

# PROCUREMENT MANUAL

**Version 2.0**  
**July 2016**



**AFRICAN UNION**



## FOREWORD

The development of Agenda 2063 and the first 10-year implementation plan represent a significant milestone for the continent with a clear articulation of 'The Africa We Want' and our strategic priorities. In support of the African Union Commission's (AUC) 2014 strategic plan and Agenda 2063, essential elements for the success of the African Union Vision (AU), the AUC is proceeding to an overall Institutional transformation to ensure the Union delivers on its mandates and achieve its vision of being "An Integrated, prosperous and peaceful Africa, driven by its own citizens and representing a dynamic force in the global arena".

The AU has the ambition to further enhance its effectiveness and efficiency to constantly adjust its operations to the evolving needs of the African citizens and drive the Continent's integration and the institutional transformation process, a prerequisite for organization capacity and systems enhancement, which is required to support it.

Procurement Units of each Organ, Institution, Peace Support Mission, Regional, Representative Office, Specialised and Technical Agency and Liaison Office are at the centre of driving the transformations required of the AU. In pursuit of this aim, the African Union Commission has revised its Procurement Manual to provide all stakeholders with clearer procurement policies and procedures for better governance and accountability and to improve services delivery to its internal and external stakeholders.

The revision of this Procurement Manual ensures the provision of a clear procurement governance framework that provides direction and oversight to procurement processes and performances. Clear directions, roles, responsibilities and skills in AU Procurement Functions will foster a probity rich environment and minimize risks while delivering on AU's mandates.

The revision process called for extensive consultation exercises with all stakeholders to produce a comprehensive Procurement Manual for the AU. This will ensure that the Procurement of Goods, Works and Services is executed in a fair, transparent, efficient, and cost-effective manner to achieve Value for Money in all procurement transactions of the AU.

The revision of the AU Procurement Manual was necessitated by to the revision of the Financial Rules and Regulations, introduction of new improved practices, policies and procedures and best practices and experience in the area of expertise. Key areas addressed by the revised Procurement Manual are, among others, general procurement principles, procurement functions, roles, responsibilities and accountability, procurement management principles and concepts, decentralization procurement processes for a value less than US\$20,000 and e-Procurement.

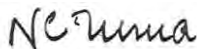
The revised Procurement Manual will ensure improvement in the area of budget execution, contract management, quality products and services delivery, procurement processing time, management of emergency operations, accountability and responsibility, procurement planning and execution of procurement contracts.

I would like to acknowledge the invaluable policy direction and determination by our Member States on enhanced operational efficiency through accountability and transparency. I feel privileged to have overseen the accomplishment of this worthy initiative.

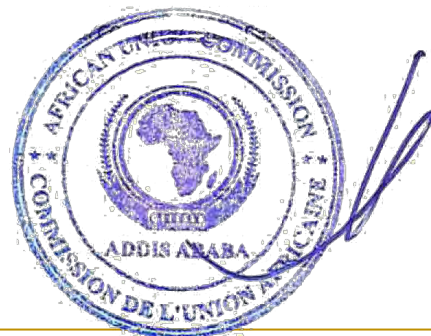
I call upon our Partners to agree to the utilization of this Manual, rather than their own rules and regulations, for all procurement related activities under projects funded by them.

I also call on the entire staff of AU and other stakeholders to make maximum use of this manual which, I am confident, will inculcate prudence in the use and application of the scarce financial resources made available by our Member States and Partners.

**July 2016**



**H.E. Dr. Nkosazana Dlamini Zuma**  
Chairperson, AUC



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## Definitions

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

WORD OR TERM	DEFINITION/DESCRIPTION
<b>Accounting Officer</b>	An officer of the Union with ultimate accounting authority for all resources of the Union and who is also the Chairperson of the African Union Commission (AUC).
<b>Bid</b>	A bid, quotation or tender submitted by a bidder.
<b>Bid Evaluation Committee</b>	A committee established to undertake evaluation and ranking of bids and quotations for procurement
<b>Bid Security</b>	A financial security provided by a bidder to guarantee that the bidder will not withdraw his bid prior to award of contract.
<b>Bidding Documents</b>	The formal invitation documents issued to bidders to solicit a bid.
<b>Business Unit</b>	A Unit, Division, Directorate, Department, Project or Programme with responsibility to initiate procurement
<b>Code of Ethics</b>	A statement of the standards of practice and conduct to be followed by all Officers of the AU in procurement activities.
<b>Controlling Officer</b>	The Deputy Chairperson of the African Union Commission, Heads of Organs and Institutions of the Union, where applicable, with accounting authority for resources of their respective Organs and Institutions and who shall be accountable to the Accounting Officer;
<b>Donor</b>	An Institution providing external funding to the AU
<b>INCOTERMS</b>	A set of internationally accepted definitions of trade terms (e.g. CIF, CIP and FOB) issued by the International Chamber of Commerce.
<b>Internal Procurement Committee</b>	A Committee constituted by each Organ and Institution to consider and approve procurements within its respective threshold.
<b>Local Office</b>	A Representational and Specialised Office of the AUC situated outside of the AUC Headquarters.
<b>Local Internal Procurement Committee</b>	A Committee constituted by a regional/representative/technical office/liaison offices and Peace Support missions to consider and approve procurements within its respective thresholds.
<b>Lowest Evaluated Cost Bid/Tender</b>	The bid determined to be the best bid after evaluation of all the criteria stated in the bidding documents.

WORD OR TERM	DEFINITION/DESCRIPTION
<b>Originating Officer</b>	An officer of the Business unit having formal authority to initiate procurement processes.
<b>Performance Guarantee</b>	A financial security provided by a supplier or contractor to guarantee his performance under the terms of the contract.
<b>Procurement</b>	The formal process of acquisition of goods, works or services.
<b>Procurement Unit</b>	An established Procurement Unit, or an Officer or Officers in a Local Office bearing responsibility for procurement processing.
<b>Request for Bids</b>	A procurement procedure where bids are evaluated based on lowest price, technically compliant methodology.
<b>Request for Proposals</b>	A procurement procedure where proposals are evaluated based on combined price/quality methodology.
<b>Request for Quotations</b>	A simple procurement procedure for the purchase of low value goods, works and simple non-consultancy services.
<b>Retention</b>	A percentage sum that may be deducted from each payment certificate under a contract for works to guarantee performance.
<b>Tender Board</b>	A Board appointed by the Accounting Officer to deal with all procurements of the Union with values exceeding the limits contained in the categories of each IPC.
<b>Tender Opening Committee</b>	A committee responsible for opening of tenders and bids for procurement. It can also be referred to as Bid opening Committee.



## ACRONYMS AND ABBREVIATIONS

AU	African Union
AUC	African Union Commission
BOQ	Bill of Quantities
CFR	Cost and Freight
CHC	Complaints Handling Committee
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
FRR	Financial Rules and Regulations
GCC	General Conditions of Contract
HQ	Headquarters
IPC	Internal Procurement Committee
ISO	International Standards Organisation
LC or L/C	Letter of Credit
LCS	Least Cost Selection
LIPC	Local Internal Procurement Committee
LOI	Letter of Invitation
LTB	Local Tender Board
PBFA	Programming, Budgeting, Finance and Accounting
PSI	Pre-Shipment Inspection
PSO	Peace Support Operations
QBS	Quality Based Selection
QCBS	Quality and Cost Based Selection
RFB	Request for Bids
RFP	Request for Proposals
RFQ	Request for Quotations
SBD	Standard Bidding Document
SCC	Special Conditions of Contract
SOW	Statement of Works
TOR	Terms of Reference
UIP	User Initiated Purchase

# CHAPTER 1: PREAMBLE

## 1.1 INTRODUCTION

- (a) The Procurement Manual is issued under the authority of the AU. The Manual supersedes the AU Procurement Manual (First Edition) promulgated in 2010
- (b) The procurement regulatory framework for the AU is set out in the FRR. The Procurement Manual establishes the procurement policies and provides further guidance to effectively undertake procurement activities in compliance with the FRR and other applicable legal instruments and documents.
- (c) Interpretation authority for any procurement practices contained within this manual is vested with the Accounting Officer on the advice of the Legal Counsel.

## 1.2 PURPOSE OF THE MANUAL

The Manual details the standards, policies and procedures to be followed in the procurement of goods, works and services within the AU. These standards, policies and procedures are designed to:

- (i) provide detailed guidance on the procurement processes;
- (ii) provide uniform procedures for the procurement of goods, works and services;
- (iii) ensure transparency and accountability in all operations, and consistency with the guidelines of donors where necessary;
- (iv) improve the efficiency and effectiveness of operations;
- (v) promote the consistent application of procurement best practice and international standards.

## 1.3 SCOPE, APPLICATION AND LIMITATIONS OF MANUAL

- (a) The Manual applies to all procurement of goods, works and services by all the AU structures.

- (b) The Manual covers the standard procurement cycle from project initiation to final delivery or performance and contract completion. It will help to:
  - (i) Ensure consistency in decision making for comparable situations;
  - (ii) Introduce procedures for all procurement activities;
  - (iii) Provide a point of reference against which principles and practices can be evaluated; and
  - (iv) Serve as a training manual for AU Officers and provide guidance based on best international practices.
- (c) Consistent application of the provisions and procedures of the Manual throughout the AU is essential to achieve improved efficiency, transparency, uniformity of documents and decisions, and reduced costs of procurement.

#### **1.4 REVISIONS TO THE PROCUREMENT MANUAL**

- (a) A number of factors may necessitate the need for revision of this Procurement Manual including:
  - (i) review of the FRR;
  - (ii) introduction of new improved practices, policies or procedures;
  - (iii) removal of out-dated practices, policies or procedures;
  - (iv) lessons learned from practical experience.
- (b) Any proposed amendments to the Procurement Manual shall be submitted to the office in charge of the procurement function at the AUC for review and to the Office of the Legal Counsel for vetting prior to approval by the Accounting Officer. Until any formal revision is approved, the existing provisions of the Manual shall apply.

## CHAPTER 2: GENERAL CONSIDERATIONS

### 2.1 PROCUREMENT PRINCIPLES

- (a) AU is a steward of public funds and therefore both AU and its suppliers must adhere to the highest ethical standards, both during the bidding process and throughout the execution of a contract.
- (b) AU FRR require that the following general principles shall be given due consideration when exercising the procurement functions of the Union:
  - i) Value for money;
  - ii) Fairness, integrity and transparency;
  - iii) Effective competition;
  - iv) Efficiency and Economy;
  - v) The interest of the African Union.
- (c) All Officers are required to consistently apply these principles, policies and procedures in this Manual, together with professional judgement and good management, to ensure the highest standards of integrity and competency, are met as promulgated within the AU policy and operational framework.

#### 2.1.1 Value for money

Value for money is the trade-off between price and performance that provides the greatest overall benefit under the specified evaluation criteria. The purpose of public procurement is to obtain the best value for money. It is important to consider, among other factors, the optimum combination of life cycle costing (i.e. acquisition cost, cost of maintenance and running costs, disposal cost) of a purchase and its fitness for purpose (i.e. quality and ability to meet the AU's requirements). This definition enables the compilation of a procurement specification that includes social, economic and environmental objectives within the procurement process.

### 2.1.2 Fairness, integrity and transparency

- (a) To achieve best value for money, the procurement process must protect the AU from proscribed practices such as fraud, corruption, collusion and other unethical practices. Each procurement process must be conducted on the basis of clear and appropriate regulations, rules, processes, procedures and standards that are applied consistently to all potential suppliers. Further, the manner in which the procurement process is undertaken must provide all stakeholders of the organisation with assurance that the process is fair and transparent and that integrity has been maintained.
- (b) The AU and its Officers must maintain fairness during the procurement process. This means that all suppliers must be offered equal access to the same opportunity. A fair process is free from favouritism, self-interest or preference in judgement.
- (c) Integrity is when an Officer exhibits probity in their actions. Probity means that an individual has strong moral principles, honesty and decency as character traits. A person of integrity has a sense of honesty and truthfulness that is apparent in their professional and personal conduct. Demonstrating integrity reduces the risk of reputational damage and preserves the public image of the AU.
- (d) Transparency ensures that everything in relation to a procurement process is visible and evident to everyone and that nothing is hidden. Information on procurement policies, procedures, opportunities and processes is clearly defined and made public to all interested parties concurrently. A transparent system has clear rules and mechanisms to ensure compliance with established rules (unbiased specification; objective evaluation criteria; standard solicitation documents etc.).

### 2.1.3 Effective Competition

- (a) By fostering effective competition amongst suppliers, the AU applies the principles of fairness, integrity and transparency to achieve best value for money.
- (b) Effective competition is achieved under the following conditions:
  - (i) Sufficient number of prospective suppliers
  - (ii) Prospective suppliers are independent of each other
  - (iii) Competition for the same business opportunity under the same conditions
  - (iv) Response to the procurement opportunity by a sufficient number of offers

### 2.1.4 Efficiency and economy

- (a) Officers must demonstrate that efficiency and economy throughout all procurement processes, this avoids undue implementation delays and helps to achieve value for money.
- (b) Procurement processes must be well organised, and carried out with regard to quantity, quality and timelines, at the optimum prices in accordance with the policies and procedures of the AU.
- (c) The processes applied must be proportionate to the value and complexity of the requirement, to ensure that the associated costs are minimised and in line with the budget for the activity.

### 2.1.5 The best interests of the African Union

- (a) The ultimate objective of procurement is to add value to the AU and to fulfil the goals and objectives in compliance with the applicable policy and procedures.
- (b) The other procurement principles underpin this overarching objective, whilst additionally including the best image and reputation of the AU, and do not give the impression of impropriety, whilst promoting the public interest in every aspect of the AU's procurement activities.

## 2.2 SEGREGATION OF DUTIES

- (a) Segregation of Duties is a basic internal control that attempts to ensure no single individual has the authority to execute an entire transaction in the procurement process. This is one of the most effective ways of preventing fraud, as it removes the possibility of one person having an inordinate amount of authority to handle multiple stages in the procurement process and creates a check-and-balance system to decentralise control of the procurement process. Segregation of duties ensures that the three main duties in the procurement process are adequately separated.

These duties are:

- (i) Determining the need (e.g. requisition or equivalent, specification, budget holder approval)
  - (ii) Undertaking the procurement (e.g. sourcing and commitment )
  - (iii) Effecting the financial aspects (e.g. authorising payment)
- (b) Segregation of duties is critical to effective internal control; it reduces the risk of both erroneous and inappropriate actions. Segregation of duties is also a deterrent to fraud because it requires collusion with another person to perpetrate a fraudulent act. Segregation of duties should apply to the entire process, including the bidding procedure, tender evaluation, and contract management, and most importantly, payment. Incompatible functions such as initiating, approving & recording transactions, reconciling balances, accepting goods, certifying services performed, effecting payments and reviewing reports should not be done by one person.
- (c) However, with the exception of AUC Headquarters, in some situations an adequate level of segregation of duties may not be possible due to lack of sufficient staff. In such situations detailed supervisory review and oversights (audit reviews) of related activities is required as a compensating control activity.

