.4.3 SPF 3 – Decision of the Procurement Committee (PC)

Standard format for reporting and communicating decisions of the Procurement Committee for each procurement stage considered by the Committee.

1.4.4 SPF 4 – Evaluation Report (Least Cost - LC)

Standard evaluation format for the procurement of goods, works and simple services. Used where the lowest priced responsive and technically compliant bid is selected for award of contract.

The purpose of this form is to standardise the preparation and improve the content of evaluation reports submitted to the Procurement Committee for approval.

1.4.5 SPF 5 – Evaluation Report (Quality and Cost Based Selection - QCBS)

Standard evaluation format for technical and financial evaluations of consultant services and other merit-point system procurements. This format has two Sections for separate Technical and Financial Evaluations to allow for “two-envelope” bidding.

The purpose of this form is to standardise the preparation and improve the content of evaluation reports submitted to the Procurement Committee for approval.

1.4.6 SPF 6 – Monthly Procurement Report

Monthly report to be submitted to the National Public Procurement Authority by each Procurement Committee.

1.5 PROCUREMENT NUMBERING SYSTEM

1.5.1 Purpose:

The purpose of the Procurement Numbering system introduced by this Manual is to ensure each requirement is given a unique identification to assist in the tracking, monitoring and audit of procurement, and in the tracing and maintenance of records and files. The Procurement Number is assigned at the requisition stage and will form the basis for document filing and management information systems.

Procurement Numbers are issued from a register maintained by a Stores Department, or the Head of the User Department, Programme or Project as appropriate. Numbers must not be re-used, even if the original procurement is cancelled.

1.5.2 Structure of the Procurement Number

The basic Procurement Number consists of four parts as follows:

- The Procuring Entity - Up to five letters being the commonly used abbreviation which identifies the Procuring Entity. (e.g. “MOF” for the Ministry of Finance)

- ❑ The Department or Project - Up to five letters used to identify the Department or Project (e.g. “Admin” for the Administration Department) within the Procuring Entity.
- ❑ The Financial Year (e.g. 2005).
- ❑ A Four-Digit Sequence Number - The sequence number allocated by the Department or Project within the Financial Year (e.g. from 0001 to 9999).

Example:

A simple example is “MOF/ADMIN/2005/0022” representing the 22nd requisition raised in the year 2005 by the Administration Department of the Ministry of Finance.

1.5.3 Multiple Bids/RFQs or Multiple Contracts arising from a single Requisition

When a single requisition results in multiple bids or requests for quotations (RFQ), and/or a bid or RFQ results in multiple contracts, further numbers are added to identify the individual Bid/RFQ and Contract.

Example:

“MOF/ADMIN/2005/0022/1/3” would identify the third contract arising from the first (or only) bidding process or RFQ resulting from the original requisition.

1.5.4 Use of Procurement Numbers

The procurement number must appear on all correspondence and documents related to the procurement.

1.6 STANDARD BIDDING DOCUMENTS

Bidding documents are used to communicate all the necessary requirements, information and instructions to prospective bidders for them to be able to submit a bid. The contents and complexity of bidding documents varies with the type of procurement, the value and the method of procurement.

Bidding documents must describe clearly and accurately the requirements, including the technical specifications, Bill of Quantities (BOQ) or Terms of reference (TOR), the quantities, delivery or performance requirements, the evaluation criteria to be used, the bidding procedures and the conditions applicable to any resulting contract.

The Standard Bidding Documents issued with this Manual cover most routine requirements, and shall be used wherever practical. Standard Bidding Documents for specialist procurements such as drugs and commodities will be developed by the NPPA in direct consultation with the user MDAs. Written approval for use of any other format for Government procurement must be obtained from the National Public Procurement Authority. Procurements funded by, and using donor standard bidding documents, are specifically excluded from the requirement for prior approval by the NPPA.

1.6.1 Standard Bidding Document Formats

The following standard bidding document formats are initially available (figures denote the thresholds :

- Goods
- Simple Goods
- Request for Quotations - Goods
- ICB Works
- NCB Works
- Small Works
- Request for Quotations - Works
- Consultant Services – Request for Proposals, with the following contract formats:
 - o Lump Sum Assignments
 - o Complex Time Based Assignments
 - o Small Lump Sum Assignments
 - o Small Time-Based Assignments
- Request for Quotations – Services

Detailed instructions for use and preparation are provided in a User Guide with each standard format, and all Standard Bidding Documents and User Guides are available from the NPPA on electronic media, or may be downloaded from the NPPA website.

1.6.2 Local Purchase Order

A standard format of Local Purchase Order is also introduced together with a standard set of General Conditions of Contract for Local Purchase Orders. Detailed instructions for use and preparation of the Local Purchase Order are provided in a User Guide.

1.7 ARBITRATION SERVICES

The availability of arbitration services within Sierra Leone provides an alternative to expensive and lengthy litigation in a Court of Law. Wherever practical, arbitration should be the preferred method of resolving major disputes and this is emphasised in the General Conditions of Contract of each of the new Standard Bidding Documents.

SECTION 2: GENERAL GUIDELINES

CHAPTER 2: PRINCIPLES OF PUBLIC SECTOR PROCUREMENT

2.1 PUBLIC PROCUREMENT PRINCIPLES

The overall objective of the public procurement system is to provide value for money to the Government by ensuring that public funds are spent in a transparent, efficient and fair manner.

This Manual incorporates policy provisions and procedures to promote transparency, accountability and ethics in the operation, management and reporting of procurement and asset disposal. All Public Servants shall consistently apply these policies and procedures, together with professional judgement and good management

2.2 TRANSPARENCY, ACCOUNTABILITY, AND ETHICS

The procurement system must ensure value for money in the procurement of goods, services and works. The procurement system aims at procuring goods, services and works of the right quality, at the right price, at the right time and at the right place through an open competitive bidding process. The Government is 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 Government 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 Government requires that:

- all public officials and practitioners of procurement shall be held accountable and responsible for their actions;
- all suppliers, contractors and consultants will be treated fairly and given equal opportunity to obtain contracts with the Government;
- procurement shall be done in the most efficient manner, upholding the principles of value for money, transparency and fairness
- funds will be used solely for the purposes for which they have been entrusted;
- appropriate procedures of the Government or of the donor have been applied;
- all transactions are properly authorised and fully supported by written records;
- value for money can be demonstrated by comparison with market rates; and

- an appropriate Code of Ethics is followed by all staff involved in the procurement process.

2.3 CODE OF ETHICS

The Principles of the Code of Ethics governing all officials involved in public procurement for the Government of Sierra Leone are as follows:

1. Ethical principles

A Public Servant 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 Public Servant, his or her spouse, parents, children or other close relatives, or for other persons from whom the Public Servant might gain direct or indirect benefit of the gift.

A Public Servant shall seek to maintain and enhance the reputation of the Government by:

- maintaining the highest standards of honesty and integrity in all relationships both inside and outside the Procuring Entity in which he works;
- developing the highest possible standards of professional competence;
- using funds and other resources for which he or she is responsible to provide the maximum benefit to the Government; and
- complying both with the letter and the spirit of:
 - the laws and regulations of the Republic of Sierra Leone;
 - accepted professional ethics; and
 - contractual obligations.

2. Conflict of interest

A Public Servant 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 public servant should not participate in any way in the bidding process, to avoid a misprocurement.

3. Confidentiality and accuracy of information

A Public Servant 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 a Public Servant in the course of his or her duty shall be true, fair and not designed to mislead.

4. Competition

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

5. Business gifts

A Public Servant shall not accept business gifts from current or potential Government suppliers unless such gifts are of very small intrinsic value such as a calendar or business diary

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 government business decision as a result of accepting that hospitality.

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.

2.3.1 Examples of Unethical Conduct

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

- Revealing confidential or “inside information” either directly or indirectly to any bidder or prospective bidder;
- Discussing a procurement with any bidder or prospective bidder outside the official rules and procedures for conducting procurements;
- Favouring or discriminating against any bidder or prospective bidder in the drafting of technical specifications or standards or the evaluation of bids;
- Destroying, damaging, hiding, removing, or improperly changing any official procurement document;
- Accepting or requesting money, travel, meals, entertainment, gifts, favours, discounts or anything of material value from bidders or prospective bidders;
- Discussing or accepting future employment with a bidder or prospective bidder;
- Requesting any other Public Servant or Government official representing the Procuring Entity in a procurement to violate the public procurement rules or procedures;
- 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 Procuring Entity;
- Ignoring illegal or unethical activity by bidders or prospective bidders, including any offer of personal inducements or rewards.

2.4 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, but systems and strict adherence to procedures alone cannot create an ethical and accountable procurement function.

Public procurement officers are obliged to follow the Public Service Code and the regulations governing public procurement. Moreover, it is absolutely essential that all procurement activities are carried out in a manner above reproach, with complete impartiality and with no preferential treatment. 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 Government's treatment of all suppliers, contractors and consultants.

2.4.1 Declaration by Public Officials

All officials involved in public procurement activities in any way shall, not later than thirty days from assuming responsibility and thirty days after leaving office, make a declaration of their assets and liabilities in such form as the Anti-Corruption Commission may determine. Such information shall be treated confidentially. The original and other copies of the declaration shall be submitted to the National Public Procurement Authority and the Anti-Corruption Commission respectively. All such officials must also sign that they agree to abide by the additional rules and regulations and in particular the ethical code of behaviour.

Members of bid Evaluation Committees are required to sign and attach a further declaration to each and every evaluation report in which they participate as follows:

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

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

2.4.2 Responsibilities of Officers

Senior officers in a Procuring Entity have responsibility to:

- Provide instructions and guidance to staff, especially where they may be exposed to opportunities for accusations of fraud or corruption;
- Encourage staff to follow ethical principles and practices and create an environment where transparency and openness are the standard;
- Ensure that all staff comply with instructions and guidelines, including the maintenance of documented records;

- Set appropriate levels of financial delegation, and ensure a proper separation and rotation of duties.

Junior officers in a Procuring Entity have responsibility to:

- Follow management instructions and procedural guidelines;
- Be alert to and report any indications of unethical behaviour;
- Seek guidance from a manager or auditor on any concerns that may arise.

2.4.3 Responsibilities of the Private Sector

The Private Sector is not exempt from responsibility to act ethically and transparently in procurement proceedings with the Government of Sierra Leone. This message is to be reinforced by requiring bidders to sign a formal declaration before participating in any procurement process:

“I hereby certify that I and all officers of the Company which I represent will uphold the highest ethical standards in doing business with the Government of Sierra Leone. We will not attempt to bribe government officials with money or other goods or services; we will not request favourable treatment and we will not seek information about competitors or other information regarding the procurement process. I understand that if I, or other officers of the Company which I represent are found to have breached this commitment, that sanctions will be made against the Company, including being debarred from doing business with the Government of Sierra Leone for a period of 5 years.”

2.5 SANCTIONS FOR NON-COMPLIANCE WITH ETHICAL STANDARDS

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

Adherence to the provisions of the Act and Regulations by Public Officials is obligatory and failure to do so will be considered an offence subject to sanctions. The level of sanctions will be published separately and will be graduated depending on the offence. 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 as specified in the revised Civil Service Code.

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.

2.6 INTERNAL AND INDEPENDENT MONITORING

Each Procuring Entity shall ensure that regular internal monitoring of procurement activity is undertaken in accordance with the principles and provisions of the Law, and the Manual, to ensure the overall effectiveness of procurement.

Regular monitoring of procurement in a Procuring Entity will continue to be undertaken by Auditor General and the Ministry of Finance, but this Manual also introduces a formal system of routine reporting on procurement to the NPPA. The NPPA 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.

2.6.1 Reporting and Actioning of Report Recommendations

All reports arising from such monitoring activities shall be communicated to the Head of the Procuring Entity 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.

On receipt of a monitoring report, the Procuring Entity shall take appropriate action to:

- remedy any adverse findings, weaknesses or anomalies identified in the report;
- implement any recommendations for improvement;
- impose the specified sanctions on individual Public Officials.

CHAPTER 3: COMMUNICATIONS AND RECORDS MANAGEMENT

3.1 CORRESPONDENCE/COMMUNICATIONS

Correspondence and communications are essential to the management of relationships with suppliers and other bodies but communications issued by a Procuring Entity may commit the Procuring Entity or bind it to a course of action with legal, contractual or financial implications. Therefore, all procurement correspondence and communications issued by a Procuring Entity shall be made by persons authorised in accordance with their duties and responsibilities.

3.2 DOCUMENTATION/RECORDS MANAGEMENT

3.2.1 Documentary Records

Documentary records, both in print or electronic format, are essential for efficient and effective management of activities, provide evidence in support of decisions and actions taken, and provide an audit trail for verification of

transparency, accountability and effectiveness. Efficient records management is essential to ensure effective storage, retrieval and use with due regard to security, integrity and confidentiality.

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

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

3.2.2 Filing/Record Management System

Procurement Units have a general responsibility for maintaining Procurement Dossiers and Contracts Registers, but each Procuring Entity must ensure that complete documentation is maintained in respect of all procurement activities and for contracts and agreements entered into.

Responsibility for the official maintenance of record files, authority to access files, and coordination of management and follow-up actions must be clearly defined in each Procuring Entity to avoid:

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

3.2.3 Procurement Unit Records Management

All documents regarding a particular procurement case shall be kept for future reference and monitoring and control purposes for a period of six years. The recommended filing structure for a procurement dossier is divided into four main categories with relevant sub-categories to include the following documentation:

Folder 1: CORRESPONDENCE:

- o Original Request from Originating Officer
- o Correspondence with Originating Officer
- o Correspondence with Suppliers/(post-order only)
- o Internal Correspondence within Procurement Unit

Folder 2: BIDDING PROCESS

- o Request for Expressions of Interest
- o Shortlist or Advertisement
- o Bidding documents and Specifications/Terms of Reference
- o Correspondence with suppliers relating to Bidding (pre-order)
- o Bids, Quotations or Pro-forma invoices received
- o Bid opening records

- Record of Bid Securities
- Evaluation Report
- Submission to Procurement Committee & relevant Minutes of decisions

Folder 3: ORDER & DELIVERY

- Notice of Contract Award and publication
- Contract/Purchase Order & Acknowledgement of receipt
- Delivery Documentation
- Inspection and Acceptance Reports
- After sales warranty and performance claims

Folder 4: FINANCE

- Copy of Record of Commitment of Funds
- Copy Invoices or Certificates
- Copy Payment Vouchers
- Record of Retentions and release
- Performance Security and release.

CHAPTER 4:PROCUREMENT RESPONSIBILITY**CENTRAL ORGANISATION STRUCTURE****4.1 NATIONAL PUBLIC PROCUREMENT AUTHORITY (NPPA)**

The National Public Procurement Authority acts as the regulatory body on procurement. All Procurement Committees are required to abide by the technical guidelines and regulatory instructions issued by the NPPA.

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

4.2 INDEPENDENT PROCUREMENT REVIEW PANEL

Under the aegis of the NPPA, the IPRP is responsible for independent review of procurement complaints by aggrieved bidders, suppliers and the general public. The Agency has full investigatory powers and authority to order the re-evaluation or re-bidding of disputed contract awards as well as pursuing miscreants through Civil Service procedures and criminal and civil courts of law.

4.3 MINISTRY OF FINANCE

The Ministry of Finance is involved in the procurement process through the appointment and supervision of all accounting, stores staff and stock verifiers in the Civil Service, and inventory management and internal audit activities within the Regulations.

The Budget Bureau of MOF is responsible for co-ordination of the annual budgeting process and for financial approval of the procurement plans for each Procuring Entity.

The Accountant General's Department is responsible for national commitment control and for all payments to suppliers of goods, works and services.

4.4 MINISTRY OF WORKS, HOUSING AND TECHNICAL MAINTENANCE (MOWHTM)

The Ministry of Works, Housing and Technical Maintenance (MOWHTM) is responsible for the preparation of specifications and designs for construction works and projects through its own resources, or any organisation it assigns to the task, except where Procuring Entities have their own approved technical departments.

MOWHTM is responsible for supervising and monitoring the implementation of Government funded construction projects and works in the public sector and no Procuring Entity may contract consulting or supervising engineers except with the approval of MOWHTM.

MOWH maintains the Registers of pre-qualified, licensed and approved Contractors and Engineers.

4.5 MINISTRY OF TRADE & INDUSTRY

The Ministry of Trade & Industry issues and registers trading licences for local suppliers.

4.6 MINISTRY OF JUSTICE

The Ministry of Justice is responsible for the approval of all contract formats either through Legal Officers allocated to specific Procuring Entities or by referral of contracts to the Ministry.

4.7 MINISTRY OF HEALTH AND SANITATION (MOHS)

The Ministry of Health and Sanitation provides regulatory oversight for the importation of drugs and other medical consumables & equipment, and will assist the NPPA and other user departments in development of Standard Bidding Documents for pharmaceutical products and medical consumables & equipment.

DECENTRALISED ORGANISATION STRUCTURE

Decentralisation of procurement functions is dependent on formal certification by the National Public Procurement Authority that the Procuring Entity has

the necessary structures and staffing to undertake decentralised procurement, including an operational Procurement Committee and Procurement Unit. Certification of a Procuring Entity is subject to regular review by the NPPA and authority for procurement may be withdrawn, limited or expanded as a result of such review.

4.8 PROCUREMENT COMMITTEES

The Chairmanship, structure and membership of each Committee is established within Public Procurement Law, [Part 3].

All Procurement Committees meet on a regular weekly basis to consider requests for approval of procurement procedures and processes.

For a main Procurement Committee, procurements costing less than the lowest thresholds contained within part 6 of the First Schedule of the Law may be delegated to the respective Procurement Unit. Subject to approval by the Vote Controller, the main Procurement Committee in a Procuring Entity may also authorise the establishment of subsidiary Local or Departmental Procurement Committees and establish approval thresholds for these Committees and their respective Procurement Units.

4.8.1 General Responsibilities of Procurement Committees

All Procurement Committees have responsibility within their approved levels of financial authority to:

- Coordinate the development and approval of the Annual Procurement Plan;
- Approve entries and removals from the Register of Suppliers and Consultants;
- Appoint standing or ad hoc Sub-Committees as required for preparation of specifications, bid opening, bid evaluation, receipt of goods and certification of works;
- Review and approve prior to any announcement of a procurement process:
 - the method of procurement;
 - the bidding documents;
 - the specifications, classifications, bills of quantities, plans, drawings and terms of reference as appropriate; and
 - advertisements, letters of invitation and shortlists;
- Nominate evaluation teams, review evaluation reports, and approve the award of contract to the selected bidder;
- Ensure that all technical guidelines and regulatory instructions issued by the NPPA, or the procuring Entity, are followed by procurement staff.
- Maintain detailed Minutes of Meetings and records of all decisions and recommendations.

4.8.2 Thresholds for review by Procurement Committee

Procurements above the upper thresholds contained within part 6 of the First Schedule of the Law established by the Committee and delegated to the respective Procurement Unit, must be approved by the Procurement Committee before award of contract. Lower value procurements, undertaken within the authority delegated by the Procurement Committee to the Procurement Unit, will be subject to post-review in summary form by the Procurement Committee.

All approvals for award of contract must be within the annual procurement plan for the financial year and the Committee must confirm that sufficient funding is available within the remaining vote code balance.

4.9 SUBSIDIARY PROCUREMENT COMMITTEES

Subsidiary Procurement Committees in the departments and regional branches of Procuring Entities will consider and approve award of contract for all procurements within their areas of responsibility, up to the level of authority delegated by the main Procurement Committee. Procurements above this financial limit must be referred to the main Procurement Committee for approval of contract award.

Subsidiary Committees will report each month to the main Procurement Committee of the Procuring Entity, and to the National Public Procurement Authority, on all procurement activities undertaken for the calendar month.

Subsidiary Committees will provide detailed procurement plans to the main Procurement Committees as part of the annual budget process.

4.10 HEAD OF PROCURING UNIT

All procuring entities must appoint a Head of Procuring Unit, who shall serve as secretary to the Procurement Committee. The Head of a Procuring Unit may approve all procurements below the threshold stipulated by the law.

4.11 MAIN PROCUREMENT COMMITTEES

The main Procurement Committee for a Procuring Entity will have authority to approve all procurements in accordance with the thresholds stipulated in the law. The Committee will also review submissions from any subsidiary Procurement Committees above the authorised financial limit for these subsidiary Procurement Committees.

Main Procurement Committees will be required to approve the detailed annual procurement plans for goods, works and services, as part of the annual budget submission process, and to revise the procurement plan based on priorities, in the event of insufficient funds being voted by Parliament. A copy of the detailed final Procurement Plan for the MDA must be provided to the National Public Procurement Authority and to each subsidiary Procurement Committee

Main Committees will report quarterly to the National Public Procurement Authority on all procurement activities undertaken by the Procurement Unit and the Procurement Committee during the calendar month.

4.12 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 Procuring Entity

The responsibilities of the Procurement Unit are to:

- request detailed information from, Heads of departments, projects and programmes for development of the Annual Procurement Plan;
- receive and analyse information for the development of annual procurement plans from all Procurement Units, projects, programmes and other Originating Officers;
- develop and cost detailed annual procurement plans by vote code for approval of the Procurement Committee;
- review and prioritise the final annual procurement plan to the approved vote funding for approval of the Procurement Committee;
- notify Heads of departments, units, projects and programmes of their approved annual budget for procurement;
- undertake all procurement activities including the evaluation of bids and award of contract for purchases up to the financial threshold(s) delegated by the Procurement Committee including:
 - ensuring the proposed procurement is defined in the annual procurement plan;
 - confirming the availability of sufficient budgeted funds;
 - selection of the appropriate procurement method;
 - preparation of precise detailed specifications and their classification into lots;
 - defining packaging, marking and delivery instructions;
 - preparing the bidding documents, advertising or selection of a shortlist as appropriate;
 - conducting Bid Openings;
 - evaluation of bids and contract award;
 - initiation and processing of the commitment of funds;
 - preparation and issue of the contract document or Local Purchase Order and notification of unsuccessful bidders;

- contract management including the of initiation of advance payments, the processing of invoices for payment, and file closure on completion of all obligations of each party to the contract.
- ☐ for purchases above the delegated financial threshold(s), prepare all necessary bidding documentation for approval of the Procurement Committee, and undertake further procurement processing action as approved or directed by the Committee, including;
 - ensuring the proposed procurement is defined in the annual procurement plan;
 - confirming the availability of sufficient budgeted funds;
 - recommendation of the procurement method;
 - preparation of precise detailed specifications and their classification into lots;
 - defining packaging, marking and delivery instructions;
 - preparing the bidding documents and advertisement or shortlist as appropriate;
 - participation at Bid Opening meetings;
 - registration and maintenance of bid securities;
 - evaluation of bids unless a specific Evaluation Committee is established by the Procurement Committee for the procurement;
 - initiation and processing of the commitment of funds following contract award by the Procurement Committee;
 - preparation and issue of the contract document or Local Purchase Order and notification of unsuccessful bidders;
 - registration and maintenance of performance guarantees, warranties and retentions;
 - contract management including the of initiation of advance payments, the processing of invoices for payment, and file closure on completion of all obligations of each party to the contract.
- ☐ respond to requests for clarifications from bidders;
- ☐ notify bidders of any approved revisions to closing dates for the submission of bids;
- ☐ request extensions of bid validity from bidders if necessary;
- ☐ register and maintain bid securities;
- ☐ register and maintain any samples submitted by bidders;
- ☐ publish Notices of Intent to Award a Contract;

- ensure that all contractual obligations of the Procuring Entity are performed promptly and efficiently;
- register and maintain performance securities, warranties and retentions;
- notify the supplier immediately of any failings in performance of his obligations;
- process claims against securities and retentions, and release and return all securities as soon as they are no longer required;
- monitor delivery schedules and the inspection and certification of delivery or performance;
- coordinate the process for payment to suppliers;
- report weekly to the Procurement Committee on all procurements processed by the Procurement Unit under the delegated authority, for retrospective approval;
- provide general secretariat support and advice to the Procurement Committee including;
 - preparation of correspondence, notices, minutes of all procurement meetings, and communication of the decisions or queries of the Committee;
 - photocopying;
 - filing of documents; and
 - maintenance of comprehensive dossiers for each procurement;
- receive, record and present documents and issues to the Procurement Committee;
- ensure accurate maintenance of the register of commitments against budget in liaison with accounting staff and the Vote Controller;
- maintain the Contracts Registers where this responsibility is not delegated to technical departments by the Procurement Committee;
- liaise with and keep informed subsidiary Procurement Committees, Originating Officers, technical staff, Bid Opening Committees, Bid Evaluation Committees as necessary for efficiency and transparency during the procurement process;
- Maintain a Register of pre-qualified suppliers, and consultants.
- carry out any other associated procurement tasks as assigned by the Procurement Committee.

4.13 ORIGINATING DEPARTMENTS, PROJECTS OR UNITS

The Originating Officer, Department, Project, Programme or Unit is the initiator of requests for procurement or asset disposal action and has responsibility to:

- Ensure that the requirement for procurement is:
 - o justified by the needs of the Department, Project, Programme or Unit;
 - o not for goods already available in the Stores;
 - o within the annual procurement plan; and
 - o covered by available funding in the recurrent budget or development plan;
- Prepare the initial specification of the requirement; and
- Prepare a Procurement Requisition.

4.14 STORES DEPARTMENTS

Stores Departments are responsible for the following procurement activities:

- preparation of the annual budget for both unallocated stores and assisting in the preparation of the budget for allocated stores;
- co-ordination of receipt of goods procedures; and
- acting as the originating department for purchase of stock items.

4.15 BID OPENING COMMITTEES

Bid Opening Committees are formed as required by the Procurement Committee to conduct and supervise each opening session in accordance with the required procedures for bid openings. The Procurement Unit will normally undertake this responsibility for procurements within the financial authority thresholds approved by the Procurement Committee.

4.16 BID EVALUATION COMMITTEES

The Bid Evaluation Committee must be constituted by officers that possess specialist knowledge in the procurement undertaken. Evaluations will be carried out by the Procurement Unit or by an Evaluation Committee appointed by the Procurement Committee to:

- Check bids for arithmetic errors;
- Review the bids and samples received for conformity with all specifications and conditions stated in the bidding documents;
- Report on the technical and commercial compliance of each bid in a technical evaluation;
- Analyse the financial bids and report the results in a financial evaluation; and

- Prepare an Evaluation Report, including justified recommendations for rejection of bids and for the award of contract, for approval by the Procurement Committee.

4.17 INSPECTION/TAKEOVER COMMITTEES

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

CHAPTER 5: PROCUREMENT PLANNING AND BUDGETING

5.1 PROCUREMENT PLANNING

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

- Funding for procurement is unlikely to be sufficient to meet all requirements, and scarce financial resources must be channelled to ensure that the priority public service aims of a Procuring Entity are adequately met before spending on less essential procurements.
- Effective planning allows requirements to be aggregated into larger purchases at lower unit costs, rather than frequent sourcing of quotations for identical items and issuing many individual Local Purchase Orders.
- Procurement of Common User items may also be aggregated for more than one Procuring Entity into Framework (Call-off) Contracts for six months or a year, to permit further economies of bulk purchasing, saving of time wasted by separate procurements, and a reduction of the need to maintain high stock levels.
- Publication of realistic annual procurement plans allows the private sector to respond more effectively to the requirements and specifications of Government, through investment in staff and equipment, manufacture and importing of goods, and financial planning.

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 the National Public Procurement Authority.

5.2 THE BUDGET PREPARATION PROCESS

Annual budgets are prepared each year in accordance with the procedures specified by the Budget Bureau of the Ministry of Finance. Detailed instructions for the preparation of Annual Procurement Plans will be issued by the National Public Procurement Authority in consultation with the Budget Bureau.

The Vote Controller has responsibility for co-ordinating the preparation of the budget for the Procuring Entity, including procurement plans based on previous consumption and estimated requirements for stores replenishment, and the submissions of Departments, Units and Projects.

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

5.3 PROCUREMENT COMMITTEE ACTIONS

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

Action:

- Instruct the Procurement Unit to commence development of the Annual Procurement Plan in accordance with the instructions issued by the National Public Procurement Authority and the Budget Bureau.
- Receive and approve the draft annual procurement plan and costings from the Procurement Unit, and forward to the Vote Controller for inclusion in the Annual Budget.
- If insufficient budget funding is available, either on the advice of the Vote Controller before submission to the Budget Bureau and/or following notification of the approved Annual Budget, instruct the Procurement Unit to trim the Procurement Plan according to service priorities.
- Receive and approve the final Annual Procurement Plan and forward a copy to the National Public Procurement Authority.

5.4 PROCUREMENT UNIT ACTIONS

The Procurement Unit has the task of compiling the costed Annual Procurement Plan from the individual departments, units, projects and programmes of the Procuring Entity.

Procurements for donor-funded projects and programmes should also be included but identified in a separate section of the Annual Procurement Plan.

Action:

- Subject to the instructions of the Procurement Committee, the National Public Procurement Authority and the Budget Bureau, commence the

preparation process for the Annual Procurement Plan at least three months before the start of the next Financial Year.

- Issue detailed instructions to subsidiary Committees, the Heads of departments, units, projects and programmes on the format and content of submissions for the Procurement Plan. The instructions should clearly indicate that items omitted from the submissions may not be purchased in the Financial Year without adjustment to the quantities of other items under the same detailed Vote Sub-Head, or the formal issue of a supplementary budget.
- Receive submissions, check quantities and costing, obtain clarifications and other responses to any queries, analyse and compile all submissions into a comprehensive procurement plan.
- Submit the draft Annual Procurement Plan to the Procurement Committee for approval.
- In response to the advice of the Procurement Committee, and in full consultation with the subsidiary Committees, Heads of departments, units, projects and programmes, trim the Procurement Plan according to service priorities.
- Compile the final Annual Procurement Plan and submit to the Procurement Committee for approval.
- Notify individual subsidiary Committees, Heads of departments, units, projects and programmes of their approved procurement plans and annual procurement budgets.

5.5 STORES DEPARTMENTS ACTIONS

Stores Departments are required to prepare the estimated requirement, cost and delivery scheduling of each stock item held in addition to departmental operational purchases. The planned quantities to be procured must be in accord with existing stock levels, and annual usage patterns.

Note that purchases of Stores Departments that are entirely funded by a revolving fund are not included in the Annual Budget. However, proposed procurements, quantities and prices are still required to be submitted to the Procurement Unit for price and quantitative information.

Action:

- Analyse the stores ledger and extract stock descriptions, annual issues and seasonal usage patterns, current stock levels, average purchase quantities, anticipated requirements for the next Financial Year and costings.
- Submit detailed schedules of the annual requirement for stock items, the costs analysed between detailed Vote Codes, and supporting information to the Procurement Unit in accordance with the instructions received.

- For operational requirements other than stock items, also submit a Procurement Plan in accordance with Section 6.6 below.
- Respond to any queries raised by the Procurement Unit.
- Receive notification of the final approved Annual Procurement Plan and budget and use this as an essential guideline for all procurement processes to be undertaken in the new Financial Year.

5.6 SUBSIDIARY PROCUREMENT COMMITTEES, AND HEADS OF DEPARTMENT, UNITS, PROJECTS AND PROGRAMMES

Subsidiary Procurement Committees and Heads of departments, units, projects and programmes are required to ensure the analysis and preparation of Annual Procurement Plans for their own and subordinate areas of control.

Procurements for donor-funded projects and programmes should also be included but identified in a separate section of the Procurement Plan.

Action:

- All planned procurements of goods, works and services for the next Financial Year must be identified and scheduled in the Annual Procurement Plan. Care should be taken to avoid double-counting of requirements where there are overlapping responsibilities in functional and line relationships, and for items normally supplied through the Stores Department.
- For procurements funded through the Government budget, submit the Annual Procurement Plan to the Procurement Unit, identifying all proposed procurements for the new Financial Year by quantity, cost and the full Vote Code.
- For direct donor-funded procurements, identify and cost all proposed procurements for the next Financial Year. Add these as a separate item in the Annual Procurement Plan identifying the donor, the project or programme and the Loan or Credit Number.
- Respond to any queries raised by the Procurement Unit.
- 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.