### 2.3 TRANSPARENCY, ACCOUNTABILITY, AND ETHICS

- (a) The procurement system must ensure fairness, integrity, transparency and value for money in the procurement of goods, services and works. The Procurement Manual is designed to facilitate the procurement of goods, services and works of the right quality, at the right price, at the right time and at the right place through effective competitive bidding processes.
- (b) The AU is entrusted with public funds to provide services and support to the AU policies and programmes. The use of funds for procurement must be conducted in a transparent and open manner, allowing stakeholders access to information on procurement actions by the AU.
- (c) The AU requires that:
  - (i) all Officers involved in procurement proceedings from initiation to completion 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 AU;
  - (ii) procurement shall be carried out in the most efficient manner, upholding the principles of value for money, transparency and fairness;

- (iii) funds will be used solely for the purposes for which they have been entrusted;
- (iv) all transactions are properly authorised and fully supported by written records;
- (v) value for money can be demonstrated by comparison with market rates;
- (vi) All Officers involved in the procurement process must adhere to the Code of Ethics detailed in Article 2.4.

## 2.4 CODE OF ETHICS

### 2.4.1 Ethical Principles

- (a) An Officer of the AU shall not use his or her authority or office for personal gain. Personal gain includes accepting or requesting anything of value, material or otherwise, from bidders, prospective bidders or suppliers for the Officer, his or her spouse, parents, children or other close relatives or for other persons from whom the Officer might gain direct or indirect benefit
- (b) This includes gifts money, property or other assets; transactional favours or ‘quid pro quo’ arrangements. An Officer shall seek to maintain and enhance the reputation of the AU by:
  - (i) maintaining the highest standards of honesty and integrity in all relationships both inside and outside the AU;
  - (ii) developing the highest possible standards of professional competence;
  - (iii) using funds and other resources for which he or she is responsible to provide the maximum benefit to the AU;
  - (iv) exercising utmost discretion throughout the entire procurement process to keep private information as such and complying both with the letter and the spirit of:
    - The principles and policies of the African Union;
    - Accepted professional ethics; and
    - Contractual obligations



### 2.4.2 Corrupt, Fraudulent and Unethical Practices

- (a) Following the principles of ethics in procurement reduces three major risks. Performance measures carry a risk of poor performance due to corruption; Fiduciary risk is the risk that funds entrusted to the government will be misdirected; and reputational risk is the possibility that the perception of an institution will be damaged due to scandal. Following the procedures laid out in this Manual will reduce risk in all three themes.
- (b) For the purposes of this Manual, the following definitions apply, as aligned with international standards:
  - (i) A corrupt practice is the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party.
  - (ii) A fraudulent practice is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation.
  - (iii) A coercive practice is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party.
  - (iv) A collusive practice is an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party.
- (c) Corrupt, fraudulent, coercive and collusive practices are strictly prohibited.
- (d) Bid rigging is a common form of corruption in procurement. The impacts of bid rigging, or collusion in pricing in competitive procedures, are extreme: it raises costs of procurement, destroys competitive markets, undermines the reputation of the procuring agency, and sharply increases the risks of corruption. An Officer shall in no way contribute to an activity that could be considered bid rigging and should proactively support a strong competitive process that is carried out in an ethical manner.

### 2.4.3 Conflict of interest

- (a) The appearance or perception by others of a conflict of interest can often be as detrimental as a conflict itself. Therefore, it is important that Officers be conscientious to situations that could lead to real, potential, or apparent conflicts of interest in the course of their work. Promptly disclosing and dealing with any

conflict is critical to avoiding potentially serious consequences for the effectiveness and integrity of AU.

- (b) As soon as an officer is aware of a personal interest, he shall immediately declare the interest that may affect or might reasonably be deemed by others to affect impartiality in any matter relevant to his duties.
- (c) In instances in which an Officer has a real or potential conflict of interest, financial or otherwise, the Officer must disclose the conflict immediately in writing and formally abstain from any procurement process or decision-making involved in suppliers selection or contract management. This involves interactions with former or future employers and disclosure and use of non-public information.
- (d) Any activities the Officer is engaged in, such as self-employment or concurrent employment, that may at a future point pose a perceived or real conflict of interest need to be disclosed immediately in writing, including a description of the activity, the Officer's involvement and any involved potential bidders.
- (e) An Officer shall not use knowledge gained from their role for private gain, financial or otherwise; nor shall an Officer use their role for personal reasons to impact the positions of those they favour or do not favour.

#### 2.4.4 Confidentiality and accuracy of information

- (a) An Officer 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.
- (b) Any non-public information is considered confidential and internal to Procurement. An Officer shall not furnish information to bidders or suppliers that could provide an unfair advantage or disadvantage to a bidder.
- (c) Information given by an Officer in the course of his or her duty shall be true, fair and not designed to mislead.
- (d) An Officer shall not intentionally misrepresent his/her functions, official title or the nature of their duties to any entities external to the AU.

#### 2.4.5 Competition

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

### 2.4.6 Gifts and hospitality

- (a) An Officer involved in any aspects of procurement shall not accept gifts, favours, or any such remuneration from current or potential AU suppliers regardless of the value and regardless of whether the outside source is or is not soliciting business with the AU.
- (b) An Officer shall refrain from accepting any business hospitality that might be viewed by others as having an influence in making an AU business decision as a result of accepting that hospitality.

### 2.4.7 Reporting

An Officer has a duty to report any unethical conduct by a colleague, a bidder or a supplier to the relevant AU authorities.

## 2.5 EXAMPLES OF UNETHICAL CONDUCT

- (a) The following are examples of the type of conduct prohibited by the Code of Ethics:
  - (i) Revealing confidential or “inside information” either directly or indirectly to any bidder or prospective bidder;
  - (ii) Discussing a procurement with any bidder or prospective bidder outside the official rules and procedures for conducting procurements;
  - (iii) Favouring or discriminating against any bidder or prospective bidder in the drafting of technical specifications or standards, or in the evaluation of bids;
  - (iv) Destroying, damaging, hiding, removing, or improperly changing any official procurement document;
  - (v) Accepting or requesting money, travel, meals, entertainment, gifts, favours, discounts or anything of material value from bidders or prospective bidders;
  - (vi) Discussing or accepting future employment with a bidder or prospective bidder;
  - (vii) Using a position of power to unfairly advantage or disadvantage a bidder in the tender process;

- (viii) Receiving a gift, loan, or other reward in exchange for not publicly tendering a contract and instead directly awarding it to a certain company;
- (ix) Instructing/influencing/requesting any other Officer or representative of AU in a procurement process to violate the rules or procedures defined in the Procurement Manual;
- (x) Ignoring evidence that the Code of Ethics has been violated by a Member of the Tender Board, any Officer, other employee or representative of the AU;
- (xi) Ignoring illegal or unethical activity by bidders or prospective bidders, including any offer of personal inducements or rewards.

## 2.6 OBLIGATIONS OF OFFICERS

- (a) 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.
- (b) It is 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. Officers associated with the procurement function are responsible for protecting the integrity of the procurement process and maintaining fairness in the AU's treatment of all suppliers, contractors and consultants.

### 2.6.1 Responsibilities of Officers

Officers have responsibility to:

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

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

### 2.6.2 Sanctions for Non-compliance with Ethical Standards

Due to the special and additional trust placed on those involved in the procurement processes as custodians of AU funds, adherence to the Code of Ethics by Officers is obligatory. Any unethical conduct will be considered an offence subject to disciplinary action under the relevant provisions of the FRR and other applicable instruments of the African Union.

## CHAPTER 3: ORGANISATION OF THE PROCURET FUNCTION

### 3.1 ACCOUNTING OFFICER

The Accounting Officer shall have ultimate authority and responsibility for all procurements of the Union. These include:

- (a) Appointing and substituting members of the AU Tender Board
- (b) Reviewing and approving recommendations for debarment
- (c) Ensuring the implementation of these Rules
- (d) Approving amendments and revisions to the procurement rules

### 3.2 CONTROLLING OFFICER

In respect of the procurement process, among other roles and responsibilities the Controlling Officer at the Organs and Institutions of the AU shall;

- (a) Approve the Entity Annual Procurement Plan;
- (b) Appoint Members of the IPCs;
- (c) Ensure implementation of these Rules

### 3.3 AU TENDER BOARD

- (a) The AU Tender Board shall be appointed by the Accounting Officer to deal with all procurements of the AU with values exceeding the limits contained in the categories of each IPC. This includes responsibility for:
  - (i) Reviewing and approving/rejecting the recommendation for contract award and other submissions within its threshold.
  - (ii) Proposing to management the revision/amendment of the Procurement Rules;
  - (iii) Referring suspected procurement violations to the Office of Internal Audit for investigation.

- (iv) Referring matters of suspected engagement in corrupt practices to the relevant committee for investigation.
- (b) The composition of the Tender Board shall be 8 Members. These shall include:
  - (i) A Chairperson,
  - (ii) A representative from the office of Legal Counsel,
  - (iii) Five other members appointed by the Accounting officer
  - (iv) A Secretary.
- (c) The officer in charge of the procurement function of the AUC shall serve as Secretary and provide secretarial and technical services to the Tender Board. The Secretary shall not have a right to vote.
- (d) The Office of the Internal Audit has to be invited as an independent observer
- (e) Members shall be appointed in their individual capacities and alternates shall be appointed for each member.
- (f) The Tender Board may invite experts to attend its proceedings without a right to vote.
- (g) The tenure for membership of the Tender Board shall be three years subject to renewal.
- (h) The head of a department charged with procurement functions shall not be chairperson of the Tender Board

### **3.4 INTERNAL PROCUREMENT COMMITTEES**

- (a) Internal Procurement Committees are bodies appointed by the Controlling Officer of each AU Organ and Institution, which shall take full responsibility for all procurement processes of their entity. The responsibilities of an IPC include:
  - (i) Reviewing and approving/rejecting the recommendation for contract award and other submissions within its threshold.
  - (ii) Proposing to management the revision /amendment of the Procurement Rules;
  - (iii) Referring suspected procurement violations to the Office of Internal Audit for investigation.
  - (iv) Referring matters of suspected engagement in corrupt practices to the relevant committee for investigation.

- (b) The composition of Internal Procurement Committee shall be the Chairperson of the committee and 5 other members. The Chairperson and the 5 other members shall be appointed by the Controlling Officer. These shall comprise:
  - (i) Head of Finance, where applicable
  - (ii) An officer in charge of legal matters, where applicable;
  - (iii) A maximum of 3 other members of the Entity;
- (c) The Chairperson and the members shall be appointed in their individual capacities and alternatives shall be appointed for each;
- (d) The tenure shall be three years subject to renewal.
- (e) Head of department charged with procurement functions shall not be chairperson of the IPC
- (f) The Controlling Officers, Commissioners of the Commission, members of staff of Internal Audit function and members of staff of the Procurement Unit shall not be members of the Internal Procurement Committee.
- (g) The Officer in charge of Procurement Unit shall provide secretariat and technical services to the IPC

### **3.5 LOCAL INTERNAL PROCUREMENT COMMITTEES (LIPC)**

- (a) The Controlling Officer shall establish Local Internal Procurement Committees.
- (b) The composition of the LIPC shall be at least three (3) Members including:
  - (i) Head of office
  - (ii) Finance and Administration Officer, when not in charge of procurement function
  - (iii) Other professional staff appointed by the Head of office
  - (iv) An Officer in charge of legal matters, where applicable;
- (c) The Officer in charge of Procurement shall provide secretarial and technical services to the LIPC, without a right to vote.
- (d) A Chairperson shall be selected from amongst the members.
- (e) The Officer handling the procurement function shall not be eligible to be a member.



- (f) Members shall be appointed in their individual capacities and alternates may be appointed for each member;
- (g) The tenure shall be three years subject to renewal.

### **3.6 PROCEDURES FOR THE FUNCTIONING OF THE TENDER BOARD, IPC'S, AND LIPCS.**

- (a) The following shall constitute the rules of procedure that govern the functioning of the Tender Board, IPC's and LIPC's in the discharging of their duties and responsibilities:
  - (i) A quorum for meetings shall be 5 Members for AU Tender Board and 4 members for the IPC, including the Chairperson.
  - (ii) For LIPCs the quorum shall be at least 3 members including the Chairperson.
  - (iii) Decisions shall be by consensus; failing which, by 2/3 majority of members present. A dissenting member may request that his/her dissent be recorded in the minutes of the meeting;
  - (iv) The Tender Board/IPC/LIPC , shall meet as and when required;
  - (v) Working documents shall be distributed at least two days before the meeting with the exception of emergencies.
  - (vi) At the commencement of each meeting, the members must sign a Declaration of Confidentiality and Impartiality which covers all matters arising from the meeting. This Declaration shall be attached to the final report by the Secretary;
  - (vii) Matters of substance requiring the Tender Board/IPC/LIPC to take a decision shall not be discussed during a meeting under "Any Other Business";
  - (viii) The Secretary of the Tender Board/IPC/LIPC shall circulate to the members who attended the said meeting, copies of a draft report for their comments or amendments. Such comments or amendments shall be sent to the Secretary within 48 hours upon receipt of the draft report. If no comment or amendment is received within the deadline above, the Secretary shall proceed with the finalization of the report. No amendment to the report shall be allowed after members have signed it;
  - (ix) Deliberations and minutes of the Tender Board / IPC/ LIPC shall be classified and be treated with confidentiality and shall not be disclosed to suppliers and other parties external to the AU procurement process.
  - (x) The Tender Board /IPC/LIPC members shall sign the report and initial all the pages;

- (xi) Specific Decisions of the Board/IPC/LIPC meetings shall be communicated in writing to respective business units;
- (xii) The Tender Board / IPC/LIPC may invite technical or resources persons to provide expert advice. The experts shall not have voting powers.
- (b) Where a member of the Tender Board/ IPC/LIPCS has a direct or indirect interest in any matter, he or she shall declare his or her interest in the matter and shall not participate in the deliberations or decision-making process of the Tender Board /IPC in relation to that particular matter.
- (c) In respect of submissions from the Bid Evaluation Committee, the Tender Board /IPC/LIPC may;
  - (i) Review and make decisions on submissions through meetings or by circulation where necessary,
  - (ii) For any rejected submission, explanation and justification for the rejection shall be provided.
  - (iii) The Tender Board/IPC/LIPC shall not make any changes or amendments to submissions once they have been received. Any required changes or clarifications should be returned to the Business unit for action.
- (d) Decisions of the Tender Board / IPC/LIPC shall be communicated to the Business unit in writing.
- (e) Where it is not practical to convene a meeting of the Tender Board/ IPC/LIPC for matters on which a decision is needed urgently, approving an award by circulation is permitted.
  - (i) A draft decision may be circulated to the Members together with the necessary supporting documents for seeking their approval, physically or electronically through email or fax.
  - (ii) Due consideration shall be taken to ensure that the decision is circulated to all members where possible or as minimum, the number of members who form a quorum.
  - (iii) The decision is approved when it is endorsed by majority of the Members.
  - (iv) Decisions approved by Circulation should be presented at the next Tender Board / IPC/LIPC meeting and recoded in the minutes of that meeting.

### 3.6.1 Responsibilities of the Secretary of the Tender Board/ IPC/LIPC.

The Secretary is responsible for the following:

- (a) Advising and guiding the Tender Board/IPC/LIPC on technical and specific procurement provisions, policies, rules and regulations.
- (b) Arranging and coordinating Tender Board /IPC/LIPC meetings;
- (c) Ensuring the timely and efficient distribution of relevant documentation to the Tender Board /IPC/LIPC members;
- (d) Drafting of minutes of meetings and the Tender Board/IPC/LIPC recommendations;
- (e) Preparing Tender Board /IPC/LIPC related correspondence;
- (f) Circulate submissions for consideration and approved by Tender Board/IPC/LIPC by circulation method.
- (g) Maintaining a permanent record of all Tender Board /IPC/LIPC minutes and recommendations;
- (h) Ensuring that decisions of the Tender Board/IPC/LIPC are implemented.