CHAPTER 6:METHODS OF PROCUREMENT

6.1 PROCUREMENT METHODS

6.1.1 Procurement Methods

The procurement methods which can be used are as follows:

- Open Competitive Bidding (National and International)
- Restricted Bidding (National and International)
- Request for Quotations (RFQ)
- Sole Source

6.2 OPEN COMPETITIVE BIDDING

6.2.1 Open Competitive Bidding (National and International)

Open competitive bidding by public advertisement is the preferred method of Government procurement.

Alternatives to the use of open competitive bidding are:

- Restricted Bidding
- Requests for Quotations (RFQ)
- Sole source

The use of alternative methods is strictly limited to the provisions of the Public Procurement Act, the implementing regulations and paragraphs 6.3 to 6.5 below.

There are no procedural differences between International Competitive Bidding and National Competitive Bidding apart from the need to advertise international bids in the international media and to allow a longer time before bid closing to reflect the slower communications involved.

International bidding is appropriate for high value or complex procurements and where the goods, works or services by their nature or scope, are unlikely to attract adequate local competition.

6.3 RESTRICTED BIDDING

Restricted bidding is a process of direct invitation to a shortlist of pre-qualified, pre-registered or known suppliers. This may directly follow a formal pre-qualification of suppliers for the specific requirement (See CHAPTER 17:) It is an appropriate method of procurement where:

- the estimated cost is less than the threshold established in the law ;

OR subject to a specific waiver being granted by the National Public Procurement Authority:

- the requirement is of a specialised nature or has requirements of public safety, or public security which make an open competitive bid impossible;
- due to the urgent nature of the requirement, an open competitive bid is not practical;
- the number of potential suppliers is limited; or
- an open competitive bid has failed to bring an award of contract.

Under Restricted Bidding, the Procuring Entity 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,

6.4 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.

Request for Quotations may be used when:

- the estimated value is less than the thresholds in part 2 of the First Schedule of the Law

OR subject to a specific waiver being granted by the National Public Procurement Authority:

- the goods works or services are only available from two suppliers;
- construction work is in a remote area that most contractors are not prepared to work in; or
- no bids were received, or only one bid was presented, in response to two consecutive open competitive bids or restricted bids.

Standard RFQ documents are particularly suitable for procuring readily available off-the-shelf goods or standard specification items 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 Procuring Entity.

6.5 SOLE SOURCE

Sole source procurement from a supplier without competition (direct procurement) may be appropriate upon securing a specific waiver by the National Public Procurement Authority usually when:

- only one supplier has the exclusive right to the manufacture of the goods, carry out the works, or perform the services to be procured, and no suitable alternative is available;

- 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 procuring entity to procure equipment or services not meeting requirements of inter-changeability with already existing equipment or services;
- additional works, which were not included in the initial contract have, through unforeseeable circumstances, become necessary since the separation of the additional works services from the initial contract would be difficult for technical or economic reasons;
- there is extreme urgency, provided the circumstances which gave rise to the urgency were neither foreseeable by the procuring entity nor the result of dilatory conduct on its part;
- 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.

6.6 SELECTION OF PROCUREMENT METHOD

The Selection of Procurement Method Chart given at Annex 2 shows an indicative summary of the various factors to be considered in deciding the procurement method to be used.

Requirements must not be split into two or more procurements to avoid using the correct procurement method, or to avoid approval of the Procurement Committee.

CHAPTER 7: ADVERTISING FOR PROCUREMENT

7.1 ADVERTISEMENTS FOR OPEN COMPETITIVE BIDDING

Any procurement using Open Competitive Bidding methods should be advertised. Publication of the advertisement should allow sufficient time before the deadline to enable prospective bidders to obtain the bidding documents and to prepare and submit their bids. The period allowed should be a minimum of one month following the date of the first advertisement, but longer periods may be necessary for more complex requirements.

7.1.1 Contents of the Advertisement

The advertisement must clearly explain how bidders may submit a bid and provide sufficient information to enable potential bidders to decide whether to participate.

The information contained in the advertisement must correspond with the information in the Bidding Document and in particular, the relevant information in the Bid Data Sheet. Sample advertisement are provided in the Standard Bidding Documents.

The advertisement should include as a minimum, brief information on:

- the source of funding;
- the goods, works or services to be procured;
- any qualification requirements for bidders (e.g. a requirement for a minimum level of experience in the subject of the procurement);
- the procedure for obtaining a set of the bidding documents;
- the place and deadline for submission of bids;
- the fee charged for bidding documents. This must reflect only the cost of printing and delivery to prospective bidders;
- the value of any bid security required.

7.1.2 Publication of Advertisement for National Competitive Bidding

The advertisement shall be published as follows:

- on the NPPA website,
- in the Sierra Leone Government Gazette,
- in at least two national print media of wide circulation in Sierra Leone weekly for at least the first two weeks of the bidding period; and
- optionally, broadcast over the radio or television, on the stations and programmes and at a time most likely to target the widest spectrum of potential bidders.

For highly specialised procurement, an optional advertisement in well-known technical magazines and/or trade publications of wide circulation is recommended

7.1.3 Publication of Advertisement for International Tenders

The advertisement shall be published as follows:

- on the NPPA website,
- in the Sierra Leone Government Gazette,
- in at least two national print media of wide circulation in Sierra Leone weekly for at least the first two weeks of the bidding period; and
- in at least one on-line international electronic media such as Development Business, dgMarket, or a similar widely known website of procurement opportunities.

For highly specialised procurement, an optional advertisement in well-known technical magazines and/or trade publications of wide international circulation is recommended.

CHAPTER 8: SUPPLIER REGISTRATION

8.1 INTRODUCTION

Effective procurement depends greatly on the quality and delivery performance of suppliers, contractors and consultants, and their products and services. Procuring Entities are required to maintain a database of suppliers and consultants who are assessed to be of a suitable standard to meet the specialist requirements of the Procuring Entity.

The Ministry of Works, Housing and Technical Maintenance (MOWHTM) maintains a central register of approved contractors and design and supervising engineers, classified into categories according to their capability and performance. The MOWH classification registers should be used by all Procuring Entities for the selection of contractors and design and supervising engineers

8.2 MAINTENANCE AND MANAGEMENT OF THE SUPPLIER DATABASE

Pending issue of further guidelines by the NPPA on Supplier Registration, the Procurement Unit of each Procuring Entity will maintain its own Register of Suppliers and Consultants based on the following principles:

- Periodic public advertisement or canvassing to invite applications.
- Establishment and publication of clear evaluation criteria for acceptance into categories and grades.
- Monitoring and recording of the performance of suppliers on contracts awarded and removal from the Register of suppliers who fail to perform satisfactorily
- Sharing of database information with other Government Procuring Entities.

- Registration to be subject to periodic formal renewal, or cancellation if a supplier has not undertaken any Government contracts within a three-year period.

8.2.1 Advertisement

To ensure that any new suppliers or consultants are given the opportunity to join the Register, open advertisement to invite applications should be published annually.

8.2.2 Categories of Registration

Suppliers are to be registered into appropriate categories for the specific goods or services they supply and using the Supplier Registration Form provided in Annex 1. Some common examples may be:

- Type or value of works;
- Office Stationery and Computer Supplies;
- Computer Services;
- Office Equipment;
- Medical Instruments;
- Tyres and Batteries;
- Vehicle Repairs;
- Office Cleaning Services.

8.2.3 Other provisions

- ❑ Procurement Committees have overall responsibility for approval of the suppliers that are entered onto or removed from the Register of Suppliers.
- ❑ Except for open bidding, and where no other method of pre-qualification is used or required, suitable bidders may be selected directly from the Register.
- ❑ Where invitations are issued for expressions of interest or pre-qualification, suppliers and contractors/service providers who respond and are found to be suitable but are not already on the Register may be added to the database accordingly.
- ❑ In open competitive bidding, where any supplier is free to submit a bid, the Procuring Entity specifies the criteria and supporting information and documentation required by which the capability of bidders to execute a contract will be assessed. Bidders who successfully pass this examination may also be placed on the Register of Suppliers.

8.3 SUPPLIER PERFORMANCE MONITORING

Suppliers or consultants who fail to fulfil their contractual obligations in a satisfactory manner, in terms of quality, delivery, performance, or customer service, and who fail to improve their performance on being notified of the deficiency, may be disqualified from providing further services.

- Procuring Entities shall maintain a fair and transparent system for monitoring the performance of suppliers against the specifications or contractual obligations based on the evidence recorded in the Procurement Dossier.
- Suppliers failing to perform satisfactorily shall be notified in writing, specifying the deficiencies to be addressed, and given an opportunity to improve their performance.
- Mitigating factors must be taken into consideration when assessing supplier performance, and especially factors outside the supplier's control, and any contributory acts or omissions on the part of the Procuring Entity – such as failure to make a payment or to provide required information on time.
- Suppliers or consultants who consistently and seriously fail in contract performance must be reported with full details to the National Public Procurement Authority for debarment.

SECTION 3: STEP-BY-STEP PROCUREMENT GUIDELINES

CHAPTER 9: PREPARATION FOR PROCUREMENT

A flowchart showing a summary of pre-contract activities required and who is responsible for them is provided in Annex 2.

9.1 IDENTIFICATION AND SPECIFICATION OF REQUIREMENT

9.1.1 Identification of Requirement

A requirement may originate from the Stores Department for replenishment of stock items, or from any Department, sub-unit or project of a Procuring Entity for other goods, works or services.

The estimated cost of the requirement must already be included in the approved annual procurement plan and budget.

Action:

- Estimate the cost based on previous procurements and market rates;
- Identify the source of funding;
- Check if this requirement can be consolidated with similar known requirements within the Procuring Entity to make a more attractive package for bidders.

9.1.2 Specification of Requirement

The requirement needs to be fully identified with detailed technical specifications, drawings, plans, objectives and/or terms of reference as appropriate.

Specifications must be generic and should not include brand names, model numbers, catalogue numbers or trademarks except where these are essential for compatibility with existing machinery, equipment or instruments.

If detailed specifications cannot be prepared by the originating Department/Unit, the advice of the Procurement Unit may be sought for assistance or the appointment of a specialist technical advisor.

Action:

- Goods: define the requirement in terms of description, quantity, quality, urgency, packing and marking requirements and a detailed specification.
- Works - prepare plans, drawings, specifications and a bill of quantities with the assistance of the Ministry of Works, Housing and Technical Maintenance (MOWHTM) if the Procuring Entity does not have an approved Technical Department for this purpose.
- Non-Consultant Services (e.g. routine cleaning of premises or computer support services) - prepare a description of services required, and a

detailed specification of the requirement including the period of the contract, quality standards and service levels.

- Consultant Services - define the objectives of the consultancy services and prepare detailed terms of reference.

Note that requirements must not be split into more than one requisition for the purpose of reducing the estimated value in order to be within approval thresholds or to avoid a method of procurement.

9.2 PROCUREMENT REQUISITION AND BUDGET CONFIRMATION

To assist in the identification and management of procurement, a Procurement Requisition (Form SPF 1) is prepared by the originator to include the detailed specification of the requirement and an estimated cost, prior to approval by the Head of the Department/Unit. A Procurement Requisition and prior budgetary approval is not required for urgent small value procurements which are paid for out of advance imprest funds.

The Procurement Unit will co-ordinate with accounting staff of the Procuring Entity to verify the provisional availability of budgeted funds for the procurement of all Goods, Works and Services.

9.2.1 Preparation of the Procurement Requisition

Complete the Procurement Requisition (Form SPF 1) in three copies as follows:

Action by Originator

- Subject of Procurement - enter a brief title for the requirement e.g. "Photocopier for Administration Office".
- Location/Site - e.g. "Ministry Headquarters - Freetown".
- Item - the sequential number of each separate requirement - e.g. "1", "2" "3" etc.
- Description - list the individual requirement for goods - e.g. "Photocopier with Sorter and Stapler for 20 copies, A3/A4 paper handling, duplex facility, minimum of 40 pages per minute". For works and services provide a general description of the requirement. Wherever appropriate, attach detailed specifications, plans, bill of quantities or terms of reference to provide full information.
- Quantity - the number of items required.
- Unit of Measure - e.g. "each", "pack of 10", "1 Kg box" as appropriate.
- Estimated Unit Cost - enter the estimated cost of 1 unit.
- Estimated Total Cost - enter the estimated cost of 1 unit multiplied by the Quantity.

- Funds availability: enter the detailed Vote Code which will be used to fund the expenditure, or if funding is provided directly by a donor, enter the donor's name and project number.
- Sign and enter details of name, job title and date.
- Attach all necessary supporting documents including detailed specifications, plans, drawings, bill of quantities and terms of reference as appropriate.
- Forward the original of Form SPF 1 and two copies to the Head of Department/Unit for approval.

Action by Head of Department/Unit:

- Check the details entered on the SPF 1 form, and the attachments for accuracy and completeness and refer back to the originator if there are any queries.
- Allocate the Procurement Number using the next available sequence number and record the procurement in the Register of Procurement Requisitions.
- Sign and enter details of name, job title and date.
- Forward the original and one copy to the Procurement Unit for processing and confirmation of the availability of funds. Retain one copy for Departmental/Unit records and progress chasing of the procurement.

Action by Procurement Unit:

- Receive the Procurement Requisition Form SPF1 and supporting documents from the Stores Department or the Originating Department.
- Verify the current availability of sufficient funds in the budget heading and that the requirement is defined in the Annual Procurement Plan.
- Check that documents are complete, that any plans and designs for works are properly prepared and approved by the competent authority, that all essential site tests and inspections have been carried out, and that due consideration for safety, economic and environmental factors is included.
- Ensure that the specifications for goods or terms of reference for services are suitable for the need and are of an appropriate quality.
- Review the specifications and develop as necessary ensuring that these are detailed, precise and generic without reference to the trademarks or products of a specific supplier. Brand names shall only be used if essential in which case a full justification must be given, or the words "or equivalent" added. Detailed specifications, designs, plans and BOQ for construction works must be prepared by the Ministry of Works , Housing and Technical Maintenance (MOWHTM) unless the Procuring Entity has an approved Technical Department to undertake the preparation. In other cases, the Procurement Unit may need to seek assistance of external technical experts to prepare the detailed specifications;

- Classify the requirements into Lots or groupings of similar items if necessary to maximise competition by bidders.
- Review the price estimate for the procurement.
- Determine the procurement method to be used (see Chapter 6 and the decision chart at Annex 2). If an alternative method to that which would normally be used is recommended, prepare a full justification.
- Prepare the draft bidding and contract documents to ensure that all necessary conditions are incorporated in accordance with the format of the Standard Bidding Documents or the documentary formats of the donor as appropriate.
- Prepare a draft advertisement or invitation to bidders and make arrangements for the sale of the bidding documents in accordance with paragraph 11.3.
- If the procurement is within the financial authority level delegated to the Procurement Unit, issue the advertisement or invitation to proceed. If not, process for approval by the Procurement Committee:
 - Prepare Form SPF 2 Section A – Request for Approval of Specifications, Procurement Method and Documents in three copies. Retain one copy for progress chasing of the procurement.
 - Process the original of Form SPF 2 Section A with all required attachments to the Procurement Committee for approval of the procurement, the procurement methodology, the draft bidding documents and the draft advertisement or invitation to bidders.
 - Retain one copy of the SPF 2 Form Section A for filing in the Procurement Dossier.

CHAPTER 10: APPROVAL OF SPECIFICATIONS, PROCUREMENT METHOD AND BIDDING DOCUMENTS

10.1 SUBSIDIARY PROCUREMENT COMMITTEES

A subsidiary Procurement Committee will consider all formal requests for approval of specifications, procurement method and bidding documents which are above the financial threshold delegated to its Procurement Unit.

Action:

- Receive Form SPF 2 Part A from the Procurement Unit together with all draft documents for review. If necessary, a presentation from the relevant Head of Department/Unit may be required in respect of the specific procurement and to seek clarification of any issues.
- Review and approve or reject the lists of items to be procured, the works to be contracted out or the services required. This shall include the detailed specifications, Bill of Quantities, Schedule of Activities or Terms of Reference as well as any classification into Lots to enhance competition from bidders.
- Review and approve or reject the bidding documents and the advertisement or invitation to bidders and shortlist, including the bidding period and cost of the bidding documents.
- Return any rejected procurements to the Procurement Unit giving detailed reasons for the rejection.
- Issue a full or a qualified approval for the procurement to proceed. A qualified approval may be issued subject to clearly explained minor corrections which must be made to the documents or specifications before issue.
- If the estimated value of the procurement exceeds the level of financial authority delegated to the Committee, no further action should be taken. In these cases, arrange for copies of all documentation and the recommendations of the Subsidiary Committee to be forwarded to the main Procurement Committee for further processing.
- Nominate the Bid Opening Committee and the Evaluation Committee as appropriate for each approval granted within the authority threshold of the subsidiary Procurement Committee.
- Maintain full Minutes of Meetings and record all decisions and recommendations using form SPF3. Ensure that copies of all documents considered by the Committee are retained by the Procurement Unit for ease of reference, and that the decisions of the Committee are promptly communicated to the originator.

10.2 MAIN PROCUREMENT COMMITTEES

A main Procurement Committee will consider all formal requests for approval of specifications and bidding documents which are above the financial threshold delegated to its Procurement Unit. This includes requests processed through any subsidiary Procurement Committee that exceed the subsidiary Committee's level of financial authority.

Action:

- Receive Form SPF 2 Part A from the Procurement Unit together with all draft documents for review. If necessary a presentation from the relevant Head of Department/Unit may be required in respect of the specific procurement and to seek clarification of any issues.
- Review and approve or reject the lists of items to be procured, the works to be contracted out or the services required. This shall include the detailed specifications, Bill of Quantities, Activity Schedule or Terms of Reference as well as any classification into Lots to enhance competition from bidders.
- Review and approve or reject the bidding documents and the advertisement or invitation to bidders and shortlist, including the bidding period and cost of the bidding documents.
- Return any rejected procurements to the Procurement Unit giving detailed reasons for the rejection.
- Issue a full or a qualified approval for the procurement to proceed. A qualified approval may be issued subject to clearly explained minor corrections which must be made to the documents or specifications before issue.
- Nominate the Bid Opening Committee and the Evaluation Committee as appropriate for each approval granted.
- Maintain full Minutes of Meetings and record all decisions and recommendations using form SPF3. Ensure that copies of all documents reviewed by the Committee are retained by the Procurement Unit for ease of reference, and that the decisions of the Committee are promptly communicated to the originator.

CHAPTER 11: ANNOUNCEMENT AND ISSUE OF BIDDING DOCUMENTS

11.1 DONOR FUNDED PROCUREMENTS

If the procurement is funded by a donor and is subject to the donor's prior review procedures, the Procurement Unit will forward all required documents to the donor for a "no objection". No further action may be taken until a formal response is received from the donor.

If the procurement is rejected by the donor, or substantial modifications to the bidding documents are required for a conditional no objection, refer back to the Procurement Committee for information and a decision on the action to be taken.

11.2 ANNOUNCEMENT FOLLOWING APPROVAL BY THE PROCUREMENT COMMITTEE

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.

Action by Procurement Unit:

- Examine the decision of the Procurement Committee (and the donor if appropriate) and ensure that full approval has been granted or that any modifications required or approved by the Committee are accurately corrected in the documents.
- Complete the documents as necessary, rechecking to see that the Bidding Document and the announcement are clear and complete, and fully in accordance with the appropriate standards.
- Confirm to the Chairman of the Bid Opening Committee, the date and time of the bid opening. Ensure that the room where the Bid Opening will be held, is available and booked.
- Arrange for publication of the advertisement, or issue of the invitation to short-listed bidders.
- Prepare sufficient copies of the bidding documents ready for sale by the first day of publication for an open bid.
- Ensure that full records are maintained and updated and that copies of all relevant documents are retained in the Procurement Dossier for reference.

11.3 SALE OF BIDDING DOCUMENTS FOR OPEN COMPETITIVE BIDDING

The sale of bidding documents for open competitive bidding will be coordinated by the Procurement Unit. The price charged for the documents must only reflect the actual cost of production of the bidding document

Action:

- Prospective bidders should be allowed to briefly inspect the bidding documents, if requested, before committing to purchase the documents.
- Obtain the bidder's signature on the declaration of ethical conduct.
- Record the name and address of each bidder purchasing the bidding documents in a register.
- All fees received from the sale of bidding documents must be recorded and the income deposited in the Consolidated Account. A formal Treasury Receipt must be issued to the bidder.

- If the bid is subject to conformity with a sample or samples, obtain written acknowledgement from the bidder at the time of sale of the bidding documents that the sample or samples have been inspected.

11.4 ISSUE OF INVITATIONS FOR RESTRICTED BIDDING

The bidding documents for Restricted Bidding must be issued to all short-listed bidders simultaneously, either by registered post, or by hand in return for a written receipt.

Action:

- Prepare the envelopes for distribution containing a personalised Letter of Invitation and the complete set of bidding documents, together with the declaration of ethical conduct.
- Send the invitation by registered post to all short-listed bidders, or deliver by hand and obtain a written receipt.
- If the bid is subject to conformity with a sample or samples, obtain written acknowledgement from the bidder that the sample or samples have been inspected.

11.5 ISSUE OF REQUESTS FOR QUOTATIONS

The procedure for issue of Requests for Quotations to short-listed bidders follows the same principles as for Restricted Bidding above.

The standard bidding document formats for Request For Quotations will be used for simple requirements wherever practical. For complex requirements where the normal RFQ documents are not appropriate, or the Purchase Order is not a suitable form of contract, the Procuring Entity is recommended to select appropriate formats from the other Standard Bidding Documents.

CHAPTER 12: BID CLARIFICATION, EXTENSION AND CANCELLATION

12.1 BID CLARIFICATIONS

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

Action:

- Each request for clarification must be recorded, and referred immediately to the Procurement Unit to develop a response in consultation with the concerned Technical Department.
- The Procurement Unit should also consider if the proposed response to a request for clarification will require bidders to undertake additional work, or make substantial modifications to their bids, which cannot reasonably be completed by the stated date for submission of bids. In this case, the Procurement Committee should be consulted for approval to extend the date for submission of bids.
- Provide a written response to the bidder and notify details of the query and the response (but without identifying the source of the query) to all other bidders simultaneously.
- Place copies of all correspondence in the Procurement Dossier.

12.2 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.

Action:

- Following approval by the Procurement Committee of an extension of time, confirm a revised closing date with the Procurement Unit and the Bid Opening Committee.
- Notify all bidders in writing of the revised date for submission of bids.
- Place copies of all correspondence in the Procurement Dossier.

12.3 CANCELLATION OF BIDDING PROCESS BEFORE BID OPENING

A bidding process may be cancelled at any time before the deadline for receipt of bids with the approval of the Procurement Committee. Note that for donor-

funded procurements, the donor must be consulted before any cancellation of the bidding process.

Justifications for cancellation are:

- (i) the procurement need has ceased to exist or changed significantly;
- (ii) insufficient funding is available for the procurement;
- (iii) 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;
- (iv) insufficient, or no responsive bids are received;
- (v) there is evidence of collusion among bidders; or
- (vi) cancellation is deemed to be in the interest of national security.

Action:

- Notify all bidders who have purchased or received the bidding documents, of the cancellation and refund any fees paid for the purchase of bidding documents.
- If the bidder has already submitted his bid, this must be returned unopened.
- Notify all Departments, Units and sub-committees involved in the procurement, and the donor if appropriate, of the cancellation.

CHAPTER 13: RECEIPT OF BIDS AND BID OPENING

13.1 RECEIPT OF OPEN AND RESTRICTED BIDS

All bids shall be received by the Procurement Unit and deposited in the designated locked tender box until the Bid Opening. The Procurement Unit will co-ordinate the organisation of bid opening proceedings.

The bidding documents will have provided clear instructions to bidders on the marking and sealing of their bids and the procedures to be followed for submission.

The closing time for submission of bids on the date set shall be determined in advance by the Procurement Committee. Bid Opening shall commence immediately after this time and all work should be completed within the same session.

Action:

- Arrange placement of the tender box in a prominent place and ensure that all reception office staff and staff responsible for the receipt of post are fully aware of the bid and their responsibilities for bids received.
- Ensure that the tender box is kept locked until the Bid Opening and that neither the bidders nor staff have an opportunity to tamper with the box.

- Register all bids received by post or by courier service on receipt, stamp with the date and time of receipt, and deposit the envelope unopened in the correct tender box.
- Direct all bidders' representatives delivering bids by hand to the tender box so that they may place their envelopes directly in the tender box.
- Bids or samples received which are too large to fit in the tender box shall be registered and securely retained in a locked room under the control of the Procurement Unit until the Bid Opening.
- Close and seal the tender box immediately following the deadline for submission of bids and transport the tender box to the room where the Bid Opening will take place.
- Alternatively, if a single tender box is used for multiple bidding procedures, or the tender box is a fixture, open the tender box immediately following the deadline for submission of bids and remove all bids required for that bid to be opened, and transport these to the room where the Bid Opening will be held.
- Ensure that bids or samples which were too large to fit in the tender box are also transported to the room where the Bid Opening will be held immediately following the deadline for submission of bids.

13.2 OPENING OF OPEN AND RESTRICTED BIDS

The Procurement Unit will co-ordinate the administration of the Bid Opening to assist the Bid Opening Committee, ensure smooth operation of the proceedings, take Minutes of the Meeting, and to advise the Chairman on procedural issues if requested.

The Chairman of the Bid Opening Committee will control and direct the Bid Opening and shall not allow bidder's representatives to interfere with the work of the Committee. Any objections by a bidder to the procedures or decisions of the Bid Opening should be made in writing to the Chairman of the relevant Procurement Committee.

All work in respect of the opening of bids received against a particular piece of procurement must be done in the same session. For purposes of transparency it is not permitted for a bid opening to be halted or postponed once a bid has been opened.

Action:

- Ensure that bidders representatives are seated separately from the Bid Opening Committee and officials of the Procuring Entity, and that the name, organisation represented and contact details of all attendees are recorded in an attendance register.
- Ensure the security of documents and bids at all times during the Bid Opening procedure to prevent any unauthorised interference with the documents and process.

- Bring in the unopened tender box and/or all bids and samples received which have been removed from the tender box or could not be accommodated in the tender box.
- Open the tender box, check that the writing on each envelope or sample inside confirms that it is for the correct bid and complies with the wording and sealing required in the bidding documents. Stack all envelopes in clear view of the bidders ready for opening. Samples supplied by bidders shall be stacked separately after checking that the bidder's name is clearly identified on each sample provided.
- The Chairman will open the meeting and outline the procedures to be used for the Bid Opening.
- Any bids not received by the deadline for the opening of bids must be rejected and returned unopened to the bidder. Bidders are not permitted to amend their bid in any way during the Bid Opening or to submit any additional documents during the process.
- Check for any withdrawals or modifications and match with the original bid before proceeding. Withdrawn bids shall not be opened once the authenticity of the withdrawal notice has been confirmed.
- Open the first bid after confirming that all conditions regarding marking and sealing of the envelope have been met and the envelope has not been tampered with. Stamp each copy of the bid and annotate each bid with a sequential serial number as it is opened (e.g. "1 of 7" where the total number of bids is 7).
- Examine the contents of the envelope and identify, stamp and number all originals and copies, and any separate sections and attachments.
- Read out the following details of each bid from the Original copy:
 - any bid modifications or withdrawals;
 - the number allocated to the bid by the Bid Opening Committee;
 - the name and country of the bidder;
 - a brief description of the goods, works and/or services offered if the bid is for more than one Lot;
 - the currency of the bid;
 - the total bid price;
 - any discounts offered;
 - the presence or absence of any required bid security;
 - confirmation that the bidder has completed the declaration of ethical conduct, and
 - any other appropriate information at the discretion of the Chairman.

[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.]

- Pass all bid securities to the representative of the Procurement Unit for review, registration and safekeeping.
- Any obvious failure to provide a responsive bid, such as no bid security or inadequate bid security, shall be reported to the Meeting and recorded in the Minutes. These bids shall be rejected.
- The Chairman and two Members of the Committee shall initial the original of each bid and all attachments thereto including any samples provided by the bidder. Any corrections to prices or obvious errors and omissions shall be circled in red ink and also initialled.
- Record the details read out of each bid in the Register of Bid Opening ensuring that amounts are recorded in words as well as figures, and record all corrections and errors or omissions which are noted during the Bid Opening in the Minutes of the Meeting.
- Mark any samples received identifying the supplier and the Procurement Number and record samples in a register.
- Any envelopes containing substitutions, or modifications, must be subject to the same level of scrutiny, including the reading out of critical details, such as price changes.
- Minutes of the Bid Opening shall be prepared by the Procurement Unit, signed by the Chairman of the Committee and made available to any bidder involved in the bid who requests a copy in writing.

13.3 OPENING OF REQUESTS FOR QUOTATIONS

No public opening of the quotations submitted is required, but all quotations must be opened on a predetermined date and time by the Procurement Unit to avoid the opportunity for any bidder to become aware of the prices quoted by other bidders.

The recording of quotations and the bid evaluation procedures followed are similar to those for Open Competitive Bidding and Restricted Bidding except for the following:

- Quotations will normally be submitted using Sections B and C of the appropriate standard Request for Quotations document;
- Sealed quotations and any samples will be received directly by the Procurement Unit rather than being placed in the tender box;
- The Procurement Unit will register the receipt of each quotation and keep the envelopes secure and unopened until the date of the bid opening;

- Bidders will not normally be invited to attend the opening of quotations, but the basic procedures and formality of the Meeting must be maintained.

Action:

- Ensure that the name, organisation represented and contact details of all attendees are recorded in an attendance register.
- Ensure the security of documents at all times during the procedure to prevent any unauthorised interference with the documents.
- Bring in the unopened quotations and any samples received and check that the writing on each envelope or sample confirms that it is for the correct RFQ.
- Open the first quotation after confirming that all conditions regarding marking and sealing of the envelope have been met and the envelope has not been tampered with. Note each quotation with a serial number in sequence as it is opened (e.g. "1 of 4" where the total number of bids is 4).
- Examine the contents of the envelope and identify, stamp and number all originals and copies, and any separate sections and attachments.
- Read out the following details of each bid from the Original quotation:
 - the number allocated to the quotation by the Bid Opening Committee;
 - name of the bidder;
 - brief description of the goods, works and/or services offered if the RFQ is for more than one Lot;
 - any bid modifications or withdrawals;
 - the currency of the bid;
 - the total bid price;
 - any discounts offered;
 - the presence or absence of the bid security if required
 - confirmation that the bidder has completed the declaration of ethical conduct; and
 - any other appropriate information at the discretion of the Chairman.
- Any obvious failure to provide a responsive quotation such as no bid security or inadequate bid security (if required in the RFQ) shall be noted in the Minutes. These bids shall normally be rejected.
- The Chairman and two Members of the Committee shall initial the original of each bid and all attachments thereto including any samples provided by the bidder. Any corrections to prices or obvious errors and omissions shall be circled in read ink and also initialled.

- Prepare a record identifying the samples provided by each bidder.
- Record the details read out of each quotation in the Register of Bid Opening ensuring that amounts are recorded in words as well as figures, and record all corrections and errors or omissions which are noted during the bid opening in the Minutes of the Meeting.
- Minutes of the Bid Opening shall be prepared by the Procurement Unit.

13.4 CANCELLATION OF BIDS AND RFQS AFTER THE BID OPENING

Bids and RFQs may be cancelled by recommendation of the Head of Department responsible, and following approval of the Procurement Committee, if:

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

Action by Procurement Unit:

- Obtain approval of the Head of Department responsible and the Procurement Committee for cancellation of the Bid/RFQ;
- Notify all bidders that the bid/RFQ process has been cancelled and return any bid securities.
- Decide whether the procurement is to be cancelled, or to proceed, and by what method.
- If the procurement is to proceed, re-submit all documents to the Originating Officer for preparation of revised specifications, or prepare bidding documents appropriate to any different procurement method proposed.