## 3.7 PROCUREMENT UNIT

Though some Entities may not have a Procurement Unit as such, the term Procurement Unit is used to include any office with responsibility for conducting procurement operations.

### 3.7.1 Functions of the Procurement Unit

The Procurement Unit of each entity has the responsibility for the coordination of the procurement function in a professional manner in all AU procurements by ensuring efficiency, accountability value for money and transparency in the requisition, recording, accounting for, or any form of management of suppliers. The functions of the procurement unit are to:

- (a) Advise the AU Organs and Institutions on procurement policy issues;
- (b) Plan and manage all procurement activities.
- (c) Prepare, consolidate and update the annual procurement plan from all directorates, units, projects, programmes, and other Business units.

- (d) Support the functioning of the AU Tender Board/IPC/LIPC.
- (e) Review and assist Business units in the preparation of specifications, terms of reference and scope of work;
- (f) Prepare bidding documents and advertise bid opportunities and shortlisting of suppliers, as appropriate.
- (g) Arrange for publication of notices of contract award on the website of the entity;
- (h) Notifying award of contract to the winning bidder and to unsuccessful bidders;
- (i) Maintain a register of prequalified suppliers;
- (j) Prepare and issue contract document after vetting and approval by the office of the Legal Counsel;
- (k) Receive procurement requisitions with detailed specifications from Business units;
- (l) Recommend the appropriate procurement method;
- (m) Coordinate the receiving, storage and opening of tender documents;
- (n) Maintain, safeguard and archive records of the procurement process
- (o) Appoint members of the ad hoc bid evaluation committee;
- (p) Coordinate the evaluation of tenders, quotations, and proposals;
- (q) compile the evaluation reports;
- (r) Prepare and issue rejection and debriefing letters;
- (s) Prepare contract amendments;
- (t) Perform market surveys and procurement research;
- (u) Implement the decisions of the Tender Board and IPC/LIPC;
- (v) Prepare periodic procurement reports;
- (w) Act as secretariat to the Tender Board/ IPC / LIPC to provide general secretarial and technical support and advice to meetings which include preparation of correspondence, notices, agendas, minutes of meetings, and communication of the decisions or queries of the meeting;
- (x) Monitor contract management by Business units to ensure implementation of contracts in accordance with the terms and conditions of the contracts and notifying the supplier immediately in writing of any failings in performance of their obligations including discrepancies and pursue appropriate follow up measures;
- (y) Co-ordinate internal monitoring and evaluation of the procurement functions;
- (z) Manage and safeguard the tender box;

- (aa) Responding in writing to any requests for clarifications from bidders where permitted within the bidding documents;
- (bb) Registering and maintaining any samples required to be submitted by bidders;
- (cc) Monitoring delivery schedules and the inspection and certification of delivery or performance in liaison with the Business unit;
- (dd) Registering and securing bid guarantees or performance guarantees, and actioning any claims against securities or retentions.
- (ee) Advising and ensuring prompt release and returning all securities as soon as they are no longer required for protection of the AU;
- (ff) Preparing a detailed Annual Report on procurement activities;
- (gg) Prepare average pricelist;
- (hh) Manage all tender opening meetings with a bid opening committee;
- (ii) Maintaining detailed records for each procurement;
- (jj) Ensuring the effective management of contracts, including the initiation of advance payments, that all contractual obligations of the AU are performed promptly and efficiently, the initiation of processing of invoices for payment, and file closure on completion of all obligations of both parties to the contract;
- (kk) Monitoring delivery schedules and the inspection and certification of delivery or performance;
- (ll) Undertake any other duties or tasks as directed by the Tender Board and or IPC.

### 3.8 THE BUSINESS UNIT

The functions of the business unit are to;

- (a) Identify all procurement requirements for goods, works and services for the next Financial Year for inclusion in the Annual Procurement Plan.
- (b) Liaise with the Procurement unit to develop an annual procurement plan
- (c) Initiate and prepare statement of requirements, specifications, terms of reference, and scope of works, Bills of Quantities and forward them to the procurement unit
- (d) Certify services and recommend invoices for payments to suppliers
- (e) Implement and monitor contracts in collaboration with Procurement Unit
- (f) Propose amendments for awarded contracts

### 3.9 BID EVALUATION COMMITTEE

- (a) Bid Evaluation Committees shall be constituted on an ad hoc basis and may be composed of a representative from the Business unit, subject matter experts, and a representative from the Procurement Unit to undertake evaluation and make recommendations for contract award, shortlisting and any other process recommendation as appropriate. The composition of the Committee shall be at least 3 members.
  - (i) The Controlling officer shall appoint a pool of members that can serve as members of Bid evaluation committee.
  - (ii) These members shall form more than 50% of each Bid evaluation
  - (iii) The Business unit shall be responsible for nominating the remaining Members who will participate in the bid evaluation as members of the Ad hoc Bid Evaluation Committee.
- (b) The Procurement Unit shall oversee the constitution of the Bid Evaluation Committee by writing to the responsible parties to nominate members accordingly. Procurement unit shall provide secretariat and technical advisory on Rules and Procedures related to Procurement to the Bid Evaluation Committee;
- (c) The secretary shall be responsible for carrying out all the administrative tasks connected with the evaluation procedure. These include:
  - (i) Circulating and collecting the declaration of confidentiality and impartiality.
  - (ii) Ensuring safe custody of the bids and other relevant documents and records and
  - (iii) Registering attendance at meetings and compiling the evaluation report and its supporting annexes.
- (d) Evaluation for each tender shall not exceed 14 working days from commencement except where the circumstances of the process warrants otherwise;
- (e) Carry out due diligence pre-qualification assessment and post qualification of bidders.

### 3.10 BID OPENING COMMITTEE

- (a) There shall be an Ad hoc Bid Opening Committee which shall open all tenders under an open or restricted tendering process. The Committee shall be composed of representative (s) of the Business unit, and a representative (s) of the procurement Unit for each procurement.
- (b) The Controlling officer shall appoint a pool of members that can serve as a members of Bid opening committee.
- (c) These members shall form more than 50% of each Bid opening.
- (d) The Procurement Unit shall be responsible for nominating the remaining Members who will participate in the bid opening as members of the Ad hoc Bid Opening Committee.
- (e) The Procurement Unit shall ensure that all procedures regarding the opening of tenders in open session are strictly followed, including the following;
  - (i) Circulating and collecting the declaration of confidentiality and impartiality and attendance register.
  - (ii) Preparing the minutes of the meeting Bid opening Committee
- (f) The composition of the Committee shall be at least 3 members;
- (g) Procurement unit shall be a member of the Bid opening committee and shall provide secretariat and technical advisory services.

### 3.11 INSPECTION AND RECEIVING COMMITTEE

- (a) There shall be an Ad hoc Inspection Committee for each procurement process. The Committee shall be composed of representative(s) of the Business unit, subject matter experts and a representative(s) of the procurement Unit for each procurement.
- (b) The Business unit shall be responsible for nominating Members who will participate in the inspection as members of the Ad hoc Inspection Committee representing the Business unit.
- (c) The thresholds for a formal inspection by a Committee are specified in Annex II of this manual.
- (d) The supplier or its authorised representative shall be invited to attend the receiving and inspection meeting.
- (e) The delivery of all goods, the completion of works and non-consultancy services shall be subject to inspection and verification.

- (f) Certification of works completed shall only be undertaken by the Inspection and Receiving Committee for the provisional or final acceptance of works resulting in the issue of a formal certificate of completion or performance where applicable.
- (g) The Stores Unit or the office responsible for store in an entity shall be responsible for the receipt, inspection and verification of all goods except under works contracts where construction materials are delivered directly to the site and supply and installation contracts.

### 3.12 STORES UNIT

- (a) Stores Units, including approved sub-stores, are responsible for the following procurement activities:
  - (i) preparation of the annual budget for stock items ;
  - (ii) acting as the Business unit for purchase of stock items and make appropriate follow up;
  - (iii) where items requested on a Stores Requisition are not available within the stores, raising of a Purchase Requisition to the Procurement Unit;
  - (iv) providing confirmation that items are not available in the Stores for Purchase Requisitions raised by Business units;
  - (v) co-ordination of receipt of goods procedures and arranging for attendance of the Inspection and Receiving Committee and the supplier;
  - (vi) Receipt, inspection verification and issuance of a Goods Received Note for all items received in the Stores below the threshold of the inspection and receiving committee;
  - (vii) Storage and safety of all stock and non-stock items.

### 3.13 DIRECTORATE OF PROGRAMMING, BUDGETING, FINANCE AND ACCOUNTING (PBFA)

- (a) The PBFA Directorate or equivalent is directly involved in the procurement process through project and programme planning, co-ordination of the annual budgeting process, confirming availability of funds.
- (b) The Directorate must provide proof of fund availability before any procurement process is initiated.



- (c) The Directorate shall be responsible for the payment of suppliers and service providers.
- (d) The Directorate will prepare a monthly statement of supplier accounts to reconcile payments, assist the Procurement Unit in tracking delayed payments and for procurement reporting.

### **3.14 OFFICE OF THE LEGAL COUNSEL**

The Office of Legal Counsel or the Officer responsible for legal services in an entity shall be responsible for the vetting of all contracts issued by the AU and for the provision of legal advice to Tender Board/IPC/LIPC and Procurement Units on contractual issues and disputes.

### **3.15 OFFICE OF THE INTERNAL AUDIT**

The Office of Internal Audit shall ensure that the Procurement Rules and Procedures of the African Union are implemented accordingly, including conducting any investigation as and when requested. To this end, the prevention and identification of corrupt, fraudulent, coercive and collusive practices are included.

### **3.16 COMPLAINTS HANDLING OFFICE**

The Complaints Handling Office shall receive, adjudicate and recommend a course of action regarding complaints on the procurement processes. The office of Internal Audit shall be responsible for this role.

## CHAPTER 4: PROCUREMENT MANAGEMENT STAGES

### 4.1 PLANNING

- (a) Procurement planning is the process of assessing and projecting the procurement needs of the organisation in order to determine its procurement strategy. Developing a strategic approach to procurement through appropriate procurement planning is a key element for the successful acquisition of goods, services and works for the timely implementation of projects.
- (b) Adequate procurement planning and prioritisation of needs by each Business unit is a prerequisite for effective purchasing for the following reasons:
  - (i) Funding for procurement is unlikely to be sufficient to meet all requirements and scarce financial resources must be channelled to ensure that the priority aims of the AU are adequately met before spending on less essential procurements.
  - (ii) Effective planning allows requirements to be aggregated into larger purchases at lower unit costs, rather than frequent sourcing of quotations for identical items and the issue of multiple separate Purchase Orders.
  - (iii) Procurement of Common Use items may also be aggregated for more than one Business unit into annual Framework (Call-off) Contracts to permit further economies of scale.
  - (iv) Each entity shall be required to publish the procurement plan on their website. Publication of realistic annual procurement plans allows suppliers to respond more effectively to the requirements and specifications of the AU, through investment in staff and equipment, manufacture and importing of goods, and financial planning.

#### 4.1.1 Types of procurement planning

- (a) Short-term planning
  - (i) Procurement Units in conjunction with the Business units shall perform short term planning, which focuses on the then-current budgetary period. In order to ensure that the AU obtains high quality goods, services and works at

competitive prices within the time frame required Procurement Units shall ensure the optimal use of funds through the budgetary period.

- (ii) Business units shall, to the extent possible, avoid last minute requisitions as this may hamper the ability of the Procurement Unit to ensure a transparent, open, efficient and timely procurement process.
- (b) Long-term planning
  - Procurement Units shall perform long-term planning, covering the forthcoming budgetary period. Long term planning demonstrates that the Organisation manages its funds in a professional manner and in the best interests of the AU.
- (c) Annual Procurement plans
  - (i) Each Procurement Unit is responsible for the compilation and coordination of their Annual Procurement Plan. Procurement Units shall submit their plans for the forthcoming year (1 January – 31 December) to the Internal Procurement Committee no less than three (3) months before the end of the current period. The IPC shall issue appropriate instructions in advance of this date.
  - (ii) The IPC shall compile and analyse the provided data and take appropriate action to enable the introduction of innovative procurement support services to generate economies of scale and other benefits for the AU.
  - (iii) Finalised Annual Procurement Plans shall be approved by the Controlling Officer.
  - (iv) The approved Annual Procurement Plan, shall be published on the AU public website for the forthcoming year.

#### 4.1.2 Initiate Procurement Requirement

- (a) A requirement may originate from the Business unit for any combination of goods, works or services.
- (b) The estimated cost of the requirement must already be included in the approved annual procurement plan and the budget.
- (c) The requirement should be clearly set out within a requisition, which can be a written or computerised request for the fulfilment or procurement of goods services or works.
- (d) A requisition must include at a minimum:
  - (i) A detailed description of the goods, works or services being procured

- (ii) Confirmation of funds availability
  - (iii) Quantity to be procured
  - (iv) Required delivery date or start-up/completion date
  - (v) Delivery location or location of works/services to be performed
  - (vi) Estimated price
- (e) Any additional information (e.g standardisation or INCOTERMS)

## 4.2 REQUIREMENT DEFINITION

- (a) Requirements definition is a systematic approach aimed at defining the procurement requirements based on the requisition and stating them in the product specification.
- (b) The general purpose of all requirement definition is to identify the precise needs of the requisitioner and to determine the best solution to meet those needs. The needs must be described in a way that facilitates the procurement process and all requirements that are determining factors in the evaluation of offers must be clearly stated in the tender documents.
- (c) The Business unit (or requisitioner) is responsible for defining the requirements with support from the relevant Procurement Unit. The requisitioner is the organisations Subject Matter Expert (SME) and they should use their best efforts to develop specifications that allow a supplier to understand the identified needs.
- (d) The Procurement Unit shall evaluate the requirements to identify any issues that seem relevant from a procurement viewpoint (e.g. unrealistic delivery schedule, over-specification). Where necessary the Procurement Unit should advise the requisitioner on more sustainable solutions to meet the requirement and advise on any opportunities to obtain increased value for money or economies of scale.
- (e) Environmental and social responsibility aspects that should be considered in the evaluation must be included in the requirements definitions.
- (f) Requirements must be generic and should not include brand names, model numbers, catalogue numbers or trademarks except where these are essential for standardisation purposes.

#### 4.2.1 Types of requirement specifications for goods, services and works

- (a) Technical specifications are used mainly for the procurement of goods and straightforward quantifiable services. They should include a description of the technical requirements for a material or product. Specifications give a description of what the organisation wants to buy and what the supplier is required to provide. They can be simple or complex depending on the requirement. Technical specifications can be either;
  - (i) Functional specifications, defining what the goods/services are required to do;
  - (ii) Performance specifications, defining the output of the goods/services;
  - (iii) Conformance specification, defining the physical characteristics and dimensions of the goods/.
- (b) A Terms of Reference (TOR) is a description of the scope of work for services indicating the work that is to be performed, the level of quality and effort, the timeline and the deliverables. They are most commonly used to define the requirements for consultancy services. A clear TOR without any contradictions will allow the supplier to prepare a clear and detailed proposal. A TOR should include as a minimum:
  - (i) Background for requesting the service
  - (ii) Objective of the service
  - (iii) Clearly defined outputs of the service
  - (iv) Social and environmental requirements
  - (v) Inputs required to deliver the service
  - (vi) Deliverables
  - (vii) Timelines
- (c) A Statement of Work (SOW) is a requirement specification for works contracts outlining the specific goods, services and works the contractor is expected to perform. The SOW should include detailed requirements and pricing requirements, such as a Bill of Quantities (BoQ), technical drawings and any other relevant documentation.