13.5 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. 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, but bidders who agree to a bid extension will also be required to extend their bid securities for an appropriate period.

When an extension of bid validity period is requested, bidders shall not normally be requested or be permitted to change the quoted price or other conditions of their bid. However, the bidding documents may provide for an appropriate price adjustment mechanism when requests for second or subsequent extensions are made, to reflect changes in the cost of inputs for the contract over the period of extension.

Action by Procurement Unit:

- Maintain a diary reminder of all bid validity dates and advise the responsible officer not less than two weeks before the expiry date so that appropriate action can be taken in time.
- Determine the additional time required to complete the evaluation and award of the specific contract. Any extension of bid validity should be for the minimum period required to complete the evaluation, to obtain the necessary approvals and to award the contract.
- Prepare an individual letter to each bidder requesting their formal approval to an extension of the validity of bids and an extension of their bid securities (where necessary) for the required period. Set a date for written responses to be received by the Procuring Entity stressing that bidders who do not respond in time will be considered to have withdrawn their bids.
- Send the letter by registered post or deliver by hand to each bidder and obtain a receipt.

Bidders have the right to refuse to grant an extension of bid validity without forfeiting their bid security. If a bidder refuses to extend the validity of his bid then, upon expiry of the original bid validity period, the bid security shall be returned and the bid not considered further.

Only bidders who respond confirming their unconditional acceptance and enclosing any required extension to their bid security may be considered for further evaluation and award of contract.

CHAPTER 14: EVALUATION AND CONTRACT AWARD

14.1 EVALUATION BY THE EVALUATION COMMITTEE

The Procurement Committee will nominate an Evaluation Committee to undertake the evaluation of bids received and to make recommendations for the award of contract.

The work of the Evaluation Committee must be commenced and completed as soon as possible after the bid opening to ensure that a contract is formed with the winning bidder within the period of bid validity.

Under the single envelope bidding system, the Evaluation Committee will conduct the technical evaluation followed immediately by the financial evaluation in one stage. Form SPF 4 is the standard format for the evaluation report and recommendation for contract award.

For services contracts 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. Form SPF 5 is the standard format for the evaluation report and recommendation for contract award.

Forms SPF 4 and SPF 5 should be used for evaluation of all procurements which are not donor funded.

Refer to CHAPTER 19: for additional information on the evaluation process for consultant services.

14.2 EVALUATION AND COMPARISON OF BIDS – GENERAL PRINCIPLES

- After the public opening of bids, no information relating to the examination, clarification and evaluation of bids shall be disclosed to bidders or to other persons not officially concerned with the process.
- Bids received after the deadline for submission of bids, bids withdrawn by the bidder, or bids not opened and read out at the bid opening, shall not be considered.
- Bids are evaluated initially by reviewing responsiveness against the requirements stated in the bidding documents, and bids that are determined not to be substantially responsive will be rejected.
- The lowest evaluated responsive bid will be recommended for contract award except where:
 - a merit points weighting system is stated as the evaluation method in the bidding documents. In this case the bid achieving the highest total points score will be recommended for contract award;
 - non-price evaluation criteria are assigned a monetary value for bid comparison purposes causing the lowest priced bid not to be the best-evaluated bid;
 - post-qualification reveals that the bidder of the lowest priced bid is not qualified to perform the contract;
 - the Procuring Entity exercises its right to reject all bids.

- If the Evaluation Committee requires clarifications on ambiguities or inconsistencies in a bid, a formal request must be made to the bidder in writing. No changes in the price or the originally offered goods, works or services may be sought or accepted.
- Responses from bidders to clarifications will only be considered if in writing. No meetings or conversations between the Evaluation Committee and bidders are permitted during the bid evaluation process.
- A detailed report shall be prepared on the evaluation and comparison of bids giving specific reasons for rejection of any bids and for the recommended award of contract.

14.3 TECHNICAL EVALUATION

14.3.1 Preliminary Examination of Bids

The purpose of preliminary examination is to identify and reject bids that are incomplete, invalid or substantially non-responsive to the bidding documents and are therefore not to be considered further. To pass preliminary examination, bids must:

- o be correctly submitted and completed in all general respects;
- o be properly signed;
- o meet the eligibility requirements specified in the bidding document;
- o be accompanied by the required bid security; and
- o be substantially responsive to the bidding documents.

If a bid contains major deviations from, or reservations to, the terms, conditions and specifications in the bidding documents, it is not substantially responsive. The bidder is not permitted to correct or withdraw any material deviations or reservations once the bids have been opened.

Action:

- Examine the content of each bid to ensure that all required commercial and technical data is submitted in the format and detail required by the bidding documents. This will include:
 - o All specified documentation such as valid trading licence, tax certificate, annual accounts, evidence of previous experience, powers of attorney, manufacturer's authorisations, or joint venture agreements;
 - o Physical and chemical characteristics of goods offered and conformity of samples with the specification (where appropriate);
 - o Use the checklist table in Forms SPF 4 or SPF 5 to ensure that all criteria specified in the bidding documents are met.
- Establish that the bid is a complete bid in accordance with the requirements of the bidding document. This will include:

- the completeness of the Bid Form and response to the specifications;
 - offering all of the required items, unless the bidding documents specifically allow partial bids permitting bidders to quote for only some items, lots, or for only partial quantities of a particular item;
 - all erasures, interlineations, additions or other changes made have been initialled by the bidder before bid submission;
 - no missing pages in the original copy of the bid or contradictions in model numbers or other designations of critical items.
- Confirm the eligibility of the bidder to bid and the eligibility of the goods, works and/or services offered, based on the requirements specified in the bidding documents. This will require that:
- the bidder and all partners to a joint venture are nationals or juridical entities from an eligible source country;
 - all goods and services originate from eligible source countries. For plant and equipment, this test is normally applied only to the finished product offered in the bid, and to its major and clearly identifiable components;
 - the bidder is not disqualified due to conflict of interest through affiliation with a firm that has provided related consulting services on the project by which the procurement is financed.
- Confirm the presence and acceptability of the bid security (where required by the bidding documents). If a bid security was requested but not submitted, the bid will be rejected. Determine the compliance of the bid security as follows:
- The security must conform to the requirements of the bidding documents, and accompany the bid;
 - If the security is in the form of a bank guarantee, it should follow the wording of the bid security form provided in the bidding document;
 - The security for a bid submitted by a joint venture should be in the name of all of the partners of the joint venture;
 - Submission of a copy bid security is not acceptable unless expressly permitted in advance;
 - Securities for an amount smaller, or for a period shorter, than that specified in the bidding documents are not acceptable.
- Check if the bidder has placed any unacceptable reservations on delivery, performance or the conditions of contract.
- Check for major deviations to the commercial requirements. Major deviations are those that, if accepted, would not fulfil the purposes for which the bid is requested, or would prevent a fair comparison with bids

that are fully compliant with the bidding documents. Examples of major deviations include:

- refusal to bear important responsibilities and liabilities specified in the bidding documents, such as performance guarantees and insurance coverage;
- disagreement with critical provisions such as the applicable law, taxes and duties, and dispute resolution procedures; and
- any other conditions that are specified in the bidding document which may require rejection of the bid.

Note: Bids that offer deviations may be considered as substantially responsive if the deviations can be assigned a monetary value to be added as a penalty for comparison of bids, and if such deviations would be acceptable in the eventual contract.

- Recommend rejection of any bid which is not responsive to the bidding document. Minor deviations should be mentioned in the Evaluation Report but may usually be considered as immaterial. If the Evaluation Committee considers that more serious reservations in a bid could be removed by subsequent negotiation with the bidder, this shall be fully explained in the evaluation report.

14.3.2 Technical Evaluation:

Only bids that have passed the preliminary examination and are considered to be substantially responsive to the bidding documents will be considered for further evaluation.

Action:

- Check for compliance with the technical specifications. Unacceptable deviations are those that, if accepted, would not fulfil the purposes for which the bid is requested, or would prevent a fair comparison with bids that are fully compliant with the specifications. Examples may include:
 - failure to respond to the specifications by offering a different design or product that is inferior in performance or in other requirements;
 - submission of samples which do not correspond to the specifications;
 - phasing of contract start-up, delivery, installation or construction does not conform to the required critical dates or progress markers;
 - sub-contracting in a substantially different amount or manner than that specified.
- Record the results of any inspection of samples.
- For least-cost selection procurements only:** complete Table 2 of Form SPF 4 to confirm compliance, or to record reasons for non-compliance, with the specifications. All bids passing the technical evaluation will proceed directly to the financial evaluation stage.

- For merit point procurements:** If a merit point system is specified in the bidding documents, evaluation and scoring of each bid for the technical criteria stated in the bidding documents is undertaken:
 - Each member of the Evaluation Committee will award technical point scores individually to each bid using Table 2B of Form SPF 5.
 - The scores given by each member for each bid will be discussed and consolidated into a summary on Table 2A of Form SPF 5.
 - Table 2A will be used to determine the averaged technical score totals for each bidder and to indicate which bidders have passed the minimum technical score required.
 - Complete the Technical Evaluation Report section of Form SPF 5 and submit to the Procurement Committee for approval.
- Recommend rejection of any bid which is not technically responsive to the bidding document, where the sample provided does not conform to the required specifications, or where the required technical score is not reached under a merit point system.

14.4 FINANCIAL EVALUATION:

Only bids passing the technical examination shall be considered for financial examination. Bids failing the technical examination are to be rejected.

Bids offering a choice of different product models are normally evaluated on the basis of the lowest price offer by the bidder from among the models meeting the requirements of the bidding document.

If a two-envelope system and merit point evaluation were specified in the bidding documents, financial evaluation cannot commence until the technical evaluation has been approved by the Procurement Committee (and the donor if applicable), and financial envelopes have been opened at a second Public Opening.

Action:

- Only evaluate bids that have passed the technical evaluation stage.
- Financial bids that are based solely on a discount to the lowest other bid presented shall be rejected as non-responsive. Similarly, bids stipulating a price adjustment when fixed price bids were requested may be rejected as non-responsive.
- If permitted in the bidding document, prior to bid opening bidders may have submitted modifications to their original bid. The effect of any such modifications must be fully reflected in the examination and evaluation of the bids.
- Check the bids for arithmetic errors:
 - where there is a discrepancy between the amounts in figures and in words, the amount in words will govern; and

- where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will govern, unless in the opinion of the Committee there is an obviously gross misplacement of the decimal point in the unit rate, in which case the line item total as quoted will govern and the unit rate will be corrected.
- all corrections made in accordance with the procedure specified in the bidding document, are considered binding on the bidder.
- ☐ Pricing of Missing Items: Where items missing in some bids are present in others, the highest price quoted by the other bidders is added to the incomplete bids for evaluation purposes. Under works contracts, missing prices for occasional work items are normally assumed to be included in prices for closely related items elsewhere.
- ☐ Acceptable Deviations: Adjust the bid price for any factors such as delayed delivery or different payment schedules in accordance with the rules specified in the bidding document. The adjusted total bid price will be used only for the purposes of evaluation and ranking of bids. Any such deviations must be acceptable to the Procuring Entity in the eventual contract.
- ☐ Provisional Sums: If the bids contain provisional sums set for contingencies or for nominated subcontractors, since these sums are the same for all bids, they should be deducted from the prices read out at the bid opening to allow a proper comparison of the competitive elements of bid prices.
- ☐ Modifications and Discounts: Discounts offered in accordance with the bidding document that are conditional on the simultaneous award of other contracts or lots in the bidding documents (“cross-discounts”) shall not be evaluated until the completion of all other evaluation steps. Non-conditional discounts should be included at this stage.
- ☐ Currency Conversions: If bids in different currencies are permitted in the bidding documents, convert the bid prices to the single currency (normally Leones) as stated in the bidding documents:
 - The selected source and date for currency exchange rates must be as specified in the bidding documents.
 - The source of exchange rates will normally be the selling rate quoted by the Central Bank of Sierra Leone on the selected date.
 - The selected date should not be earlier than four weeks prior to the deadline for the receipt of bids, nor later than the original date for the closing of bids.
 - Obtain written evidence of the conversion rates to be used confirming the required date and source.

- Apply the appropriate conversion rate to each corrected bid price to arrive at the evaluation price in the common currency.
- ☐ Complete Table 3 of Form SPF 4 or Form SPF 5 as appropriate.

14.5 COMPARISON AND RANKING OF BIDS

For least-cost selection, the corrected bid prices, adjusted for omissions, deviations and specified evaluation factors, and converted to a common currency are ranked to determine the lowest evaluated responsive bid in Table 3 of Form SPF 4.

For merit point systems (including the Quality and Cost Based Selection (QCBS) method for consultant services), the combined technical and financial scores are calculated in Table 4 of Form SPF 5 to determine the lowest evaluated responsive bid.

In either case the ranking of bidders is still subject to:

- ☐ the application of any margin of preference to domestic bids as allowed for in the bidding documents;
- ☐ the application of any cross-discounts, dependent on the simultaneous award of multiple contracts or lots; and
- ☐ post-qualification evaluation, or, if pre-qualification has occurred, reconfirmation of pre-qualification information.

14.5.1 Cross-discounts

Cross-discounts are conditional discounts offered if more than one contract or lot is awarded to the same bidder. Bid evaluation in such cases can be complicated where:

- the value of cross-discounts offered vary with the number of contracts awarded; or
 - the bidding documents limit the number or total value of awards to a bidder based on financial and technical capacity. Thus, a bidder offering the best-evaluated bid on a particular contract may be denied award because of such a restriction.
- ☐ Where cross-discounts are offered for least-cost selection procurements, the Evaluation Committee should select the optimum combination of awards to give the lowest overall cost of all the contracts, consistent with the evaluation criteria. Cross discounts are normally not assessed for QCBS procurements.
 - ☐ Detail any calculations of cross-discounts on an attachment to the Evaluation Report, which should also include the bid evaluation(s) for the other contracts, if they have been evaluated separately.

14.6 POST-QUALIFICATION OF BIDS

Post-Qualification of the lowest evaluated responsive bidder should be conducted to determine his physical capability to perform the contract. Using the criteria specified in the bidding documents, this review should include an assessment of the bidder's financial and physical resources available to undertake the contract, including his current workload.

- 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.

14.7 EVALUATION REPORT AND RECOMMENDATION

Complete the Evaluation Report (Form SPF 4 or SPF 5) to include all supporting documents and tables. The Evaluation Report is an essential document to demonstrate a record of transparency in the procurement process, and must be compiled with care and attention to detail.

The Evaluation Committee may recommend that all of the bids be rejected if:

- none of the bids are found to be responsive;
- all of the bids are unreasonably high in price compared to the cost estimate;
- none of the bidders are qualified;
- 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 (including cross-discounts) and acceptance of alternative offers from the lowest evaluated responsive bidder. Adjustments for evaluation purposes only (e.g. for deviations or margins of

domestic preference) used to determine the lowest evaluated responsive bid, will not be included in the contract price.

Further adjustments to the final price and scope of the contract to correct for acceptable omissions and quantity variations in the bid may still need to be agreed with the best-evaluated bidder. If the procurement is donor financed, prior agreement of the donor to the proposed award of contract is normally required before any such negotiations are commenced.

Action:

- Check that the total price quoted by the lowest evaluated responsive bid is acceptable compared with the original estimated cost. For works, this would be assessed against the original architect's/Engineer's estimated cost; for goods and services, this would be achieved by an assessment of market price.
- Complete the narrative sections of the Evaluation Report with particular attention to:
 - the recommendations;
 - justification of any decisions reached by the Evaluation Committee on rejection of bidders and the recommendation for award of contract, or for essential negotiations with the best-evaluated bidder or rejection of all bids;
 - clearly establishing the actual amount of the contract award.
- Explain any inconsistencies between prices and modifications to prices read out at bid opening.
- Detail bids rejected during the examination. Copy selected pages from bids, if necessary, to show examples of objectionable features.
- Explain reasons if provisional sums vary among bidders.
- Explain any substantial corrections for arithmetic errors which may affect the ranking of bidders.
- Explain any additions, adjustments, and priced deviations that may affect the ranking of bidders.
- Provide verification evidence of eligibility for domestic preference if the ranking of bids is affected.
- Explain any cross-discounts not read out and recorded at the bid opening.
- Attach copies of any evaluation reports for other related contracts awarded to the same bidder.
- Give detailed justification of any reasons for not recommending award of contract to the best-evaluated bidder.
- If an alternative bid is recommended for acceptance, a detailed explanation addressing issues of time delays, performance factors, and cost

implications, and justification of any changes to the original scope and contract conditions.