### 4.2.2 Standardisation

Standardisation is acceptable when identical goods, equipment, technology or works have recently been purchased from a supplier and it is determined that either a quantity of additional supplies must be procured or compatibility with existing goods, equipment or works is required.

## 4.3 APPROACH TO THE MARKET AND SELECTION OF SUPPLIERS

- (a) It is necessary to identify suitable suppliers who are capable of fulfilling the procurement requirements prior to the issue of bidding documents. This process can provide valuable information about products and specifications and can be used to determine the appropriate method of procurement.
- (b) The following methods can be employed in order to identify suppliers who are capable of fulfilling the requirement for goods, services or works:
  - (i) Market Research
  - (ii) Request for Information (RFI)
  - (iii) Pre-qualification of bidders
  - (iv) Request for Expressions of Interest (EOI)
  - (v) Use of Supplier Registers

### 4.3.1 Market Research

- (a) Market research is the process of collecting and analysing information about the industry sector and overall market supply.
- (b) Market research can be conducted in conjunction with requirements definition and can be a useful tool in the development of specifications.
- (c) The following tools can help to facilitate market research in order to gain a broader understanding of the goods, services or works to be procured and the market conditions for the requisite procurement.
  - (i) Advertisements of business opportunities
  - (ii) Supplier registers

- (iii) Lessons learned from previous procurement exercises for similar products and consultations with colleagues
- (iv) External sources such as market surveys, the internet and supplier industry websites.
- (v) Commercial/specialised journals
- (vi) Beneficiary governments, clients, donors, funding sources
- (vii) Ask suppliers (RFI)
- (viii) Ask other buyers
- (ix) Market analysis consultant
- (x) Professional Bodies
- (xi) Industry bodies

#### 4.3.2 Request for Information (RFI)

- (a) A request for information (RFI) is used to obtain information that can be used to identify available or potential solutions to fulfil the identified needs.
- (b) The information received in response to an RFI is not used to qualify suppliers, but the information can be used to ascertain cost or delivery information, as well as potential alternative products that are capable of fulfilling a requirement.
- (c) There are no minimum timescales required to conduct an RFI, though the process will result in an increased timescale for the procurement activity.
- (d) The RFI shall be published on the AU/Entity website and/or widely read journals.

#### 4.3.3 Pre-qualification of Bidders

- (a) Pre-qualification is a formal method of assessing suppliers against pre-determined criteria and only suppliers who meet established criteria are invited to tender.
- (b) Pre-qualification of bidders:
  - (i) is appropriate for large or complex works, or in other circumstances when the high costs of preparing detailed bids could discourage competition;
  - (ii) is often used for custom-designed equipment, industrial plant, consulting services, and contracts to be let under turnkey, design and build, or management contracting;

- (iii) ensures that invitations to bid are extended only to those who have adequate capabilities and resources;
  - (iv) 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;
- (c) Pre-qualification is based upon the capability and resources of prospective bidders to perform the particular contract satisfactorily, taking into account their:
- (i) experience and past performance on similar contracts;
  - (ii) capabilities with respect to personnel, equipment and construction or manufacturing facilities;
  - (iii) required licensing and professional registrations; and
  - (iv) commercial and financial resources.
- (d) The invitation to pre-qualify for bidding on specific contracts or groups of similar contracts shall be advertised in the same way as an Open Competition. The scope of the contract and a detailed statement of the requirements for qualification must be provided in the advertisement.
- (e) A pre-qualification exercise should be advertised for a minimum of two weeks to allow suppliers sufficient time to respond.
- (f) A formal opening of submissions is required and a formal evaluation of the capabilities of each supplier is required against the criteria as stated in the advertisement.
- (i) Where a large number of suppliers pass the stated qualification criteria, it may not be realistic to invite more than a maximum of eight to participate in the specific tender. If so, only the highest ranking suppliers should be selected and invited to bid.
  - (ii) All applicants that are evaluated to have met the specified criteria may be added to the standing Registers of Suppliers.
  - (iii) Inform all applicants of the results of pre-qualification and/or 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 shall be entered into regarding applications.
  - (iv) When pre-qualification is completed, the bidding documents shall be issued to all qualified bidders or to an appropriate shortlist of the qualified bidders.



#### 4.3.4 Request for Expressions of Interest (EOI)

- (a) Shortlisting of consultants is strongly recommended to ensure the participation of consultants with the necessary technical skills and resources.
- (b) A request for EOI is similar to a pre-qualification however it is used primarily to create a shortlist of consultants.
- (c) Consultants who meet the necessary minimum requirements are then invited to submit a proposal to fulfil the projects requirements.
- (d) Advertising for Expressions of Interest
  - (i) The AU shall advertise the consulting assignment publicly to obtain expressions of interest (EOI).
  - (ii) The advertisement shall be published on the AU/Entity website and/or widely read journal/newspapers/magazine.
  - (iii) Additionally, contacting professional organisations and firms that are known to the AU, with a copy of the request to submit expressions of interest may prove useful.
  - (iv) The information requested in EOIs should be the minimum required to make a judgement on the firm's suitability but not be so complex as to discourage consultants from responding.
  - (v) Sufficient time (not less than two weeks) should be allowed for responses, before preparation of the short list.

#### 4.3.5 Use of Supplier Registers

The AU maintains a register of suppliers which can be used in addition to the supplier identification methods mentioned above.

## 4.4 TYPE OF COMPETITION

- (a) The selection of the appropriate procurement method or procedure and type of competition is based on:
  - (i) The value of the procurement
  - (ii) The technical considerations of the goods, services or works being procured
  - (iii) The market conditions
  - (iv) The specific operational environment
  - (v) The type of contract to be awarded
  - (vi) Requirements specific to the donor/funding source
- (b) The Procurement Officer must examine each of the criteria above to select the method of procurement and type of competition that will fulfil all of the deliverables of the contract.

### 4.4.1 Open competition

- (a) This is a process where the invitation to tender is advertised and all interested suppliers can submit their bids. This approach would be used to ensure fair competition when there is a developed market and a good chance of attracting lots of potential providers.
- (b) Open competition by public advertisement is the preferred method of AU procurement with equal access to all eligible and qualified suppliers without discrimination. Open competition is important in order to promote the AU's procurement principles of fairness, integrity, transparency, effective competition and value for money.

#### 4.4.1.1 International Competition

- (a) Procurement processes may be advertised to the international supplier community, through the use of the AU Website and any other applicable advertising platforms. The purpose of international competition is to provide all suppliers with an equal opportunity to bid for the required goods, works or services.

#### 4.4.1.2 Continental and Regional Competition

- (a) In certain circumstances, it may be preferable to encourage continental and regional competition as detailed below:
  - (i) Where from a total cost perspective it is beneficial to obtain the goods, services or works locally
  - (ii) If the requirements is in a geographical location or with a delivery time frame that may not be of interest to international suppliers
  - (iii) Where it has been determined that obtaining goods, services or works locally would have a positive impact to sustainable local development
  - (iv) Where contracting with a local company would reduce the environmental impact or increase national ownership
  - (v) If expert knowledge of the region is required
- (b) However, in order to ensure effective competition continental and regional competition should only be used where there are enough capable suppliers to participate in a tender process. Further, care must be taken to reduce the risk of potential fraud in the form of collusion or the formation of cartels.

#### 4.4.2 Limited competition

- (a) Where a valid reason exists for not conducting an open competition, a limited competition may be held. A limited competition allows only a selected number of suppliers to participate in a procurement process (Usually a minimum of 3 and maximum of 8).
- (b) Valid reasons for limited competition include:
  - (i) An open competition would have negative security implications.
  - (ii) The subject matter of the tender is otherwise sensitive and cannot be advertised.
  - (iii) The requirement is below the threshold for open competition.
  - (iv) The number of potential suppliers is limited.
  - (v) The requirement has been identified as an emergency procurement
  - (vi) An open competition has failed to bring an award of contract

- (c) Where a limited competition is required for a reason other than those listed above, the Procurement Officer may request approval from the relevant authority.
- (d) The Procurement Unit shall use suppliers from the approved data base except where there are no prequalified suppliers for a particular procurement process.

#### 4.4.3 Non Competitive

Non-competitive procedures are based on direct contracting (single-sourcing, sole-sourcing) where a firm or individual is selected under very limited circumstances, usually when there is no possible competition and hence the key procurement principles, in particular of economy and efficiency, would not be served well by a competitive process.

### 4.5 SELECTION METHODS

The following selection methods are available dependent on the value and complexity of the requirement;

#### 4.5.1 Request for Quotation (RFQ)

- (a) An RFQ is a competitive selection method based on the comparison of quotations obtained from no less than three (3) suppliers.
- (b) It is appropriate in the following circumstances;
  - (i) Where the value of the requirements is very low (Annex II)
  - (ii) Where the requirement is a readily available, off-the-shelf product or service.
  - (iii) Where the requirement is clear and specific and the goods or services are straightforward and easily specified.
- (c) Where RFQ is used, the successful supplier is issued with a purchase order (PO) and special terms and conditions of contract can be applied.
- (d) It is mandatory that each RFQ specifies a submission deadline, which must be communicated to all prospective bidders.

- (e) Quotations received in response to an RFQ must be received in writing, either by mail, fax or email, and where resources permit segregation of duties should be applied.
- (f) The contract shall be awarded to the bidder who submits the best value for money, demonstrating an acceptable level of compliance with the specification and evaluation criteria as set out in the RFQ document.

#### 4.5.2 Request for Bids (RFB)

- (a) An RFB is considered to be a formal selection method where suppliers are requested to submit a bid for the provision of goods, services or straightforward works.
- (b) RFBs as a selection method are commonly used for open and limited competition.
- (c) It is used when requirements can be clearly and completely specified and the evaluation can be conducted on a pass/fail quantitative basis, without the requirement for the bidder to submit subjective information that would require a more flexible evaluation methodology.
- (d) RFBs require a defined deadline for receipt of bids which must be communicated to all bidders in writing.
- (e) Bid receipt and opening procedures must be followed when an RFB has been selected as the procurement method.
- (f) The contract is awarded to the bidder who submits the lowest priced offer that complies with all of the requirements as set out in the bidding documents, including technical specification, eligibility and award criteria.

#### 4.5.3 Direct Selection

- (a) Direct selection methods shall be appropriate where;
  - (i) Award for identical requirements have been approved within a reasonable period of six (6) months and the conditions and prices offered remain unchanged.
  - (ii) Where a former procurement process has failed to bring an award of contract.
  - (iii) The requirement is for standardization of equipment, spare parts or proprietary equipment,

- (iv) Specialized non-consulting services that can be restricted to national administration or in some cases State Owned Enterprises;
  - (v) For tasks that are a natural continuation of previous work carried out by the firm;
  - (vi) For emergency situation and natural disasters;
  - (vii) for very low value assignments as prescribed in the thresholds under this manual (Annex II);
  - (viii) When only one firm is qualified or has the necessary experience for the assignment and
  - (ix) An open and limited competition would have negative security implications
- (b) All requests for direct procurement shall be fully justified and approved by the relevant authority prior to engagement with the supplier.
  - (c) Where the use of direct procurement has been approved, the supplier must submit a written offer based on the requirements provided by the AU including standard bidding documents, specifications and applicable terms and conditions of contract. In the case of direct contracting, Procurement Officials may conduct negotiations with the supplier to obtain best value for money and best terms and conditions of contract.
  - (d) An evaluation report must be completed and approved by the relevant authority (dependent on the value of the award), prior to the issuance of the final contract to the supplier.

#### 4.5.4 Request for Proposal

- (a) An RFP is used for procurements where the requirements cannot be quantitatively or qualitatively expressed in the specification, and the award is depended on a combination of quality and price factors that cannot be determined on a pass/fail basis. This is known as the cumulative analysis evaluation methodology.
- (b) The RFP selection method is usually used for the procurement of complex goods, works and services (inclusive of consulting services).
- (c) An RFP should request a technical proposal in response to the requirements set out in the specification and separate sealed financial proposal including all of the pricing components relevant to the proposal.
- (d) RFPs require a defined deadline for receipt of bids which must be communicated to all bidders in writing. Bid receipt and opening procedures prescribed in this

manual must be followed when an RFP has been chosen as the selection method. However, the pricing envelope should not be opened at the initial bid opening, and should be kept sealed until the technical evaluation is complete.

- (e) The evaluation methodology and weightings should be set out in the bidding documents and should clearly state the key areas of importance and respective percentage weightings for each of the identified criteria. An RFP should generally be weighted more heavily in terms of quality (70% - 30% is considered standard), however this must be determined on a case by case basis to determine best overall value.

#### 4.5.5 Additional Procurement Methods

##### 4.5.5.1 Use of Procurement Agents

- (a) The use of Procurement Agents is a method of procurement that should only be applied in very exceptional circumstances and subject to formal approval by the relevant authority, when:
  - (i) the entity lacks the necessary organization, resources, and experience. It may employ, as its agent, a firm specialising in handling procurement. The agent shall follow all the procurement procedures and guidelines provided for in the contract Agreement. This also applies in cases where specialized agencies/firms act as procurement agents.
  - (ii) Management contractors may be employed in a similar manner for a fee to contract for miscellaneous works involving reconstruction, repairs, rehabilitation, and new construction in emergency situations, or where large numbers of small contracts are involved.
- (b) The procurement agent shall be selected following the procedures for consultant recruitment in the procurement plan.

#### 4.5.5.2 Procurement from UN Agencies or specialised Agencies

- (a) There may be situations in which procurement directly from UN Agencies or Specialized Agencies, acting as suppliers, may be the most appropriate way of procuring:
  - (i) small quantities of off-the-shelf goods, primarily in the fields of education and health; and
  - (ii) specialized products or services where the number of suppliers is limited such as for vaccines or drugs.

#### 4.5.6 Exceptions to selection methods

- (a) In exceptional circumstances, a contract award may be made by exception to the procurement methods mentioned above.
- (b) The following purchases are exempt from competition as competition is normally not practicable and or available for such goods and services:
  - (i) lease/rental of real estate.
  - (ii) Honorarium and Workshop/Training/Meeting Facilitators' fees where the African Union has a fixed approved rate.
  - (iii) Fund transfers as a result of an agreement between the AU and another institution
  - (iv) Performing Artists
  - (v) Writers
  - (vi) Journal subscriptions
  - (vii) Memberships
  - (viii) Photography services
  - (ix) Advertisements e.g newspapers, magazines, journals, websites, radio, television or similar public media.
  - (x) Utilities
  - (xi) Design competitions



#### 4.5.7 Contractual Arrangements

- (a) Another factor which may influence the type of competition and selection method chosen is the final form of contract to be issued;
- (b) The following type of contracts are examples where the selection method may be chosen to achieve the optimum contractual outcome at the end of a process

##### 4.5.7.1 Procurement under Public Private Partnership (PPP) arrangements

- (a) PPP arrangements usually rely on processes such as Build, Own and Operate (BOO); Build, Own and Transfer (BOT); Build, Own, Operate and Transfer (BOOT). The evaluation and award process is based upon open competition with complex evaluation criteria that goes beyond the traditional technical, financial and commercial qualification requirements. Of particular interest are the structure of the financing and financial balance of the project, minimum performance requirements, user charges and income-generation, and depreciation mechanisms.
- (b) The firm selected will typically procure the goods, works, and consulting and non-consulting services required for the contract according to its standard corporate procedures and practices.
- (c) Where the AU is participating in a contract procured under PPP arrangements, (for example by way of financing) it is acceptable for the private sector organisation's/firm's procurement procedures to apply, only if the original agreement has been procured under an open international formal procurement method.
- (d) The intention to establish a PPP must have been stated in the original bidding documents and the evaluation criteria must have required the proposed partner to submit their entire end-to-end procurement procedures, which should be evaluated to be deemed compliant in order to be considered for the award of contract.