- Explain all adjustments to the evaluated price or to the contract award price.
- Attach copies of any correspondence from bidders who raise objections to the bidding or evaluation process, together with detailed responses.
- Attach copies of any letters from bidders requesting clarifications, and responses by the Procuring Entity, and bid clarifications requested by the Procuring Entity and bidder responses.
- Attach any separate evaluation report from the consultant, if one was engaged for this purpose.
- Attach all required Tables and supporting documents.
- Ensure that the bid evaluation report is double-checked, and complete before submitting for approval by the Procurement Committee.
- Forward the completed Evaluation Report to the Procurement Committee with Section B of Form SPF 2 (Request for Approval of Evaluation Report and Award of Contract) for approval.

14.8 PROCUREMENT COMMITTEE 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 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 Head of the Procuring Entity and to the NPPA for information. If the complaint reveals a serious breach of procedures or ethics, or if directed by the Independent Procurement Review Panel, the Committee shall reject the evaluation report and call for re-bidding.

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 be able to perform the contract.

The quantity of items ordered may be varied to reflect the current needs of the Procuring Entity if this is permitted in the text of the bidding documents.

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.

Action:

- Check the accuracy of the evaluation and recommendations as submitted.
- If the lowest evaluated responsive bid is higher than the original estimated cost, decide whether the price increase is justified. If the price is not

acceptable, the Procurement Committee may consider that the bid should be re-advertised, cancelled, or the quantities or scope reduced.

- If the price is acceptable, but exceeds the financial authority of the Procurement Committee, forward the evaluation report and the Committee's recommendations to the next higher authority for approval.
- If the evaluation report recommends negotiation with a bidder to remove any reservations in the best-evaluated bid, the Committee shall arrange for such formal negotiations to be held. Negotiations may not be held with the object of reducing prices on any competitive bidding process. If negotiations with the lowest evaluated responsive bidder fail to get a withdrawal of the reservations in his bid, the second-ranked bidder may be invited to sign the contract or invited for negotiations. Following any negotiation process the result of negotiations and any recommendations must be reported back to the Procurement Committee for approval before further action is taken.
- Reject any evaluation report which contains serious inaccuracies or flaws and return to the Evaluation Committee for correction and re-submission.
- Issue a full or a qualified approval to the award of contract or the recommended action. A qualified approval may be issued subject to clearly explained corrections that must be made to the evaluation report, or to the contract documents before issue.
- Ensure that all discussions and decisions of the Committee are reported in the Minutes of the Meeting.

14.8.1 Review by a donor (if applicable)

All procurement that is subject to the donor's prior review procedures will require submission to the donor of:

- a copy of the Evaluation Report in the prescribed format;
- copies of all supporting documentation;
- any additional information and justifications for the recommendations.
- All internal Government approvals for bidding documents, contract awards etc., must be completed before submission to the donor.
- The donor will not usually contact bidders but will request the borrower to do so for any necessary clarifications.
- When the donor is satisfied with the evaluation of bids and recommendations of award, a "no-objection" or "approval", in the form of a written communication will be issued by the donor.
- Only when the donor's unconditional "no-objection" or "approval" is received should the contract award procedure be commenced.

DONOR financed procurements which are not subject to prior review must still follow the DONOR's relevant rules and/or guidelines. Any doubts about the justification for the recommended contract award should be raised with the donor prior to contract signature as the donor will not normally finance contracts that have not been procured in accordance with the loan/credit agreement or donor rules.

14.9 REJECTION OF ALL BIDS

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

- wider advertising or sourcing of bidders if the rejection of all bids is due to lack of competition;
- 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;
- 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.
- 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.
- instructing the Evaluation Committee to review the causes of the rejection and to recommend revisions to the:
 - o conditions of contract;
 - o design and specifications;
 - o scope of the contract;
 - o or any other relevant provision,before inviting new bids.

In the case of donor-financed procurement, the donor's prior approval is required before rejecting all bids, soliciting new bids, or entering into any negotiations with the lowest evaluated responsive bidder.

Bids should not be rejected and new bids invited on the same bidding and contract documents solely for the purpose of obtaining lower prices.

14.10 NEGOTIATIONS

Where negotiations are recommended by the Evaluation Committee or the Procurement Committee, these shall normally be conducted by the Procurement Committee subject to the following conditions:

- Negotiations with the lowest evaluated responsive bidder may be undertaken where reservations or restrictions on the specifications or conditions are contained in the bid. These negotiations are for the sole purpose of persuading the bidder to waive these restrictions so that the bid is in accordance with the specifications, terms and conditions of the original bid.
- Negotiations with the lowest evaluated responsive bidder may be undertaken to agree a satisfactory contract through a reduction in the scope or quantities and/or a reallocation of risk and responsibility, to reduce the contract price when prices quoted are substantially higher than the estimated cost. However, any substantial reduction in the scope or modification to the contract documents may require re-bidding to ensure transparency.
- Negotiations (including price) may be undertaken in selection of consultant services where price is not an evaluation criteria. This will apply only to the Quality-Based Selection (QBS), Selection Based on Qualifications, or Sole-Source Selection methods.
- 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.**
- In no circumstances shall negotiations be conducted with two bidders simultaneously.**

14.11 COMPLETION OF CONTRACT FORMAT

If the procurement is funded by a donor and is subject to prior review procedures, submit the Evaluation Report and all required supporting documents to the donor for “no objection”. No further action should be taken until donor “no objection” to the evaluation report and recommendation for award of contract is received.

Following notification of approval of the evaluation report and contract award by the Procurement Committee (and donor if appropriate), the Procurement Unit will complete the contract document.

Action:

- Amend the bid evaluation report as required and approved by the Procurement Committee.
- Complete the form of contract entering details of the selected bidder and all agreed terms and conditions. Assemble the contract including all attachments forming part of the contract.
- Prepare Form SPF 2 Section C - Request for Approval of Contract Document and Contract Signature, and submit to the Procurement Committee with the draft contract and all attachments for approval.

14.12 PROCUREMENT COMMITTEE APPROVAL OF CONTRACT DOCUMENT

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.

Action:

- Examine the form of contract to ensure that all required information, conditions and attachments are completed, and all modifications or negotiations are incorporated.
- Approve the contract and give authority to proceed to the award of contract stage, or reject the contract pending further amendments or clarifications.
- Ensure that all discussions and decisions of the Committee are reported in the Minutes of the Meeting.

14.13 COMPLAINTS BY BIDDERS

Complaints by bidders to the bid opening procedures or the evaluation and award of contract must be investigated and all findings reported to the Head of the Procuring Entity and to the NPPA. The Head of the Procuring Entity shall ensure that the bidder has an opportunity to present his case in person and to receive an explanation of the decisions made within 7 days of receipt of his complaint.

Where investigations indicate that the bidder has a valid complaint that may have affected the award of contract, no award of contract shall be made pending resolution of the dispute. In such cases it may be preferable to cancel and restart the bid process.

If the matter cannot be resolved at the procuring entity level, it will be forwarded to the Independent Procurement Review Panel for examination and decision, and copied to the NPPA.

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

14.14 CONTRACT AWARD AND CONTRACT SIGNATURE

Following notification of approval of the contract by the Procurement Committee, the Procurement Unit will:

- Publish the Notice of Intent to Award a Contract, allowing a maximum of 14 days for complaints by aggrieved bidders.
- Finalise the contract and prepare in four complete copies.
- If the form of contract does not precisely follow a previously approved standard format, obtain prior approval of the contract by the Legal Officer within the Procuring Entity or from the Ministry of Justice.
- Ensure that the commitment is recorded in the Commitment Register.

- ❑ After the expiry of any Notice of Intent to Award period, following a Request for Quotations procedure, issue a Local Purchase Order to the selected supplier. For other forms of contract, send a formal notice of award to the winning bidder by hand or by registered letter, requesting submission of any required performance security and the bidder's attendance within one week to sign the contract.
- ❑ The value of any performance security for goods and works shall be as stated in the bidding documents. Performance securities are not normally required where the Request for Quotations procedure is used and the contract value is less than the thresholds contained in part 2 of the First Schedule of the Law, or where the Sole Source procedure is used and the contract value is less than these thresholds. Performance securities are not normally required for services.
- ❑ If the bidder fails to provide the performance security or refuses to attend for signature of the contract as requested, refer to the Procurement Committee for a decision on the confiscation of the bidder's bid security and award to the next ranked bidder.
- ❑ Receive, check and register the performance security before passing to the Accounts Department for safekeeping during the validity of the security.
- ❑ Check that the contract is correctly signed by both the Supplier or Contractor and the authorised signatory for the Procuring Entity, on all four copies and distribute as follows:
 - Original – Procurement Unit;
 - 1st Duplicate – Supplier/Contractor;
 - 2nd Duplicate – the Technical Department concerned; and
 - 3rd Duplicate – Legal Officer/Ministry of Justice.
- ❑ Ensure that the contract is duly recorded in the Contracts Register maintained by the Procurement Unit.
- ❑ Arrange the immediate return of Bid Securities to all bidders and the successful Supplier or Contractor as soon as the Contract becomes effective.

CHAPTER 15: 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.

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

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

A flowchart showing a summary of the main post-contract activities for the procurement of goods is provided at Annex 2.

15.1 CONTRACT EFFECTIVENESS

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

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

Action:

- If the Supplier or Contractor fails to provide the Performance Security, and fails to respond to a written reminder, seek the advice of the Procurement Committee for a decision as to whether the contract may be cancelled and awarded to another bidder;
- Ensure that any Advance Payment specified in the contract is paid immediately when the Advance Payment Security is received from the Supplier or Contractor;
- Ensure that any Letter of Credit required is issued promptly.

15.2 CONTRACT SUPERVISION AND ADMINISTRATION - GOODS

Contract supervision and administration for goods will be the primary responsibility of the Procurement Unit.

Supervision and administration is straightforward in most procurements of goods but monitoring delivery schedules, processing of documents and the inspection of goods are essential to ensure that the correct goods are delivered on time.

The Procurement Unit will:

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

The Stores Department will:

- Co-ordinate the receipt and inspection of goods;
- Issue the goods after delivery and formal acceptance to the User Department.

15.3 PRE-SHIPMENT INSPECTION OF GOODS

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

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

PSI Action:

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

Any discrepancies found in the course of the inspection must be reported immediately.

15.4 COLLECTING GOODS FROM THE PORT OF ENTRY

Port and customs clearance of goods and physical collection at the Port of Entry may be necessary in some circumstances depending on the INCOTERMS used.

Before accepting the consignment:

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

15.5 RECEIPT AND INSPECTION OF GOODS

The Stores Department is normally responsible for the receipt of goods except under works contracts where construction materials are delivered direct to the site.

15.5.1 Delivery of Goods

On delivery by a Supplier or carrier, the Storekeeper will:

- Receive the goods into temporary storage.
- Examine the apparent condition of the goods and packing.
- Issue an interim receipt, noting the apparent condition, pending the meeting of an Inspection and Receipt Committee.
- Receive and register the invoices pending processing (through the Procurement Unit) to the Accounts Department for payment following the report of the Inspection and Receipt Committee.
- Arrange notification to the Inspection and Receipt Committee and to the Supplier of the date and time of the formal inspection of the delivery.

15.5.2 Inspection of Goods

The Inspection and Receipt Committee shall meet within two days following the arrival of the goods, and in the presence of the Supplier's representative if he chooses, will:

- Examine the documentation and packaging for compliance with the contract.
- Ask the Supplier to open the packages (or arrange opening of the packages at the Supplier's expense).

- Examine and analyse the goods for conformity with the contract specifications and/or the samples provided.
- Reject all goods that are damaged or do not conform with the required specifications or samples.
- Prepare an Inspection Report with an original and three copies, recording the delivery, and descriptions, specifications and quantities of the goods examined, and the reasons for accepting or rejecting the goods.
- Release accepted goods to the Stores which will take the items on charge by issue of a Goods Received Note and entry into the Stores Ledger

Any rejected goods should be removed by the Supplier within one week. If the goods are not removed, and it is specified in the contract, the Supplier may be charged a penalty for delay. If the rejected goods are not removed after a reasonable period, the Procuring Entity may apply to a Court of Law for authority to sell the rejected goods.

The Inspection and Receipt Committee will follow similar procedures to examine equipment that is delivered to a site and already installed by the Supplier.

15.5.3 Issue to the User Department by Stores

The Stores Department is responsible for maintenance of records of all goods and movable assets held under the custody of individuals, Units, Departments and Entities. Assets will be taken on charge in the records of the concerned Stores and subject to regular review and audit.

The Storekeeper will:

- Issue or release items to the User Department which initiated the procurement using a Stores issue Voucher for the dispensation of goods from the Stores.
- Record the issue from the Stores Ledger and the receipt in the Custody Ledger for the individual, Unit, Department or Programme of the Procuring Entity.

15.6 PAYMENT FOR GOODS

For simple payments against invoices, the Procurement Unit will:

- Complete a Payment Voucher ensuring the deduction of any advance payments already made and any contractual penalties incurred by the Supplier.
- Attach the:
 - o original invoice from the Supplier;
 - o the shipping documents or airway bill, or a delivery note;
 - o original of the Inspection Report;

- original Goods Receipt Note;
 - results of any laboratory analysis;
 - calculation of any penalties for rejected goods not removed by the Supplier and liquidated damages if allowable under the contract;
 - copies of relevant information from the contract document, records of approval and financial authorisations.
- Record the payment in the Contract Register.
 - Forward the Payment Voucher to the Accounts Department for processing.
 - On expiry of any guarantee period release the retention balance to the Supplier.

15.6.1 Payments by Letter of Credit

Payments by Letter of Credit will depend on the contract agreement between the Supplier and the Procuring Entity for the terms and wording of the LC. The Procurement Unit will provide to the Accounts Department all supporting information and documents as specified in paragraph 15.6 above.

15.7 CONTRACT SUPERVISION AND ADMINISTRATION - WORKS CONTRACTS.

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

No Procuring Entity may contract consulting or supervising engineers without the approval of the Ministry of Works, Housing and Technical Maintenance (MOWHTM).

In the same vein, no Procuring Entity may hire the services of works contractors that do not possess certification from the Ministry of Works, Housing and Technical Maintenance (MOWHTM).

15.7.1 Contract Supervision

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

- The Supervising Engineer/Project Manager usually acts at the first level in settlement of disputes and he should ensure that the Procuring Entity and the Ministry of Works, Housing and Technical Maintenance (MOWHTM) are informed of any disputes and their resolution. Any serious disputes which may require an amendment or addendum to the original contract must be reported immediately to the Procuring Entity and the Ministry of Works , Housing and Technical Maintenance (MOWHTM).

- Claims by Contractors for additional work or costs which are not covered under the terms of the existing contract and total contract value, must be referred to the Procurement Committee for approval.
- Claims for extension of time, with or without additional costs, or for additional payment to the contractor must be resolved quickly, subject to the approval of the Procurement Committee.

15.8 PAYMENT FOR WORKS

Payment for works contracts will normally be made against Payment Certificates approved by the supervising engineer and Completion Reports of the Inspection and Acceptance Committee..

For all works contracts, materials delivered to the site but not yet used will be excluded from the measurement approved and the value of Payment Certificates.

Supervision and approval of the takeover of buildings and construction works is the responsibility of the Ministry of Works, Housing and Technical Maintenance (MOWHTM) whose issuance of a Certificate of Completion is required before payments due to the Contractor may be made by the Procuring Entity.

The Supervising Engineer will ensure that:

- the Ministry of Works , Housing and Technical Maintenance (MOWHTM) is represented on the Inspection and Acceptance Committee for final takeover of the Works and that the MOWHTM representative signs the Certificate of Completion;
- any required retention specified under the contract is deducted from the value of the Certificate before payment;
- agreed deductions in respect of the repayment schedule for any advance payment are deducted from the value of the Certificate before payment;
- on issue of an interim takeover certificate by the Inspection and Acceptance Committee, part of any retention monies held may be paid to the contractor if specified in the contract;
- on issue of a final takeover certificate by the Inspection and Acceptance Committee issues, the balance of any retention monies is paid to the contractor.