#### 4.5.7.2 Community Participation in procurement

- (a) Where, in the interest of project sustainability, or to achieve certain specific social objectives of the project, it is desirable in selected project components to call for the participation of local communities and/or nongovernmental organizations (NGOs) in the delivery of services, or increase the utilization of local know-how and materials, or (c) employ labour-intensive and other appropriate technologies, the procurement method, specifications, and contract packaging shall be suitably adapted to reflect these considerations, provided these are efficient and are acceptable to the AU.
- (b) The procedures proposed and the project components to be carried out by community participation shall be outlined in contract or Memorandum of understanding between the parties.

#### 4.5.7.3 Force Accounts

- (a) Force account, that is, construction by the use of a grant recipient's own personnel and equipment, may be the only practical method for constructing some kinds of works.
- (b) The use of force account may be justified where:
  - (i) quantities of work involved cannot be defined in advance;
  - (ii) works are small and scattered or in remote locations for which qualified construction firms are unlikely to bid at reasonable prices;
  - (iii) work is required to be carried out without disrupting ongoing operations;
  - (iv) risks of unavoidable work interruption are better borne by the AU than by a Contractor; and
  - (v) there are emergencies needing prompt attention.

#### 4.5.7.4 Leased Assets

- (a) Leasing is used as an alternative to purchasing when there are economic and/or operational benefits such as lower financing costs, tax benefits, assets used for a temporary period, reduced risks of obsolescence.

- (b) This method includes capital leasing (financial-leasing or lease-purchasing) or operating leasing. Under a lease contract, the owner of the asset (the “lessor”) conveys to the user (the “lessee”) the right to use the equipment in return for a number of specified payments over an agreed period of time.
- (c) Capital leasing serves to finance an asset for a major part of its useful life with the benefits and risks transferred to the lessee. Operating leasing is similar to renting of assets, and is typically for a shorter period than the asset’s useful life, at the end of which the lessee returns the assets to the lessor without further obligation.
- (d) Bidding documents (usually SBD for Goods) specify the required duration and type of lease. Leasing should normally apply to the entire procurement package, i.e., bidding packages shall not mix leased goods with the procurement of other goods, not even as specific line items or lots.
- (e) If purchase offers are allowed to compete with lease offers, the evaluation method that would be used to compare lease and sale terms should be clearly stipulated in the bidding documents. Typically, a Net Present Value (NPV) calculation of the different bids is carried out.

#### 4.5.8 Framework/Call-Off Contracts

- (a) Framework (or “call-off”) Contracts shall be used, wherever practical in AU to provide an efficient, cost effective and flexible means to procure goods, works or services that are required continuously or repeatedly by the AU over a set period of time.
- (b) A framework agreement is a long term agreement with a supplier (or multiple suppliers) which sets out the terms and conditions and agreed pricing under which specific procurements (call-offs) can be made throughout the duration of the agreement.
- (c) Framework contracts are particularly useful for goods works and services items that are readily available in the market or are for goods of relatively short shelf life.
- (d) Vehicle maintenance, cleaning services, on-call routine maintenance and minor repair works, office supplies and medical supplies are examples of the types of procurement that may be efficiently purchased under a framework contract.
- (e) The objective of framework contracts is to minimise the cost and effort wasted in preparation of multiple similar small procurement processes by agreeing fixed item prices with a supplier for a set period of time. The aggregation of requirements will result in greater price competition among providers to win the right to supply all requirements of the AU for the subject of the framework contract.

- (f) Readily available of common supplies direct from the supplier will also minimise the requirement for stock-holding within the AU Stores.
- (g) If a framework agreement exists for the types of goods or services to be procured, orders can be placed against the agreement without further competitive bidding. A framework agreement can only be used to procure the exact goods or services specified in the agreement, if other goods or services are required from the supplier, then normal procurement procedures must be followed.
- (h) Where a call-off has been made against an existing framework agreement, no further approval is required from the relevant authority prior to placing the order.

#### 4.5.8.1 Establishment of Framework Contracts

- (a) Where aggregation of requirements for more than one Business unit is anticipated to bring additional benefit in procurement costs, or administrative effort, the Procurement Unit shall direct an Business unit to co-ordinate its procurement requirements through a nominated Business unit.
- (b) Open tendering procedures shall be used for the establishment of framework contracts and use a standard bidding document and contract format provided for the purchase.
- (c) Under a framework contract, a bidder shall indicate the unit rate for each item.
- (d) The Entity shall indicate the estimated quantity or value of the procurement where this is possible or necessary to obtain competitive bids, but shall not make a commitment to purchase any quantity or value.
- (e) A framework contract shall state the arrangements for obtaining specific requirements during the period of the contract, using placement of “call-off” or delivery orders where appropriate.
- (f) Payment shall be made on the basis of the works, services or supplies actually delivered or performed.
- (g) A framework contract shall include fixed prices and or a clause for price adjustment.
- (h) The Procurement Unit in consultation with the Business unit will:
  - (i) identify specific procurements that would benefit from framework contracts by examining annual values and numbers of orders for related procurements.
  - (ii) prepare detailed specifications of requirements, a bidding document and draft advertisement;

- (iii) issue an open tender for each annual requirement, subdivided into lots as appropriate and subject to an indefinite quantities clause; and
  - (iv) follow standard procedures for the opening, evaluation and award of contract.
  - (v) The duration of the contract shall be determined in the bidding document but shall usually be for 3 year but should never exceed 5 years, after which a new procurement process shall be launched/ advertised.
  - (vi) Subject to performance, the contract may be renewed once for a period not exceeding 2 years.
- (i) Following completion of the award, call-off or delivery orders will be issued as a simple Purchase Order for specific requirements as and when needed during the period of the framework contract.
  - (j) For the procurement of items subject to framework contracts, the Procurement Unit shall not be permitted to purchase the same items by any other process except in cases where the contractor cannot deliver within the specified times.

#### 4.6 USER INITIATED PURCHASE (UIP)

User Initiated Purchase (UIP) is a delegated procurement authority to User Departments which provides User Departments with the ability to initiate *direct interaction leading to the selection of a Contractor*. As with standard requisitions, Directors and above are authorized to initiate UIPs. Such AU Staff are responsible for effective management of their budgeted resources and therefore shall be fully accountable for all expenditures incurred through the use of UIPs.

The Following regulations shall apply for UIPs:

- The estimated amount of the Transaction is *no more than USD 20,000* unless otherwise specified in Authority Levels (Annex II)
- The requirement shall be *limited to off-the-shelf*, standard commercial available Goods and Services (Catering services, Accommodation, Conference Package, Stationeries for meetings, car hire)
- User departments are required to *use standard solicitation documents* as prescribed in this manual
- This method *shall not be used for hiring consultants and for procurement of goods and services that leads to framework Contract*

- Requirements *shall not be split or desegregated* in order to remain under the designated threshold
- The user departments shall be responsible for *issuing PO, Issue Service Entry sheet, Ensure delivery of Goods to stores for Goods Received Note, and ensure payment* is done on timely basis to the vendor.

#### 4.7 PROCUREMENT UNDER DISASTER AND EMERGENCY SITUATIONS

- (a) Procurement of goods and works, under disaster and emergency assistance, shall incorporate greater flexibility. Open competition shall be relaxed in favour of limited competition as appropriate, with an abbreviated bidding period. Direct Contracting to contractors and suppliers, with unit rates negotiated around those in effect for the existing contracts, and adjustments, as required, for inflation and physical factors.
- (b) The AU shall develop guidelines of procurement to be used in disaster and emergency situations.

#### 4.8 TIMESCALES FOR PROCUREMENT METHODS

The following are minimum bidding periods should be allowed:

Open competition	Four weeks from date of first advertisement
Limited Competition	1-2 weeks
EOI/Prequalification	2 weeks

*\* a longer period may be necessary for bidders to prepare bids for complex technical requirements*

#### 4.9 THE SELECTION AND EMPLOYMENT OF CONSULTANTS

- (a) The procurement of consultant services is a specialised form of procurement requiring bidding procedures and the use of merit-point evaluation systems (RFP) 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.

- (b) Consultancy service shall be a service of an intellectual or knowledge -based, highly specialised or of an advisory nature, provided by an individual or firm that is skilled and qualified in a particular field or profession; and appointed for the purpose of providing services on a pre-determined time frame and specific terms and conditions. The following conditions shall apply;
  - (i) The Consultancy shall be for a period not exceeding 6 months except in circumstances where the complexity and duration of an assignment may warrant otherwise.
  - (ii) The Consultancy shall comprise of tasks that involve expert skills or capabilities that would not normally be expected to reside within the Entity.
  - (iii) The work in the assignment shall not be of a routine nature.
  - (iv) The consultant shall be paid a fee, not a salary.
  - (v) The consultant shall work independently

#### 4.9.1 Conflict of Interest

- (a) African Union policy requires consultants to provide professional, objective, and impartial advice, and at all times hold the Client's interests paramount, without any consideration for future work, and strictly avoid conflicts with other assignments or their own corporate interests.
- (b) Consultants shall not be hired for any assignment that would be in conflict with their prior or current obligations to other clients, or that may place them in a position of not being able to carry out the assignment in the best interests of the Client.
- (c) Without limitation on the generality of this rule, consultants shall not be hired under the circumstances set forth below:
  - (i) Conflict between consulting activities and procurement of goods, works or services: A firm that has been engaged to provide goods, works, or services for a project, and each of its affiliates, shall be disqualified from providing consulting services related to those goods, works or services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, and each of its affiliates, shall be disqualified from subsequently providing goods, works or services resulting from or directly related to the firm's consulting services for such preparation or implementation (other than a continuation of the firms earlier consulting services for the same project).

- (ii) Conflict among consulting assignments: Neither consultants (including their personnel and sub-consultants) nor any of their affiliates shall be hired for any assignment that, by its nature, may be in conflict with another assignment of the consultants.
- (iii) Relationship with AU staff: Consultants (including their personnel and sub-consultants) that have a business or family relationship with a member of AU staff (or of the Client staff, or of a beneficiary of the assignment) who are directly or indirectly involved in any part of: (i) the preparation of the TOR of the contract, (ii) the selection process for such contract, or (iii) supervision of such contract may not be awarded a contract.

#### 4.9.2 Merit-Point Systems

- (a) 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
- (b) 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 bidding documents. The bidder scoring the highest number of points is usually recommended for the award of contract.
- (c) Where cost is a factor in selection, technical quality for consultancy assignments is normally awarded 70-80% of the total points and cost 20-30%.
- (d) 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.

#### 4.9.3 Two-envelope bidding

- (a) 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 Tender Board.



- (b) 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.

#### 4.9.4 Quality and Cost Based Selection

- (a) 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.
- (b) 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.
- (c) 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.

#### 4.9.5 The Steps of the Selection Process

- (a) The procurement of consultancy services will normally include the following steps:
- (i) Preparation of the Terms of Reference (TOR).
  - (ii) Preparation of a cost estimate and confirmation of available budgeted funds.
  - (iii) Preparation and issue of the Request for Proposals (RFP), including:
    - Letter of Invitation (LOI);
    - Information to Consultants (ITC);
    - Draft contract.
  - (iv) Advertising for expressions of interest (if appropriate) or preparation of the shortlist of consultants from existing pre-qualified firms.
  - (v) Receipt of proposals.
  - (vi) Evaluation of technical proposals.
  - (vii) Evaluation of financial proposals.
  - (viii) Final evaluation according to the criteria stated in the RFP.
  - (ix) Negotiations and award of the contract to the selected firm.

#### 4.9.6 The Terms of Reference (TOR)

- (a) 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.
- (b) The TOR should:
  - (i) describe the background to the assignment;
  - (ii) state the objectives of the assignment including;
  - (iii) the scope of the services;
  - (iv) the duration of the assignment;
  - (v) a detailed list of the consultants' duties and responsibilities;
  - (vi) where applicable, the required inputs in terms of man days, months or years;
  - (vii) detail the required outputs, e.g.: reports, recommendations, draft laws etc. which the consultants will be required to produce (also referred to as 'deliverables');
  - (viii) set the time periods for the deliverables;
  - (ix) not be over-detailed or inflexible, so that competing consultants may propose their own methodology and staffing;
  - (x) list any services and surveys necessary to carry out the assignment;
  - (xi) include details of the services, facilities and counterpart staff to be provided by the AU;
  - (xii) specify detailed requirements when transfer of knowledge or training is an objective, to allow bidders to estimate the required resources.

#### 4.9.7 Open Competition

- (a) The AU may elect to proceed directly to an open tender 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:
  - (i) 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;

- (ii) International and major consulting firms are less likely to respond to an Open Tender rather than an EOI as the cost of preparing a detailed consultancy bid is high, and open tendering 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.
- (iii) International and major firms are also not used to paying a fee to acquire the Request for Proposals, and if applied, this factor may discourage such firms from participating.
- (iv) Following from the above, the effective level of competition may be seriously reduced if AU proceeds directly to open tendering.
- (v) For these reasons, donors normally require that all larger or more complex consultancy assignments are conducted through the EOI and short-listing process.

#### 4.9.8 Short List of Consultants

- (a) Short-lists should be restricted to those firms expressing interest and who possess the relevant qualifications and experience to undertake the assignment.
- (b) Short-lists should normally be of three to eight firms depending on the value and complexity of the assignment.
- (c) The following details of each firm should be assessed in the selection of the short-list:
  - (ii) general background of the firm;
  - (iii) eligibility in terms of country of origin, turnover requirements and any other conditions stated in the advertisement;
  - (iv) previous experience of similar assignments;
  - (v) competence and sector related experience of the firm;
  - (vi) language proficiency in the languages of the African Union;
  - (vii) relevant experience within Africa; and
  - (viii) quality of performance under previous contracts.

#### 4.9.9 Preparation of the Request for Proposals (RFP) and Evaluation Criteria

- (a) Use of an approved standard international bidding document format is recommended to provide guidance on the preparation of Request for Proposals.
- (b) 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.
- (c) 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.

#### 4.9.10 Technical Evaluation

- (a) The criteria specified in the RFP may include:
  - (i) the firm's relevant experience for the assignment;
  - (ii) the quality of the methodology proposed;
  - (iii) the qualifications and experience of the key staff proposed;
  - (iv) the extent of participation by nationals of African Union States among key staff in the performance of the assignment.
- (b) The marks for each criterion are aggregated to give the total technical score.
- (c) 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: <sup>1</sup>	0 to 10 points
Participation by nationals: <sup>2</sup>	0 to 10 points
Total:	100 points

- (d) 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
- (e) **Consultant’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.
- (f) **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).
- (g) **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.
- (h) 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.
- (i) Individuals should be evaluated on the following sub-criteria as relevant to the task:
- (ii) **General Qualifications:** General education and training, professional qualifications, length of experience, positions held, time with the consulting firm, experience in similar countries, etc;
- (iii) **Adequacy for the Assignment:** Specific experience relevant to the assignment in the sector, field, subject, process or activity; and

<sup>1</sup> 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.