Action by the Supervising Technical Department:

- Complete a Payment Voucher ensuring the deduction of repayments for any advance payment, retention sums and penalties incurred by the Contractor.
- Attach:
 - o the Payment Certificate;

- the report of the Inspection and Acceptance Committee for interim or final takeover (if appropriate);
 - calculations of any retentions, liquidated damages or other penalties applicable under the contract;
 - copies of relevant information from the contract document, records of approval and financial authorisations.
- Forward the Payment Voucher and supporting documents to the Procurement Unit.

Action by the Procurement Unit:

- Record the payment in the Contracts Register.
- Forward the Payment Voucher and supporting documents to the Accounts Department for payment processing.

15.9 CONTRACT SUPERVISION AND ADMINISTRATION - SERVICES CONTRACTS

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

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

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

The Procurement Unit (or Project Manager) will:

- Monitor the activity and performance in accordance with the contract to ensure that levels of service are maintained and that deliverables are submitted or completed on time. For consultancy services, the contract may specify key reports to be submitted, or timesheets and routine reports to be submitted on a monthly or quarterly basis.
- Ensure that all contractual obligations of the Procuring Entity are performed promptly and efficiently.
- Ensure that all deliverables (and especially reports) are reviewed immediately and responded to in writing where necessary.
- Contact the service provider to identify the causes of any failings in performance or failure to meet targets.
- Issue a formal letter to the service provider detailing the complaint if the explanation given is unsatisfactory or if performance is not improved within a reasonable period of time.
- Report to the Procurement Committee any continued breach by the service provider of his contractual obligations.

15.10 PAYMENT FOR SERVICES

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

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

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

Action by the Procurement Unit (or Project Manager):

- Complete the Payment Voucher ensuring the deduction of repayments for any advance payment, retentions or penalties specified in the contract.
- Attach:
 - o the invoice;
 - o calculations of any retentions, liquidated damages or other penalties applicable under the contract;
 - o copies of relevant information from the contract document, records of approval and financial authorisations.
- Forward the Payment Voucher and supporting documents to the Procurement Unit.

Action by the Procurement Unit:

- Record the payment in the Contracts Register.
- Forward the Payment Voucher and supporting documents to the Accounts Department for payment processing.

15.11 PROMPT PAYMENTS

The Procuring Entity has a responsibility to make payments promptly in accordance with the contract. Payment delays not only create a bad impression of the Procuring Entity and of Government, but are also ultimately passed on to Government in higher prices as suppliers build in the cost of payment delays in their prices.

The periods in which payments have to be made, and the penalties for delayed payment will be those specified in the signed contract.

The Procurement Unit or Project Manager must ensure that:

- the payment terms and penalties specified in the contract are known to all managers and staff involved in the processing of payments;

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

15.12 CONTRACT PERFORMANCE

15.12.1 Monitoring Consultant, Supplier or Contractor's Obligations.

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

The Procurement Unit or Project Manager will:

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

15.12.2 Monitoring and Performing the Procuring Entity's Obligations

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

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

15.12.3 Delays in Performance

Delivery of goods, construction of works and the performance of services should be completed by the Supplier or Contractor in accordance with the time schedule prescribed in the Schedule of Requirements. Where this is not the case:

- In accordance with the contract conditions, the Supplier, Contractor, or its subcontractor, must notify the Procuring Entity in writing of the conditions delaying performance, including full details of the delay, the likely duration and the cause(s).

- The Procuring Entity will immediately assess the situation, and may at its discretion extend the Supplier or Contractor's time for performance, with or without liquidated damages as specified in the Contract.
- If the time for performance is extended, both parties shall ratify such extension by a formal addendum to the Contract subject to approval by the Procurement Committee.
- A delay by the Supplier or Contractor in the performance of his obligations may render him liable to liquidated damages if specified in the contract document, except where:
 - the delay is as a result of Force Majeure;
 - there is no provision for liquidated damages in the contract;
 - an extension of time is agreed between the two parties without the application of liquidated damages.

The Procurement Unit or Project Manager will:

- Refer to the relevant clauses in the General or Special Conditions of Contract for the procedure to be followed to apply, calculate and claim liquidated damages.
- Update the Procurement Dossier and Contract Register to reflect any delays in the supplier's performance.
- Notify the end-user department immediately of all such delays.

15.12.4 Resolution of Disputes

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

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

Action:

- Examine the Contract carefully to be aware of all contract conditions relating to the Resolution of Disputes.
- Determine if the Procuring Entity is at fault or partly at fault, and if so, take appropriate action to rectify the problem.
- Invite the Supplier or Contractor to a formal meeting, within 7 days of the complaint, to discuss the issues and try to agree a compromise acceptable to both parties. Ensure that accurate written Minutes are kept of any such meeting. If an agreement is reached which changes any of the conditions of the Contract, approval of the Procurement Committee or the Head of the Procuring Entity is required before the agreement can be implemented.

- If no initial agreement is reached and negotiations conducted by the Head of the Procuring Entity also fail, consider the use of conciliation or arbitration services as specified in the contract.
- Prepare any necessary addendum to the Contract for signature.
- On contracts funded by a donor, ensure that the donor is kept informed of disputes and seek advice, and a formal “no objection” where required, before any contract addendum is signed.

15.12.5 Termination of the Contract

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

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

- Examine the Contract carefully to be aware of all contract conditions and penalties relating to the Termination of Contract.
- Follow the advice of the Legal Officer/Ministry of Justice and the NPPA in the preparation of any correspondence and settlement of any contractual penalties.

15.13 CONTRACT AMENDMENT

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

All other amendments to costs, quantities, time-periods and other terms and conditions of the contract must be approved by the Procurement Committee and confirmed in a formal contract amendment or addendum.

The Procurement Unit/Project Manager will:

- identify and agree with the Supplier or Contractor the specific clauses in the contract which need to be changed, and the new values or terms and conditions which are to apply;
- prepare a draft contract amendment document for approval by the Procurement Committee together with a report justifying the reasons for the amendment, and Form SPF 2 Section D;
- following approval by the Procurement Committee:

- record any change in contract value in the Commitment Register and in the Contract Register;
- record any other contractual changes in the Contract Register;
- obtain from the supplier/contractor any necessary addition to the performance security;
- arrange for signature of the contract amendment in four copies;
- distribute copies in the same way as the original contract.

CHAPTER 16: PROCUREMENT REPORTING, MONITORING & EVALUATION

16.1 PROCUREMENT REPORTING

The routine reporting of procurement activity by all Procuring Entities is essential for procurement planning and budgeting, and for the monitoring, tracking and evaluation of procurement. Under the provisions of Section 15(3) of the Act, a mandatory regular quarterly reporting of procurement activity to the National Public Procurement Authority is introduced by this Manual.

The Quarterly Report of Procurement shall be submitted by each Procurement Committee using Form SPF 6 within 14 days of the end of each quarter.

The Quarterly Report format on Form SPF 6 is in five sections as follows:

- **Section A: Procurements in Process/progress**
Report all procurements which have passed the initial stage of approval by the Procurement Committee during the quarter.
- **Section B: Contracts Signed or Procurements Cancelled**
Report all new contracts signed during the quarter together with any procurements which have been cancelled after receiving an initial procurement approval by the Procurement Committee.
- **Section C: Contracts Completed**
Report all contracts completed during the quarter following performance by the supplier, final payment by the Procuring Entity and the release of any performance security.
- **Section D: Minor Procurements under Le60 million**
List individual contracts signed for a value above Le 1 million during the quarter, and give totals only by Department or Unit for purchases costing less than Le1million.
- **Section E: Procurements not yet commenced**
Report on all procurements in the estimate not yet initiated

16.1.1 Section A: Procurements in Process above Le60 million

Record:

- Procurement Number;
- Subject of Procurement;
- Procurement Method approved (Open Competitive Bidding, Restricted Bidding, Request for Quotations or Sole Sourcing);
- Source of Funds (e.g. Government, World Bank, other donor);
- Type of Approval given by the Procurement Committee (e.g. procurement method, evaluation report and contract award);
- Date of Approval; and
- Estimated Contract Value.

16.1.2 Section B: Contracts Signed or Procurements Cancelled above Le60 million

Record:

- Procurement Number;
- Subject of Procurement;
- Name of Supplier/Contractor;
- Source of Funds;
- Date of Contract Award;
- Date of Contract Cancellation and reason for cancellation;
- Contract Value.

16.1.3 Section C: Contracts Completed above Le60 million

Record:

- Procurement Number;
- Subject of Procurement;
- Name of Supplier/Contractor;
- Source of Funds;
- Date of Contract Completion;
- Date of Final Payment and Release of Performance Security;
- Total Amount Paid under the Contract.

16.1.4 Section D: Minor Procurements under Le60 million

Record:

- Procurement Number;
- Subject of Procurement;
- Name of Supplier/Contractor;
- Procurement Method used (Request for Quotations or Direct Procurement);
- Date of Contract Signature;
- Contract Cost.

For procurements under Le1 million, enter the Department, Unit or Project name in “Subject of Procurement” and the total value of contracts or direct payments in the month in “Contract Cost”.

16.1.5 Section E: Procurements not yet commenced

Record:

- Procurement Number;
- Subject of Procurement;
- Proposed method of procurement;
- Estimated contract sum
- Expected Date of Commencement of procurement;
- Source of funds

16.2 PROCUREMENT MONITORING AND EVALUATION

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

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

The National Public Procurement Authority will co-ordinate and lead the monitoring and evaluation process through the methodologies described below.

16.2.1 Sources of Information

Procurement monitoring and evaluation information is obtained from:

- Requests for deviation from procurement procedures submitted by Procuring Entities;
- Monthly Reports of Procurement on Form SPF 6;
- Regular meetings with stakeholders (including representatives of the Private Sector);
- Routine review and certification of Procuring Entities for decentralised procurement;
- Reports of the Auditor General and the Internal Audit Department of the Ministry of Finance;
- Reports of specialist external procurement audits;
- Bidder and supplier complaints made to Procuring Entities;
- Complaints by bidders referred to the Independent Procurement Review Panel (IPRP);
- Routine sampling of Procurement Dossiers for individual procurements; and
- Examination of the Procurement Dossier for any procurement which appears to deviate from compliance with the Regulations.

16.2.2 Action by the National Public Procurement Authority on Receipt of Form SPF6

The basis of the monitoring system is the Quarterly Report on Form SPF6. On receipt of the Monthly Report from a procuring Entity, the NPPA will:

- Check that procurement activity recorded is within the authority levels of the Procurement Committee and in accord with the annual procurement plan;
- Check that any new procurement processes commenced are within the Procurement Plan for the procuring Entity;
- Identify any procurement decision which appears to deviate from compliance with the Regulations, and query this with the Procurement Committee/Unit;
- Inspect or call for the Procurement Dossier where serious breaches of the Regulations or Code of Ethics are suspected;

- Enter the details of each new procurement into the database, using the Procurement Number as the main index key, and update existing information as reported throughout the individual procurement process.

The database information will be used to:

- provide Procuring Entities with summary reports on procurement activity;
- compile the statistical analysis of procurement activity for the Annual Report of the NPPA;
- identify the scale and values of common user items that may benefit from the introduction of framework contracts;
- identify regular procurements of identical items by a Procuring Entity which may indicate that requirements have been split to avoid an approval threshold or a procurement procedure; and
- determine the individual and average timescales for procurement processes.

16.2.3 Other Monitoring and Evaluation Activities by the NPPA

- 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.
- Undertake periodic reviews of the procurement performance of Procuring Entities and re-certify their authority for decentralised procurement, and/or advise on specific issues which need to be addressed.
- Review and initiate remedial action as appropriate in response to audit reports of the Auditor General, the Internal Audit Department of the Ministry of Finance, and any specialist external procurement auditors.
- Review and initial remedial action as appropriate in respect of bidder and supplier complaints.
- Undertake a programme of routine sampling of Procurement Dossiers for individual procurements and report findings and recommendations to the Procuring Entity.
- Review procurement procedures, systems, guidelines and standard documentation on a routine basis, and make or introduce recommendations for improvement.
- Compile all findings and action into the Annual Report of the National Public Procurement Authority.

16.2.4 Action by the Procuring Entity

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 National Public Procurement

Authority should always be sought if the Committee is unsure of compliance with the Regulations.

The Vote Controller will ensure that all issues raised by the National Public Procurement Authority are actioned expeditiously by the Procuring Entity through the Procurement Committee and Procurement Unit, and that complete records of procurement are made available for audit purposes and for inspection by the NPPA.

SECTION 4: ADDITIONAL PROCUREMENT GUIDELINES

CHAPTER 17: PREQUALIFICATION OF BIDDERS

The Provision of Section 8.1 should also be noted when reviewing this section.

17.1 PRE-QUALIFICATION OF BIDDERS FOR SPECIFIC CONTRACTS

Pre-qualification of bidders:

- is appropriate for large or complex works, or in other circumstances when the high costs of preparing detailed bids could discourage competition;
- is often used for custom-designed equipment, industrial plant, consulting services, and contracts to be let under turnkey, design and build, or management contracting;
- ensures that invitations to bid are extended only to those who have adequate capabilities and resources;
- 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;
- may be required on donor funded procurements.

17.1.1 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:

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

17.1.2 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.

17.1.3 Pre-qualification evaluation

No formal opening of submissions is required but a formal evaluation of the capabilities of each supplier is required by the Technical Committee against the criteria as stated in the advertisement.

- All applicants that meet all the specified criteria are pre-qualified and approval of the Procurement Committee may be sought to add these applicants to the general Register of Pre-qualified Suppliers held by the Procuring Entity.
- 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.
- Inform all applicants of the results of pre-qualification and acceptance to the Register of pre-qualified suppliers. Applicants who fail to meet the pre-qualification criteria should be briefly advised of the reasons. No further correspondence will be entered into regarding applications.
- When pre-qualification is completed, issue the bidding documents to all qualified bidders, or to an appropriate shortlist of the qualified bidders.

CHAPTER 18: SECURITIES AND RETENTIONS

18.1 PROCEDURE FOR RECEIPT, STORAGE AND RETURN OF SECURITIES

18.1.1 Safe Storage

Securities, whether for the purpose of Bid Security, Advance Payment Guarantee or Performance Security must not be annotated in any way and must, after the details have been recorded, be immediately stored in a safe, secure place by the Procurement Unit or Accounts Department of the Procuring Entity.

18.1.2 Record of Security details

Record the following details of the Security in the Register:

- Procurement Reference number;
- Bid or Contract Title (as applicable);
- Bidder or Supplier Name;
- Amount of Security;
- Form of Guarantee (Certified Cheque or Bank Guarantee)
- Name of Bank; and
- Expiry date of Security.

18.1.3 Return of Securities

All securities must be returned to the bidder, supplier or contractor as soon as they are no longer required. Bid securities in particular must be returned

immediately to all bidders once the relevant contract is signed and all conditions for contract effectiveness have been met.

18.1.4 Expiry reminder

The Procurement Unit will liaise with the Accounts Department to issue reminders not less than two weeks before any security is due to expire. Reminders will be sent to the Procurement Committee in the case of bid securities, and the concerned Technical Department for other guarantees.

18.1.5 Procedure to be followed upon reminder of expiry

- If the reason for the security is no longer applicable i.e.:
 - the contract has been awarded to another bidder;
 - work which is covered by a performance security has been performed or the warranty period has expired; or
 - the value of the advance payment has been deducted from other payments;

then immediately return the security to the bidder or supplier.

- If the award of contract is delayed, invite bidders to extend their Bid Securities for an appropriate period.
- If a Supplier or Contractor is not expected to complete/perform the task to which the security relates within the remaining period, request the Supplier or Contractor to extend the guarantee by an appropriate period.
- If the Supplier or Contractor has defaulted on his contractual obligations, or refuses to extend a security, consider calling bank guarantees immediately by demand in writing to the issuing bank, not less than one week before the expiry date.