<sup>2</sup> As reflected by African Union Member State nationals among key staff presented by firms.

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

#### 4.9.11 Minimum Technical Score

- (a) The minimum qualifying technical score to be achieved for a bid to proceed to the Financial Evaluation must be 70 points.

#### 4.9.12 Financial Evaluation

- (a) 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 the lowest priced bid by the price of the specific bidder and multiplying by 100.
- (b) 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.

#### 4.9.13 Weighting of Technical and Financial Scores

- (a) The relative weightings for technical and financial scores must be stated in the RFP. This is usually set at 70- 80% for the technical score and 20-30% 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.

#### 4.9.14 Other Methods for Selection of Consultant Services

##### 4.9.14.1 Quality-Based Selection

- (a) 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.

- (b) QBS is suitable for the following types of assignments:
  - (i) 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);
  - (ii) 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
  - (iii) 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).
- (c) 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.
- (d) 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 best-evaluated proposal is opened and, the rest are returned unopened to the bidder, after the negotiations are successfully concluded.
- (e) If technical proposals only are invited, after evaluating the technical proposals the Consultant with the best-evaluated technical proposal will be invited to submit a detailed financial proposal.
- (f) The AU and the Consultant shall then negotiate the financial proposal and the contract.
- (g) Other aspects of the selection process are identical to those of QCBS.

#### 4.9.14.2 Selection under a Fixed Budget

- (a) Fixed Budget Selection (FBS) is where the AU seeks to obtain the best proposal from pre-qualified short-listed consultants within a pre-determined budget limit
- (b) This method is only appropriate when:
  - (i) the assignment is simple and can be precisely defined; and
  - (ii) when the budget is fixed.
- (c) The RFP will indicate the available budget and request the consultants to provide their best technical and financial proposals in separate envelopes, within the stated budget.
- (d) The TOR must be carefully prepared to ensure that the budget is sufficient for the consultants to perform all of the expected tasks.
- (e) Technical proposals will be evaluated and bidders who pass the minimum technical mark will be invited to a public opening of their financial envelopes.
- (f) Bidders whose technical proposals fail to meet the minimum technical score will have their financial envelopes returned unopened.
- (g) Any financial proposals that exceed the indicated budget shall be rejected.
- (h) The Consultant who has submitted the highest ranked technical proposal within the budget will be selected for award of contract.

#### 4.9.14.3 Least-Cost Selection

- (a) 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.
- (b) A minimum qualifying mark for the required quality is established and is stated in the RFP.
- (c) Technical and Financial Proposals are required to be submitted in separate envelopes by the short-listed bidders.



- (d) Technical envelopes are opened first and evaluated. Those bids scoring less than the minimum qualifying mark are rejected. The financial envelopes of the remaining bidders are opened in public.
- (e) The firm with the lowest price is selected for contract award.

#### 4.9.14.4 Selection Based on Consultants' Qualifications

- (a) This method may be appropriate for very small assignments where the need for submission and evaluation of detailed competitive proposals is not justified.
- (b) Expressions of interest and information on the consultants' experience and competence relevant to the assignment are requested.
- (c) The firm with the most appropriate qualifications and references is selected.
- (d) The selected firm is invited to submit a combined technical and financial proposal, and then invited to negotiate the proposal and the contract.

#### 4.9.14.5 Single-Source Selection

- (a) Single-source selection of consultants lacks the benefit of competition in regard to quality and cost, is not transparent in selection, and may encourage unacceptable practices. Therefore, single-source selection should only be used in exceptional circumstances. The justification for single-source selection must be examined carefully to ensure economy and efficiency.
- (b) The conditions for the use of Direct Procurement as specified in Chapter 4 should be noted before using this selection method.
- (c) Single-source selection is only appropriate if there is a clear advantage over competitive selection:
  - (i) for tasks that are a natural continuation of previous work carried out by the firm;
  - (ii) where rapid selection is essential (for example, in an emergency situation);
  - (iii) for very low value assignments;
  - (iv) when only one firm is qualified or has the necessary experience for the assignment.

#### 4.9.15 Types of Contract Agreement for the Employment of Consultants

- (a) 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.

##### 4.9.15.1 Lump Sum (Fixed Price) Contracts

- (a) Lump sum contracts are used mainly for assignments in which the following are both clearly defined:
  - (i) the content and the duration of the services; and
  - (ii) the required output of the consultants.
- (b) 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.
- (c) Payments are linked to defined outputs (deliverables), such as reports, drawings, bills of quantities, bidding documents, and software programs.
- (d) Lump sum contracts are simple to administer because payments are due on attainment of clearly specified outputs.

##### 4.9.15.2 Time-Based Contract

- (a) 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:
  - (i) it is difficult to define the full scope of services, or the input of the consultants required to attain the objectives of the assignment;
  - (ii) the length of services can be precisely defined and deliverables are only incidental to the main purpose of the assignment;
  - (iii) the services are related to activities by others for which the completion period may vary.
- (b) Payments are based on:
  - (i) Remuneration: Agreed hourly, daily, weekly, or monthly rates for staff;

- (ii) Reimbursables: Reimbursable items using actual expenses and/or agreed unit prices.
- (c) The rates for staff remuneration include salary, social costs, overhead, fee (or profit), and, where appropriate, special allowances.
- (d) This type of contract must include a maximum amount of total payments (the contract ceiling) to be made to the consultants.
- (e) The contract ceiling usually includes a contingency allowance for unforeseen work and duration, and provision for price adjustments, where appropriate.
- (f) Time-based contracts need to be closely monitored and administered by the AU to ensure that the assignment is progressing satisfactorily, and payments claimed by the consultants are appropriate.

#### 4.9.15.3 Retainer and/or Contingency (Success) Fee Contract

- (a) Retainer and contingency fee contracts are sometimes 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.
- (b) 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.

#### 4.9.15.4 Percentage Contract

- (a) These contracts are commonly used for architectural services but may be also used in similar circumstances such as for procurement and inspection agents.
- (b) 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.
- (c) Contracts are negotiated on the basis of market standards for the services and/or estimated staff-month costs for the services, or competitively bid.
- (d) 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.

#### 4.9.15.5 Indefinite Delivery Contract (Price Agreement)

- (a) 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.
- (b) 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.
- (c) The AU 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.

#### 4.9.16 Bid and Performance Securities.

- (a) Bid and performance securities for consultants’ services are not recommended for the following reasons:
  - (i) bid securities are not an accepted standard for consultant services tenders and are likely to discourage participation by international consultant firms;
  - (ii) enforcement of bid securities may be subject to dispute for example when final negotiations fail to reach a satisfactory conclusion;
  - (iii) 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;
  - (iv) there is often a strong element of subjectivity rather than objectivity in determining the success or failure of an assignment;
  - (v) securities increase the costs to the consulting industry without evident benefits, and the costs are inevitably passed on to the Client through higher prices.

#### 4.9.17 Use of individual Consultants

- (a) Individual consultants are normally employed on assignments when:
  - (i) teams of personnel are not required;
  - (ii) additional outside (home office) professional support is not required;

- (iii) the experience and qualifications of the individual are the major requirement.
- (b) 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.

#### 4.9.17.1 Criteria used to select individuals

- (a) Individual consultants are selected on their qualifications for the assignment.
- (b) 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 AU.
- (c) Individuals employed by the AU must meet all relevant qualifications and be fully capable of carrying out the assignment.
- (d) 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.

# CHAPTER 5: PREPARATION, ANNOUNCEMENT AND ISSUANCE OF BIDDING DOCUMENTS

## 5.1 COMPONENTS OF BIDDING DOCUMENTS

- (a) AU's standard bidding documents must be used when soliciting for offers from suppliers.
- (b) Whilst the nature and complexity of bidding documents may vary, all bidding documents must contain all information and appropriate provisions that are necessary for bidders to understand the AU's needs and to prepare a meaningful offer.
- (c) No new requirements may be introduced and existing ones may not be changed after the bidding process has commenced. Therefore it is imperative that all crucial information is presented in the bidding documents.
- (d) All bidding documents shall consist of the following components:
  - (i) Letter of Invitation (LOI) and Instructions to bidders/consultants
  - (ii) Requirements definition
  - (iii) Contractual information
  - (iv) Bid Forms

### 5.1.1 Letter of Invitation (LOI)

- (a) The information below should be included in all AU bidding documents:
  - (i) **Invitation to Offer**; this must include a unique reference to the specific procurement activity (title and tracking number) and list of all the supporting documents issued
  - (ii) **Deadline for submission of bids** - the time, date and place for submissions must be clearly stated, together with the date, time and place for opening of bids (if public).
  - (iii) **Instructions for preparation and submission**: the instruction must include a list of documents that the bidder must submit in order to form a complete

bid. Suppliers should be informed that non-compliant offers may be rejected. A compliant offer is one that substantially conforms to all terms and conditions and specifications in the bidding documents. Further the instructions should always include:

- Mode of submission (electronic, hand-delivered, mail or fax)
  - Address, fax number or email to which bids must be submitted
  - Instructions on offer packaging e.g. sealed, number of copies, two-envelope system
- (iv) **Description of the procurement activity:** this should include the background and context to the procurement and the intended purpose or outcome of the activity.
- (v) **Pre-bid conference or site visit:** if such visits are required for the tender, the date, time and place of pre-bid conference or site visits should be included here. In addition, it should state if attendance is mandatory or optional. The pre-bid conference is an open forum in which questions from potential bidders are addressed. Minutes from the forum must be prepared and issued to all suppliers for the record. The necessity for pre-bid conference or site visits should be decided after discussion and agreement between the Business unit and the Procurement Unit.
- (vi) **Currency of offer, payment and exchange rate:** The instructions shall indicate in what currency the prices of the offer must be quoted. Further, the letter should state that the contract will be issued in the currency stated in the bidding documents. If the receipt of offers is permitted in more than one currency, the letter should state that the UN operational rate of exchange shall be applicable for evaluation purposes.
- (vii) **Language:** The instructions should state the language in which bidders should respond. The contract signed with the selected supplier must be written in the same language as the bidding documents, and this language shall govern contractual relations between parties.
- (viii) **Instructions on offer validity:** Suppliers are requested to keep their offers valid for a specific number of days (typically 60 or 90), allowing time for evaluation of offers and award of contract.
- (ix) **Method of evaluation and evaluation criteria:** It must be clearly stated in the bidding documents how offers will be evaluated, including the relevant weight of each major factor and how it will be applied. The evaluation must be carried out pursuant to the criteria specified.
- (x) **Discrepancies and errors in the price component:** the instructions shall define how discrepancies and errors in the price component will be handled

- (xi) **Payment terms:** the bidding documents must specify the payment terms that are applicable upon receipt of invoice as well as receipt and acceptance of goods or services, or upon receipt of required shipping document dependant on the INCOTERM used.
- (xii) **Modifications:** the bidding documents must stipulate that any additional information, clarification, correction or errors or modifications will be collated and distributed in a written notification to all suppliers prior to the deadline for receipt of offers to enable suppliers to take appropriate action.
- (xiii) **Amendments of contract terms:** the bidding documents must explicitly state that bidders should confirm acceptance to the contract terms, included as part of the bidding documents. The document should state if minor deviations to the terms will be accepted and that these should be documented as part of the suppliers bid. Any reservations not stated will be deemed as acceptance.
- (xiv) **Bid security / performance securities:** The purpose of a bid/performance security is to discourage insincere offers that would have a negative impact on the procurement process. When used, the bid security shall be in the amount and form specified in the bidding documents and shall remain valid for a period that provides sufficient time for the AU to conduct the evaluation. A bid security must always be stated in a specific lump sum and should be dependent on the complexity and cost of the procurement process. However, care should be taken to ensure that the value of the bid security does not discourage participation in the procurement process. Any requirement for a bid security shall be indicated in the bid document as a fixed sum only, based on a varying percentage of between 1% and 5%.
- (xv) **Advance payments and performance security:** A guarantee for advance payment or performance security can be requested by the AU from the supplier when the suppliers requests and advance payment to cover its mobilisation costs (typically in case of works or services contracts). If a performance guarantee or advance payment guarantees is requested at the time of contract signature, this must be specified in the bidding documents.
- (xvi) **Alternative Bids:** An alternative bid is that which does not comply with the exact requirements of the tender, or which may represent an improvement over the original offer by exceeding the minimum performance parameters of the request. The bidding documents should state whether alternative bids are accepted as part of the procurement exercise. Alternative bids which do not comply with the mandatory criteria will not be considered.
- (xvii) **Contact information:** The bidding documents should list who to contact in the event of queries or clarifications.



### 5.1.2 Requirements Definition

- (a) It is necessary to clearly and unambiguously describe the performance expected from the supplier in order to avoid disputes with the supplier at the time of contract execution.
- (b) Depending on the nature of the requirement, the requirements are stated in the technical specifications, TORs, SOWs, design documents, requirements for design and build contracts.
- (c) In addition the following requirements should be stated in the bidding documents:
  - (i) Delivery dates for goods, or standing/completion dates for services or works
  - (ii) The destinations and mode of transport
  - (iii) Delivery terms: The prevailing INCOTERMS shall be used to specify the delivery for AU procurements

### 5.1.3 Contractual Information

- (a) A copy of the AU terms and conditions applicable to the procurement must be included as part of the bidding documents. The terms and conditions clarify which conditions suppliers are expected to accept upon contract signature.
- (b) Special terms and conditions are always an addition to the general terms and conditions and must be approved by the Office of the Legal Counsel prior to the issuance of contract.
- (c) For contracting for services or works a copy of the relevant model contract must be included. The model contract allows suppliers to familiarise themselves with the specific agreement before submitting an offer.
- (d) When purchasing goods, a copy of the relevant packing and shipping instructions must be included with the bidding documents, including marking and numbering of the shipments, notification of shipment, documentation required for customs clearance and payment purposes and invoicing.
- (e) Price and payment information, such as whether the contract will be signed based on a fixed price/lump sum or cost reimbursement must be included.

### 5.1.4 Bid Forms

- (a) A duly authorised signatory must sign the suppliers offer in order for it to be legally binding.
- (b) Bidding documents shall contain a standard bid submission form to be signed and returned with the suppliers offer.
- (a) The bid forms should include minimum qualification criteria that all suppliers must adhere to in order to be considered for the award of AU contracts. As a minimum bidders will be excluded from participation in all AU procurement procedures if:
  - (i) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
  - (ii) they have been convicted of an offence concerning their professional conduct by a judgment which has the force of *res judicata*; (i.e. against which no appeal is possible);
  - (iii) they have been guilty of grave professional misconduct proven by any means which the AU can justify;
  - (iv) they have been the subject of a judgment which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the AU's financial interests;
  - (v) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or those of the country where the contract is to be performed;
  - (vi) they have been previously removed from the AU Supplier Register or debarred from previous procurement activities for any of the reasons given above or any other reasons which the AU can justify.