18.1.6 Proceeds of a “Called” Security

The proceeds of the Security shall be paid into the Consolidated Account at the Central Bank of Sierra Leone for the credit of the appropriate Vote Code of the Procuring Entity to compensate for costs or losses due to the Supplier's non-performance.

In exceptional circumstances (e.g. where there is a balance after all losses or costs have been compensated), the net balance of the proceeds from the Security may be returned to the Supplier by issue of a Payment Voucher.

18.2 RETENTIONS

Retentions are normally only applicable to works projects or possibly to the supply of machinery and equipment.

The rates of retention to be withheld from all certificates or stage payments for works contracts are specified in the contract. Following interim takeover of

the works a further payment may be made to the contractor under the terms of the contract to reduce the retention to a lower percentage of the contract price.

Retention sums are only released to the supplier or contractor on satisfactory completion of the guarantee period stated in the contract.

CHAPTER 19: THE SELECTION AND EMPLOYMENT OF CONSULTANTS

The procurement of consultant services is a specialised form of procurement requiring bidding procedures and documents which are very different to those for standard goods and works. Most larger contracts for consultant services are funded by a donor and the principles and procedures which follow should be read in conjunction with the guidelines of the donor (where applicable).

19.1 SPECIAL FEATURES OF CONSULTANCY PROCUREMENT

The use of merit-point evaluation systems and two-envelope bidding procedures are routine features in the procurement and selection of consultants. Selecting consultants for long or complex assignments on the basis of cost alone, is unlikely to achieve the required quality of services.

19.1.1 Merit-Point Systems

A merit point system uses a point-scoring basis to determine the winning bidder. Points are awarded for technical capability and usually for the financial cost, according to criteria specified in the Request for Proposals. The bidder scoring the highest number of points is usually recommended for the award of contract.

Where cost is a factor in selection, technical quality for consultancy assignments is normally awarded 80% of the total points and cost 20%. However this is only a guideline and the appropriateness of the weighting of the technical and financial scores should be assessed for each assignment.

Merit point systems can also be used to evaluate whether bids pass a minimum technical score to proceed to a final financial evaluation (Least Cost Selection Method). The financial envelopes of all bidders whose bids pass the minimum technical score are then opened, and the bid with the lowest price recommended for award of contract.

19.1.2 Two-envelope bidding

To avoid any chance of the bidder's price influencing the technical evaluation under a merit point system, financial bids are submitted in a separate sealed envelope. The financial envelope must only be opened after the technical evaluation is completed and approved by the Procurement Committee.

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.

19.1.3 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.

The procedures and guidelines below are based on the standard QCBS process of selection although other selection methods are available for use in appropriate circumstances. See paragraph 19.8.

19.2 THE STEPS OF THE PROCUREMENT PROCESS

The procurement of consultancy services will normally include the following steps:

- Preparation of the Terms of Reference (TOR).
- Preparation of a cost estimate and confirmation of available budgeted funds.
- Advertising for expressions of interest (if appropriate) or preparation of the shortlist of consultants from existing pre-qualified firms.
- Preparation and issue of the Request for Proposals (RFP), including:
 - Letter of Invitation (LOI);
 - Information to Consultants (ITC);
 - Draft contract.
- Receipt of proposals.
- Evaluation of technical proposals.
- Evaluation of financial proposals.
- Final evaluation according to the criteria stated in the RFP.
- Negotiations and award of the contract to the selected firm.

19.3 THE TERMS OF REFERENCE (TOR)

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

The TOR should:

- describe the background to the assignment;
- state the objectives of the assignment including:
 - the scope of the services;

- the duration of the assignment;
- a detailed list of the consultants' duties and responsibilities;
- where applicable¹, the required inputs in terms of man days, months or years;
- ❑ detail the required outputs, e.g.: reports, recommendations, draft laws etc. which the consultants will be required to produce (also referred to as 'deliverables');
- ❑ set the time periods for the deliverables;
- ❑ not be over-detailed or inflexible, so that competing consultants may propose their own methodology and staffing.
- ❑ list any services and surveys necessary to carry out the assignment;
- ❑ include details of the services, facilities and counterpart staff to be provided by the Procuring Entity.
- ❑ specify detailed requirements when transfer of knowledge or training is an objective, to allow bidders to estimate the required resources.

19.4 PREPARATION OF THE REQUEST FOR PROPOSALS AND EVALUATION CRITERIA

The standard bidding document provides detailed guidance on preparation of the Request for Proposals.

Specification of the evaluation criteria and number of points to be awarded to each criterion is critical to achieving a satisfactory result in the selection of consultants.

Both technical and financial point scores are assessed initially out of 100 points for the purpose of clarity. During final evaluation, the scores are combined by applying the weighting percentage stated in the RFP for technical and financial scores.

19.4.1 Technical Evaluation Criteria

The criteria specified in the RFP should include:

- the firm's relevant experience for the assignment;
- the quality of the methodology proposed;
- the qualifications and experience of the key staff proposed;
- provisions for training/capacity building of local staff;
- the extent of participation by nationals among key staff in the performance of the assignment.

¹ For assignments with easily defined deliverables it may be advantageous to leave the consulting firms to propose the level of inputs in their proposals.

The marks for each criterion are aggregated to give the total technical score.

The following table shows the normal range of points to be specified for each criterion, which may be adjusted for specific circumstances. The proposed points must be declared in the RFP.

Figure 1 - Indicative Weighting of Evaluation Criteria (Consultant Services)

Specific relevant experience:	0 to 10 points
Response to the TOR and Methodology Proposed:	20 to 50 points
Key personnel:	30 to 60 points
Training: ²	0 to 10 points
Participation by nationals: ³	0 to 10 points
Total:	100 points

The criteria may be divided into sub-criteria to assist the objectivity of the evaluation. For example, sub-criteria under methodology might be *innovation* and *level of detail*. It is usual to use sub-criteria for key staff to evaluate their qualifications, technical experience and language capabilities. The number of sub-criteria should be kept to the essential minimum and must be fully detailed within the RFP.

Firm's Specific Experience

The points given to experience can be relatively low if this criterion has already been taken into account when short-listing the bidders.

Methodology

A large number of points should be given to the response and proposed methodology for more complex assignments (for example, multidisciplinary feasibility or management studies).

Key Personnel

Only the key personnel should normally be evaluated since they will determine the quality of performance. More points should be assigned if the proposed assignment is complex.

- When the assignment depends critically on the performance of a Project Manager or key specialist in a team of individuals, more points should be allocated for this person.
- Individuals should be evaluated on the following sub-criteria as relevant to the task:
 - General Qualifications: General education and training, professional qualifications, length of experience, positions held, time with the consulting firm, experience in similar countries, etc;
 - Adequacy for the Assignment: Specific experience relevant to the assignment in the sector, field, subject, process or activity; and

² Transfer of knowledge may be the main objective of some assignments; in such cases, it should be given a higher weight to reflect its importance.

³ As reflected by Sierra Leone nationals among key staff presented by foreign and national firms.

- Experience in the Region: Knowledge of local culture, administrative systems, government organisations, etc.

19.4.2 Minimum Technical Score

The minimum qualifying technical score to be achieved for a technical proposal to proceed to the Financial Evaluation must be specified in the RFP. Usually the minimum score required for qualification of the technical proposal is at least 70%.

19.4.3 Financial Evaluation

In addition to specifying the weighting for technical and financial scores, the RFP must specify the formula for award of points to each bid price. Normally the lowest priced bid receives 100 points and the other bids receive points based on dividing their prices by the lowest priced bid and multiplying by 100.

The standard procedures for correcting arithmetic and other errors in bid prices will apply to adjust the bid price before the points are awarded to each bid.

19.4.4 Weighting of Technical and Financial Scores

The relative weightings for technical and financial scores must be stated in the RFP. This is usually set at 80% for the technical score and 20% for the financial score. In this case the technical score will be multiplied by 80% and the financial score by 20% to give the total score for each bid.

19.5 ADVERTISING FOR EXPRESSIONS OF INTEREST (PRE-QUALIFICATION)

Pre-qualification of consultants is strongly recommended to ensure the participation of consultants with the necessary technical skills and resources.

- The Procuring Entity may advertise the consulting assignment both nationally and internationally to obtain expressions of interest (EOI).
- The Procuring Entity may also post details on an open website, or contact professional organisations, and firms that it knows with a copy of the request to submit expressions of interest.
- The information requested in EOIs should be the minimum required to make a judgment on the firm's suitability but not be so complex as to discourage consultants from responding.
- Sufficient time (not less than 30 days) should be allowed for responses, before preparation of the short list.

19.6 SHORT LIST OF CONSULTANTS

- Short-lists should be restricted to those firms expressing interest and who possess the relevant qualifications and experience to undertake the assignment.
- Short-lists should normally be of three to six firms depending on the value of the assignment.

- ❑ The following details of each firm should be assessed in the selection of the short-list:
 - general background of the firm;
 - eligibility in terms of country of origin, turnover requirements and any other conditions stated in the advertisement;
 - previous experience of similar assignments;
 - competence and sector related experience of the firm;
 - language proficiency in English;
 - relevant experience in Sierra Leone, and other West African States; and
 - quality of performance under previous contracts.
- ❑ As a courtesy, firms who respond to advertisements for EOI but are who are not selected for the short-listed should be informed by the Procuring Entity that that have been unsuccessful.

19.7 OPEN BIDDING

The Procuring Entity may elect to proceed directly to an open competitive bid and national and international advertisement depending on the value of the assignment and the skills required. There are a number of problems to be considered in omitting the Expressions of Interest stage for larger and more complex services, as follows:

- ❑ Many requests for documents and submissions of proposals will be made by firms who lack the basic skills to undertake the assignment. These will waste considerable time in administration and still have to be formally evaluated and reported on. The apparent time advantage from avoiding the EOI and short-listing process is easily lost if twenty rather than six detailed proposals have to be administered and evaluated;
- ❑ International and major consulting firms are less likely to respond to an Open Competitive Bid rather than an EOI as the cost of preparing a detailed consultancy proposal is high, and open competitive bidding introduces an unknown quantity and quality of competition. Competent firms are far more willing to incur the cost of preparing a proposal when a shortlist of competitors is known.
- ❑ International and major firms are also unused to paying a fee to acquire the Request for Proposals and this factor may discourage such firms from participating.
- ❑ Following from the above, the effective level of competition may be seriously reduced if an Procuring Entity proceeds directly to open competitive bidding.

- ❑ For these reasons, donors normally require that all larger or more complex consultancy assignments are conducted through the EOI and short-listing process.

19.8 OTHER METHODS FOR SELECTION OF CONSULTANT SERVICES

19.8.1 Quality-Based Selection (QBS)

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

- ❑ QBS is suitable for the following types of assignments:
 - complex or highly specialised assignments where it is difficult to define precise TOR and the required input from the consultants, and for which the client expects the consultants to demonstrate innovation in their proposals (for example, country economic or sector studies, multi-sector feasibility studies, design of a hazardous waste remediation plant or of an urban master plan, financial sector reforms);
 - assignments that have a long term impact and in which the objective is to have the best experts available (for example, feasibility and structural engineering design of such major infrastructure as large dams, policy studies of national significance, management studies of large government agencies); and
 - assignments that can be carried out in very different ways, and therefore proposals may not be directly comparable (for example, management advice, or policy studies in which the value of the services depends on the quality of the analysis).
- ❑ The Request for Proposals (RFP) should not indicate the estimated budget, but may provide the estimated number of key staff and time, specifying that this information is given as an indication only, and that consultants are free to propose their own estimates.
- ❑ The RFP may require submission of a technical proposal only (without a financial proposal), or request submission of both technical and financial proposals at the same time, but in separate envelopes (two-envelope system). Only the financial envelope of the highest ranked technical proposal is opened. The rest are returned unopened to the bidders, after the negotiations are successfully concluded.
- ❑ If technical proposals only are invited, after evaluating the technical proposals the Consultant with the highest ranked technical proposal will be invited to submit a detailed financial proposal.
- ❑ The Procuring Entity and the Consultant shall then negotiate the financial proposal and the contract.
- ❑ Other aspects of the selection process are identical to those of QCBS.

19.8.2 Selection under a Fixed Budget

Fixed Budget Selection (FBS) is where the Procuring Entity 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.

19.8.3 Least-Cost Selection

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

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

19.8.4 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.

19.8.5 Sole-Source Selection

Sole-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, Sole-source selection should only be used in exceptional circumstances. The justification for Sole-source selection must be examined carefully to ensure economy and efficiency.

The conditions for the use of Direct Procurement as specified in Paragraph 6.5 should be noted before using this selection method.

- Sole-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.

19.9 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.

19.9.1 Lump Sum (Fixed Price) Contracts

Lump sum contracts are used mainly for assignments in which the following are both clearly defined:

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

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

19.9.2 Time-Based Contract.

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

- it is difficult to define the full scope of services, or the input of the consultants required to attain the objectives of the assignment;
 - the length of services can be precisely defined and deliverables are only incidental to the main purpose of the assignment;
 - 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;
 - Reimbursables: Reimbursable items using actual expenses and/or agreed unit prices.
 - The rates for staff remuneration include salary, social costs, overhead, fee (or profit), and, where appropriate, special allowances.
 - This type of contract must include a maximum amount of total payments (the contract ceiling) to be made to the consultants.
 - The contract ceiling usually includes a contingency allowance for unforeseen work and duration, and provision for price adjustments, where appropriate.
 - Time-based contracts need to be closely monitored and administered by the Procuring Entity to ensure that the assignment is progressing satisfactorily, and payments claimed by the consultants are appropriate.

19.9.3 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 privatisation 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.

19.9.4 Percentage Contract.

These contracts are commonly used for architectural services but may be also used in similar circumstances such as for procurement and inspection agents.

- Percentage contracts directly relate the fees paid to the Consultant to the estimated or actual project construction cost, or the cost of the goods procured or inspected.
- Contracts are negotiated on the basis of market standards for the services and/or estimated staff-month costs for the services, or competitively bid.
- In the case of architectural or engineering services, percentage contracts lack any incentive for economic design or performance. 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.

19.9.5 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 Procuring Entity 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.

19.10 BID AND PERFORMANCE SECURITIES.

Bid and performance securities for consultants’ services are not recommended for the following reasons:

- bid securities are not an accepted standard for consultancy services bids and are likely to discourage participation by international consultant firms;
- enforcement of bid securities may be subject to dispute for example when final negotiations fail to reach a satisfactory conclusion;
- performance securities can be easily abused by the Client as personality clashes or other factors beyond the direct control of the Consultant may affect achievement under the contract;
- there is often a strong element of subjectivity rather than objectivity in determining the success or failure of an assignment;
- securities increase the costs to the consulting industry without evident benefits, and the costs are inevitably passed on to the Client through higher prices.

19.11 USE OF INDIVIDUAL CONSULTANTS

Individual consultants are normally employed on assignments when:

- teams of personnel are not required;
- additional outside (home office) professional support is not required;
- the experience and qualifications of the individual are the major requirement.

If co-ordination, administration, or collective responsibility may become difficult because of the number of individuals required, it may be advisable to employ a firm.

19.12 CRITERIA USED TO SELECT INDIVIDUALS

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 Procuring Entity.
- Individuals employed by Entities 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.

ANNEX 1

STANDARD PROCUREMENT FORMS

FORM SPF 1 - PROCUREMENT REQUISITION

**FORM SPF 2 - SUBMISSION FOR PROCUREMENT
COMMITTEE APPROVAL**

**FORM SPF 3 - DECISION OF THE PROCUREMENT
COMMITTEE**

FORM SPF 4 - EVALUATION REPORT (LEAST COST)

**FORM SPF 5 - EVALUATION REPORT (QUALITY AND
COST BASED SELECTION)**

FORM SPF 6 - QUARTERLY PROCUREMENT REPORT

SUPPLIER REGISTRATION FORM

ANNEX 2

FLOW CHARTS AND VISUAL AIDS

FLOWCHART 1: SELECTION OF PROCUREMENT METHOD

FLOWCHART 2: PRE-CONTRACT ACTIVITIES

FLOWCHART 3: POST-CONTRACT ACTIVITIES (GOODS)

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