## 5.2 ISSUANCE OF BIDDING DOCUMENTS

- (a) The bidding documents shall be issued to all bidders who expressed interest to participate in a bidding process by post, by fax, courier, e-mail, or electronically. They must also be available to all interested bidders upon request in writing.
- (b) In a limited or non-competitive competition, where only selected suppliers may participate in the procurement, the bidding documents should be made solely

available to the shortlisted suppliers. The shortlist should be approved in conjunction with the approvals for the bidding documents, specifications and method of procurement.

- (c) In order to safeguard the principle of fairness, integrity and transparency, the names of any short-listed companies should not be disclosed.

### 5.2.1 Advertisements for Open Competition

- (a) Where the type of competition is open, public advertisements should be issued providing equal access to the bidding documents for all interested suppliers.
- (b) Publication of the advertisement should allow sufficient time before the deadline to enable prospective suppliers 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.

### 5.2.2 Content of the Advertisement

- (a) The advertisement must clearly explain how bidders may submit a bid and provide sufficient information to enable potential bidders to decide whether to participate.
- (b) The information contained in the advertisement must correspond with the information in the Bidding Document. Where there is a discrepancy, information in Bid Data Sheet shall prevail.
- (c) The advertisement should include as a minimum, brief information on:
  - (i) the goods, works or services to be procured;
  - (ii) any qualification requirements for bidders (e.g. a requirement for a minimum level of experience in the subject of the procurement);
  - (iii) the procedure for obtaining the bidding documents;
  - (iv) the place and deadline for submission of bids;
  - (v) the value of any bid security required.

### 5.2.3 Advertisement for pre-qualification, RFI and EOI

- (a) When a pre-qualification, RFI or EOI process is being undertaken in order to identify suppliers that will be invited to a shortlist, the same advertisement process as for an Open Competition shall be followed.
- (b) Sufficient time shall be allotted to suppliers to prepare and submit a response; preferably two weeks minimum.

## 5.3 TENDER PERIOD

- (a) The time period from the issuance of the bidding documents to the submission deadline is referred to as the tender period.
- (b) During the tender period, no communication regarding the contents of the bidding documents is permitted between bidders and the Procurement Unit, except through the methods described below.

### 5.3.1 Amendment to Bid documents

- (a) At any time, prior to the deadline for the submission of bids, the AU, may for any reason modify the bidding documents.
- (b) Amendments to the bidding documents must be made within a reasonable time before the deadline for submission of offers in order to allow suppliers sufficient time to address any changes. In certain cases, amendments may justify an extension to the submission deadline.
- (c) In order to ensure that suppliers receive the same information at the same time, amendments to the bidding documents must:
  - (i) In the case of RFQ or Limited Competition, be sent simultaneously to all short-listed suppliers.
  - (ii) In the case of Open Competition, be uploaded to the AU website, along with any other sources where the advertisement had been placed and to all bidders who have requested for the bid document.

### 5.3.2 Bid Clarifications

- (a) A bidder may request clarification regarding the contents of the bidding documents. The period during which bid clarifications can be requested must be defined in the bidding documents. Requests for clarifications received after this period may be rejected unless they draw attention to a serious flaw in the bidding documents.
- (b) Each request for clarification must be received in writing by the Procurement Unit, which shall develop a response in consultation with the Business unit.
- (c) A written response shall be issued, detailing the clarifications and the relevant responses (without identifying the source of the query) to all bidders simultaneously.
- (d) Where possible, in the event that multiple clarifications have been received, these should be compiled into a single response document to be issued to all bidders simultaneously in order to reduce the administrative tasks required.

### 5.3.3 Extension of Bid Closing Date

- (a) The closing date for submission of bids may be extended at the discretion of the Head of Procurement Unit for any practical or justifiable reason. Such reasons may include:
  - (i) modification to the bidding documents after issue, requiring additional research or effort by bidders to submit a responsive bid;
  - (ii) request for a time extension by two or more bidders; and
  - (iii) Unforeseen administrative issues which force a postponement of the proposed bid opening.
- (b) Where a decision has been made to extend the bid closing date, all bidders should be notified in writing, or through the AU concerned websites of the revised date for submission of bids.

### 5.3.4 Cancellation of Bidding Process before Bid Opening

- (a) A bidding process may be cancelled at any time before the deadline for receipt of bids with the approval of the person in charge of the Procurement Unit or Tender Board. Justifications for cancellation may include:
  - (i) the procurement need has ceased to exist or changed significantly;
  - (ii) insufficient funding for the procurement to proceed;
  - (iii) there is a significant change in the required technical details, bidding conditions, conditions of contract or other details, such that the re-commencement of proceedings is necessary;
  - (iv) there is evidence of collusion among bidders; or
  - (v) cancellation is deemed to be in the best interest of the AU
- (b) All bidders who have received the bidding documents must be simultaneously notified of the cancellation.
- (c) Bids which have already been submitted must be returned, unopened to the supplier.

### 5.3.5 Modification and withdrawal of submissions

- (a) Bidders may modify their offers at any time prior to the submission deadline. Modified offers shall be treated as any other offer.
- (b) Withdrawal of submissions by suppliers can be accepted if the AU is notified in writing prior to the deadline for submission.
- (c) A request to withdraw a submission after the submission deadline shall in principle not be accepted, and the withdrawn bid should be evaluated together with other offers received, and if a bid security has been requested it should be withheld.
- (d) If the supplier is able to justify the withdrawal of its submission, the AU may accept withdrawal after the deadline, and this should be decided on a case-by-case basis, however, the bidder shall forfeit the bid security if it was a requirement
- (e) Withdrawal of an offer after the submission deadline is a serious matter. Therefore, suppliers should be given a written warning that this is unacceptable and that it may exclude the supplier from future AU tenders.

## 5.4 RECEIPT OF SUBMISSIONS.

- (a) It is the responsibility of bidders to ensure that tenders are submitted in accordance with the provisions in the bidding documents. Submissions can be received by mail, courier, fax and dedicated email.
- (b) 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.
- (c) All hardcopy tenders received shall be stamped with the date and time of receipt and deposited in the designated locked tender box or secured place in the case of bulky tenders until the tender opening.
- (d) A Bid Receipt Register should be kept to record all submissions received by post, courier, fax or email and the information contained within should correspond to the date and time stamp which is included on each hardcopy receipt.
- (e) The closing time for submission of bids shall be at the time and date set in the bidding documents. Bid opening shall commence immediately after this time and the opening should be completed within the same session.
- (f) All bidders' representatives delivering bids by hand shall be directed to the tender box so that they may place their envelopes directly in the tender box.
- (g) Any tenders or samples received which are too large to fit in the tender box shall be registered and securely retained in a locked room until the tender opening.
- (h) The tender box shall be closed and sealed immediately following the deadline for submission of bids.
- (i) Late tenders will not be accepted and shall be returned unopened to the bidder. In very exceptional circumstances, a late bid may be accepted at the discretion of the relevant authority. Examples of exceptional circumstances may include:
  - (a) There is acceptable evidence to establish that it was received at the location designated for receipt of bids and was under AU control prior to the time set for receipt of bids;
  - (b) If an emergency or unanticipated event interrupts normal processes and operations so that bids cannot be received at the designated location by the exact deadline and urgent requirements preclude amendment of the bid opening date. In such cases, the deadline will be extended to the same time of day specified in the bidding document on the first work day on which normal AU operations resume (unless prior to the resumption of normal operations the bid is extended and/or modified and this is communicated to potential bidders in the normal manner).

- (f) Bidders are not permitted to amend their bid in any way during the tender opening nor submit any additional documents during the process once the deadline for submissions has passed.

#### 5.4.1 Opening of Tenders

- (a) The opening of tenders must be handled in a transparent manner in order to ensure that all suppliers are treated in a fair and non-discriminatory manner.
- (b) The Procurement Unit shall co-ordinate the administration of the tender opening to assist the Tender Opening Committee and ensure smooth operation of the proceedings.
- (c) The Tender Opening Committee shall control and direct the tender opening.
- (d) Bids shall be opened at the place and time stated in the bid document except in unforeseen circumstances, where the Procurement Unit shall set a convenient date and time.
- (e) It is the responsibility of the Tender Opening Committee to ensure the security of documents and bids at all times during the tender opening procedure to prevent any unauthorised interference with the documents and process.
- (f) The Procurement Unit shall provide the Tender Opening Committee with a summary of the tendering requirements which shall include the tender closing date, tender reference and title, procurement method, advertising method and the Bid Received Register.
- (g) The Tender Opening Committee shall compile all unopened bids and samples received which have been removed from the tender box or could not be accommodated in the tender box along with the Bids Received Register.
- (h) Upon opening the tender box the Tender Opening Committee shall check that the writing on each envelope or sample inside confirms that it is for the correct tender and complies with the wording and sealing required in the bidding documents. For each bid received the following details shall be recorded in the Tender Opening Report:
  - (i) any bid modifications or withdrawals;
  - (ii) the number allocated to the bid by the Tender Opening Committee;
  - (iii) the name and country of the bidder;
  - (iv) the title and lot where applicable of the goods, works and/or services offered if the tender is for more than one Lot;
  - (v) the total bid price and the currency of the bid;



- (vi) any discounts offered where applicable;
  - (vii) the presence or absence of any required bid security; and
  - (viii) any other appropriate information. All bid securities, where requested shall be kept in a secure place
- (i) Any obvious failure to provide a responsive bid, such as no bid security or inadequate bid security, shall be recorded in the Bid Opening Report.
  - (j) All Members of the Tender Opening Committee shall initial the original of each bid and all attachments thereto including any samples provided by the bidder.
  - (k) The Tender Opening Report shall be prepared by the Tender Opening Committee and signed by all members of the Committee.

#### 5.4.2 Public Tender Openings

- (a) The Procurement Unit may decide prior to the issuance of the tender documents whether a public bid opening is in the best interests of the AU. If so, the time and place of the public bid opening should be stated in the tender documents.
- (b) Only suppliers who have submitted bids may attend a public bid opening; however bidders may authorise a local agent to attend on their behalf. In order to be permitted to attend the bid opening, agents representing bidders must provide evidence confirming the bidder(s) they represent.
- (c) Regardless of whether a bid opening is public or not, the Tender Opening Report shall be made available to all bidders upon their request. Disclosure of any other information regarding the procurement process, other than that contained within the Tender Opening Report is strictly prohibited.
- (d) For the purpose of a public bid opening, the Tender Opening Committee shall appoint a Chairperson who will open the meeting and outline the procedures to be used for the tender opening. All procedures should be followed and due care should be taken to ensure that bidders' representatives are seated separately from the Tender Opening Committee and Officers of the AU and that the name, organisation represented and contact details of all attendees are recorded in an attendance register.

### 5.4.3 Extension of Bid Validity

- (a) 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 of contract cannot be made within the original bid validity period, extensions in writing should be requested from bidders, in accordance with the bidding documents.
- (b) 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 set in bidding documents must be monitored by the Procurement Unit, and attention drawn to this deadline not less than one week before the expiry date.
- (c) If, due to unforeseen circumstances, the award process cannot be completed within the set period, the Procurement Unit shall contact bidders in writing to seek their agreement to an extension of the bid validity.
- (d) When an extension of bid validity period is requested, bidders shall be permitted to change the bid price if the extension is above 30 days. Furthermore, the price may be subject to adjustment if the bidding documents specifically provide for a price adjustment mechanism on requests for second or subsequent extensions, to reflect changes in the cost of inputs for the contract during the new period of extension.
- (e) Bidders have the right to refuse to grant an extension of bid validity without forfeiting their bid security (where applicable). If a bidder refuses to extend the validity of his bid, then on expiry of the original bid validity period, any bid security submitted shall be returned to the bidder and the bid not considered further.
- (f) 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.

## 5.5 EVALUATION BY THE BID EVALUATION COMMITTEE

- (a) Evaluation is the process of assessing and comparing submissions in accordance with the methodology and criteria stated in the bidding documents.
- (b) A Bid Evaluation Committee shall undertake the evaluation of bids received and make recommendations for the award of contract.
- (c) The evaluation must be commenced and completed within a period of 4 weeks after the bid opening to ensure that a contract is awarded to the winning bidder within the period of bid validity.

- (d) The composition of the Bid Evaluation Committee is stipulated in Article 3.9 of this Manual.
- (e) Bid Evaluation Committee members should have the requisite skills and technical expertise in order to provide objective, independent advice based on their subject matter expertise.
- (f) All Bid Evaluation Committee members must sign a declaration of confidentiality and impartiality.
- (g) Representatives from the funding source, or donor organisations, may be nominated to the Bid Evaluation Committee with observer status.
- (h) 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.
- (i) Bids received after the deadline for submission of bids, bids which the AU has accepted as withdrawn, or bids not opened and read out at the tender opening, shall not be considered.
- (j) The Bid Evaluation Committee may seek clarifications in writing from a bidder and receive written responses, provided that the responses are related to the bid, would not give any bidder an undue advantage and not change the substance of the bid.
- (k) The choice of an evaluation methodology shall be determined by the type, value and complexity of the procurement and shall be determined and contained in the bidding documents;
- (l) The Bid Evaluation Committee may after writing its provisional conclusions and before definitively concluding its evaluation of the technical offers, decide to interview the key experts proposed in technically compliant tenders (i.e. those who have achieved minimal technical score in the technical evaluation).
- (m) The Bid Evaluation Committee will prepare a report and submit the report to the Tender Board / IPC/LIPC depending on the threshold. The Evaluation Report should contain, where applicable;
  - (i) Minutes of the opening of tenders,
  - (ii) The results of the preliminary evaluation, with reasons why any bids were rejected,
  - (iii) The score sheet awarded by each evaluator for each tender,
  - (iv) Summary of the relative strengths and weaknesses of each tender,
  - (v) The total score for each tender, and;
  - (vi) Recommendation to award the contract to the most economically advantageous tender (i.e. the sole award criterion is the best value for

money) or to the candidate that submitted the proposal with the highest combined technical and financial proposal, as appropriate.

- (n) If the Bid 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. All communication with Bidders must be conducted solely through the Secretary of the Bid Evaluation Committee. No other committee members are permitted to contact the bidders at any point during the procurement process.
- (o) Responses from bidders to clarifications will only be considered if in writing.

## 5.6 EVALUATION METHODOLOGY

- (a) The evaluation methodology that is used is dependent on the respective selection method that has been used.
- (b) The Bid Evaluation Committee members shall use the predetermined evaluation criteria set out in the bidding documents without any changes or alterations.
- (c) During evaluation, members shall not enter into direct communication with bidders. All requests should be through the officer in charge of Procurement Unit.

### 5.6.1 Request for Quotation Methodology

When quotations have been received through the use of an RFQ, the contract is awarded to the supplier who submits the lowest offer and complies with the minimum requirements as stated in the RFQ document.

### 5.6.2 Request for Bid Methodology

- (a) This methodology is applicable to all tenders where an RFB has been chosen as the procurement method.
- (b) The contract is awarded to the supplier who substantially complies with the eligibility, administrative and technical requirements and who submits the lowest offer. This is also referred to as least-cost based selection.

- (c) This method of evaluation is applied pursuant to a one-envelope submission, where the bidders submit a response where all technical and financial requirements together in a single response document. There is no requirement to separate pricing information from the technical response.
- (d) This methodology can only be used where compliance with the eligibility, administrative and technical criteria can be evaluated on a clear pass-fail basis, irrespective of if the requirement is for goods, services or works.
- (e) If the requirement cannot be evaluated on a clear pass-fail basis then the RFP must be used which allows for evaluation based on a weighted combination of both technical and financial criteria.

### 5.6.3 Request for Proposal Methodology

- (a) This methodology is applicable to all tenders where the procurement method is an RFP and bidders have submitted their responses using a two-envelope system, whereby the financial envelope is not opened until the technical evaluation has been completed. This method is also known as merit-point based selection.
- (b) Under this method, a total score is obtained from the combination of weighted technical and financial attributes of proposals. Proposals are evaluated and points granted based on how well they meet the criteria as set out in the bidding documents.
- (c) This method of evaluation is useful when it is necessary to undertake a more complex evaluation based on a number of variables of differing importance.
- (d) The bidding documents shall state the number of points available for the technical and financial proposals respectively. The technical proposal will be evaluated using pre-defined evaluation criteria. The evaluation criteria are to be defined in the bidding documents together with information about the number of points assigned to each.
- (e) Under this method, price is one of the evaluation criteria. In general, the more complex the assignment, or the more significant the end product, the less importance price should be. This way the risk of selecting a non performing supplier is reduced as the technical requirements outweigh the price factors.

## 5.7 PRELIMINARY EXAMINATION

- (a) 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:
- (i) be correctly submitted and completed in all material respects;
  - (ii) be properly signed;
  - (iii) meet any eligibility requirements specified in the bidding document;
  - (iv) be accompanied by the required bid security (if requested); and
  - (v) be substantially responsive to the bidding documents as defined in the bid document.
- (b) 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.
- (c) Simple omissions or obvious minor mistakes should not be grounds for rejection of the bid since a bid is rarely perfect in all respects.
- (d) The Bid Evaluation Committee shall examine the content of each bid to ensure that all required information is submitted in the format and detail required by the bidding documents. This will include:
- (i) the completeness of the Bid Form and response to the specifications;
  - (ii) 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;
  - (iii) no missing pages in the original copy of the bid or contradictions in model numbers or other designations of critical items.
  - (iv) 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.
- (v) Confirm the presence and acceptability of the bid security (where required by the bidding documents). If a bid security was requested but not submitted or is submitted in an unacceptable format, 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.
- (vi) The bidding Check if the bidder has placed any unacceptable reservations on delivery, performance or the conditions of contract.
- (vii) 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 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.
- (viii) Recommend rejection of any bid which is not responsive to the bidding document. Minor deviations considered as immaterial to responsiveness should be mentioned in the Evaluation Report.

## 5.8 TECHNICAL EVALUATION:

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

### 5.8.1 Technical Evaluation of Bids and Quotations

- (a) The Bid Evaluation Committee must 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:
  - (i) failure to respond to the specifications by offering a different design or product that is inferior in performance or in other requirements;
  - (ii) submission of samples which do not correspond to the specifications;
- (b) The Bid Evaluation Committee will then confirm compliance, or record reasons for non-compliance with the specifications in the Evaluation Report. All bids passing the technical evaluation will proceed directly to the financial evaluation.
- (c) For merit point procurements: If a merit point system is specified in the bidding documents then minimum technical score must be 70 points. Evaluation and scoring of each bid for the technical criteria stated in the bidding documents is undertaken:

### 5.8.2 Technical Evaluation of Proposals

- (a) In the case of two-envelope methodology, the technical proposal submitted by any bidder would be rejected if the bid does not obtain the minimum required number of points to qualify.
- (b) Where the bidder has not received the minimum number of points to qualify, the financial offer and any bid security must be returned unopened to the bidder.



## 5.9 FINANCIAL EVALUATION:

- (a) Financial Evaluation is the process of comparing the offers with the financial criteria stipulated in the bidding documents.
- (b) Only bids passing the technical examination shall be considered for financial evaluation.
- (c) If a two-envelope system (RFP) is specified in the bidding documents, financial evaluation cannot commence until the technical evaluation has been approved by the relevant authority, and financial envelopes have been opened at a second bid opening.
- (d) Financial bids that are based solely on a discount to the lowest priced 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.
- (e) If permitted in the bidding documents, 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.
- (g) Prior to the financial evaluation, bids must be checked for arithmetic errors and the Bid evaluation committee shall disqualify any bid with arithmetic errors
- (h) Modifications and Discounts: Discounts offered in accordance with the bidding documents 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. Any non-conditional discounts should be included at financial evaluation stage.
- (i) Currency Conversions: If bids in different currencies are permitted in the bidding documents, convert the bid prices to US Dollars for evaluation;
  - The selected source and date for currency exchange rates must be as specified in the bidding documents.
  - The source of exchange rates will be that specified in the bidding documents on the selected date.
  - The selected date should be the same day as the bid opening is scheduled to occur.
  - The appropriate conversion rate shall be applied to each corrected bid price to arrive at the evaluation price in US Dollars.

### 5.9.1 Comparison and Ranking of Bids

- (a) 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 cost bid.
- (b) For merit point systems or RFP the combined technical and financial scores are calculated to determine the winning bidder.
- (c) In either case, the ranking of bidders may still be subject to:
  - (i) the application of any margin of preference to bids from AU Member States, if allowed for in the bidding documents;
  - (ii) the application of any cross-discounts, dependant on the simultaneous award of multiple contracts or lots; and
  - (iii) post-qualification evaluation, or, if pre-qualification has occurred, reconfirmation of pre-qualification information.

### 5.9.2 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:

- (a) The value of cross-discounts offered vary with the number of contracts awarded; or
- (b) 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 lowest evaluated cost bid on a particular contract may be denied award because of such a restriction.
- (c) 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.

### 5.9.3 Margin of Preference

In accordance with the relevant provision of the FRR, due consideration should be given to Indigenous African Suppliers unless there is an express stipulation by a

donor imposing a restriction. Guidelines for the application of Margin of preference shall be issued under this Manual.

#### 5.9.4 Identification of winning bidder

- (a) Once the Bid Evaluation Committee has identified the bidder who is to be recommended for award, an Evaluation Report must be created detailing the process that has been followed, and the results of the evaluation.
- (b) Prior to the recommendation to award being submitted to the approval authority, the winning bidder must be found to be formally eligible to enter into contract with the AU. Therefore, post-qualification shall be conducted with the winning bidder in accordance with the tender evaluation process.
- (c) The level of post-qualification that is required is dependent on the value and complexity of the procurement, and judgement should be applied when determining the extent to which post-qualification should be conducted.

#### 5.10 POST-QUALIFICATION OF BIDS

- (a) Post-Qualification shall be conducted to determine the physical capability of the winning bidder 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.
- (b) If a pre-qualification stage was undertaken, a lesser degree of post-qualification should be conducted, to ensure that the bidder's qualifications have not materially deteriorated, or if the bidder has since received additional work that reduces the available capacity.
- (c) Where pre-qualification has not taken place, the winning bid should be subjected to post-qualification, according to the procedures described in the bidding documents.
- (d) If the lowest evaluated cost 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.

- (e) 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.
- (f) A long 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.

#### 5.10.1 Post-qualification – supplier background checks

- (a) Initial supplier background checks shall be conducted regardless of the value of the contract to be awarded. These should include as a minimum:
  - (i) A basic internet search, telephone call or email to determine if the company exists
  - (ii) Verification that the company is legally incorporated by requesting the certificate of incorporation (if this has not been requested as part of the bidding documents)
  - (iii) Verification of supplier references (if requested as part of the tender response)
  - (iv) Ensuring that the supplier is not barred from entering into contracts with the AU or relevant government or donor
- (b) Advanced supplier background checks should be conducted if the contract is for a high value, high risk procurement process, or if doubts persist upon completion of the initial supplier background check. Advanced supplier background checks may include:
  - (i) Conduct a site visit to the suppliers stated location
  - (ii) Verify information contained in corporate registries
  - (iii) Analysis of the litigation history of the supplier
  - (iv) Verification of the compliance policies of the supplier
  - (v) Review the payment procedures and banking history of the supplier

#### 5.10.2 Post-qualification – financial due diligence

- (a) The purpose of conducting financial due diligence is to ascertain the suppliers financial capacity to perform the contract.
- (b) In order to assess the financial capacity of the supplier, the bidding documents must request audited financial accounts or financial statements (in accordance with the size of the organisation), covering the period of the last three (3) years. Financial statements

- (c) A range of financial ratios can then be applied to determine the suppliers' financial capacity as below.

Financial ratio	Formula	Description	Warning signals
Net profit margin	$\frac{\text{Netprofit}}{\text{Totalrevues}}$	Shows how much pricing power the supplier has for its product and how well it minimizes costs	A net profit above 0.1 indicates that the supplier is less likely to commit fraud. A net profit below 0 means a net loss.
Return on assets	$\frac{\text{Netprofit}}{\text{Totalassets}}$	Assesses the return the company can generate for each dollar of its assets	A low ratio in comparison with industry averages indicates an inefficient use of business assets. A common reference for the ROA is 5% or above.
Return on equity	$\frac{\text{Netprofit}}{\text{Stockholder's equity}}$	Measures the return for each dollar invested in the company	A low ratio in comparison with industry average indicates ineffective use of financial leverage.
Quick ratio / Acid-test	$\frac{\text{Cash+Marketable securities+Receivables}}{\text{Total currentliability}}$	Indicates whether a company can cover its liabilities as they come due immediately	A quick ratio below one is a warning signal, as the company may not be able to cover its bills in the short run.
Debt-to-equity	$\frac{\text{Total debt}}{\text{Total equity}}$	Shows the indebtedness of the supplier by comparing creditor with owner financing	If the ratio is greater than 0.5 the supplier is highly leveraged increasing the supplier's likelihood of bankruptcy and creating an incentive factor for fraud

- (d) It should be noted that the ratios above are best practice guidance. A supplier should not be excluded based on any single ratio, rather, all should be applied to determine an overall picture of financial health.

## 5.11 EVALUATION REPORT

- (a) 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.
- (b) The Bid Evaluation Committee may recommend that all of the bids be rejected if:
  - (i) none of the bids are found to be responsive;
  - (ii) all of the bids are unreasonably high in price compared to the cost estimate;
  - (iii) none of the bidders are qualified;
  - (iv) 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).
- (c) The amount of the recommended contract award is the bid price as submitted by the winning bidder after adjustment as described in the bidding documents for corrections, any discounts (including cross-discounts) and acceptance of alternative offers from the bidder (if alternative offers are permitted in the bidding documents). Adjustments for evaluation purposes only (e.g. for deviations or margins of preference) used to determine the lowest evaluated cost bid, shall not be included in the resulting contract price.
- (d) 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 winning bidder.
- (e) The Evaluation Report shall contain a summary of the procurement and evaluation process and will include:
  - (i) the recommendations;
  - (ii) justification of any decisions reached by the Bid Evaluation Committee on rejection of bidders and the recommendation for award of contract, or for essential negotiations with winning bidder, or rejection of all bids;
  - (iii) clearly establishing the actual amount of the contract award.
  - (iv) A summary of important evaluation criteria, with evidence of how it affected the outcome of the evaluation;
  - (v) Explanation of any inconsistencies between prices and modifications to prices established at bid opening.
  - (vi) Details of any bids rejected during the examination.
  - (vii) Explanation of reasons if provisional sums vary among bidders.

- (viii) Explanation of any substantial corrections for arithmetic errors which may affect the ranking of bidders.
- (ix) Explanation of any additions, adjustments, and priced deviations that may affect the ranking of bidders.
- (x) Explanation of any cross-discounts not read out and recorded at the bid opening.
- (xi) Evidence of any other related contracts recommended for award to the same bidder at the same time.
- (xii) Justification of any reasons for not recommending award of contract to the lowest evaluated cost bidder (for an RFB or RFQ)
- (xiii) Where an alternative bid is recommended for award, 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 must be provided.
- (xiv) Explanation of all adjustments to the evaluated price or to the contract award price.
- (xv) Details of any clarifications, and responses by the Procurement Unit, and bid clarifications requested by the Procurement Unit and bidder responses.
- (xvi) All required Tables and supporting documents.

# CHAPTER 6: CONTRACT AWARD

## 6.1 APPROVAL OF RECOMMENDATION FOR CONTRACT AWARD

### 6.1.1 Authority Levels

- (a) In accordance with FRR, the Authority responsible for the approvals of the recommendation for award is pursuant to the value of the contract to be awarded.
- (b) The appropriate authority (Annex 2) will review the evaluation report and recommendations presented by the Bid Evaluation Committee.
- (c) Before giving approval, the Authority will ensure that any written complaints made by bidders concerning the bid opening procedures have been reviewed and responded to. If the complaint indicates a serious breach of procedures or ethics, the Authority shall reject the evaluation report and call for re-tendering.
- (d) The Authority shall award the contract to the bidder who has submitted the bid that is responsive to the bidding documents, and has been determined to be qualified to be able to perform the contract.
- (e) For Partner funded projects, award of contract for procurement of goods, Consultancy services, non-consultancy services and works may be subject to Prior review by the Partner. The thresholds for prior review will vary in accordance with the project and will be specified in the agreement or any other legal document between the AU and the Funding Partner.

### 6.1.2 Thresholds for Authority approval

- (a) The thresholds for review and approval by the relevant Authority can be found in Annex II.
- (b) The composition and responsibilities for each procurement Authority is set out as per Chapter 3 of this manual.



### 6.1.3 Rejection of all Bids

- (a) If the Bid Evaluation Committee recommends the rejection of all bids, the Authority may consider:
- (i) wider advertising or sourcing of bidders if the rejection of all bids is due to lack of competition;
  - (ii) invitation of new bids through the restricted procurement method with updated bidding documents if the rejection is due to most or all of the bids being non-responsive;
  - (iii) if the winning bid price 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.
  - (iv) negotiations with the winning 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 will require re-bidding to ensure transparency.
  - (v) instructing the Bid Evaluation Committee to review the causes of the rejection and to recommend revisions to the:
    - conditions of contract;
    - design and specifications;
    - scope of the contract;
    - or any other relevant provision;
- (b) Where all bids have been rejected, the requirement should not be retendered using the same specifications, bidding and contract documents and method of procurement solely for the purpose of obtaining lower prices.

### 6.1.4 Negotiations

- (a) Once a supplier has been notified of the AU's intention to award the contract to them, it is possible to discuss with the supplier any matters which are essential for the implementation of the contract (i.e. payment milestones). Contractual discussions after the intention to award have been sent, cannot amend any of the provisions which would have affected the outcome of the evaluation.

- (b) Negotiations are undertaken after selection and before the award of contract, with the purpose of ensuring best value for money for the AU whilst maintaining fairness, integrity and transparency.
- (c) Negotiations should not normally be conducted, except where there is a reasonable justification, this may include:
  - (i) Where the Non Competitive process has been utilised, or where there is only one possible bidder due to justified single-source requirements.
  - (ii) 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 the Single-Source Selection methods and will follow the procedures specified in the Request for Proposals.
  - (iii) Negotiations with the lowest evaluated cost 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 tender; and
  - (iv) Negotiations with the lowest evaluated cost 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.
- (d) In no circumstances shall negotiations be conducted with two bidders simultaneously.
- (e) Negotiations must be approved by the relevant authority prior to commencement and must involve two (2) AU personnel as a minimum.
- (f) All negotiation minutes should be fully documented.

## 6.2 CONTRACT AWARD

- (a) The AU can enter into a contractual obligation with the successful bidder, only after official award of contract by the relevant authority and the fulfilment of any conditions to that award.
- (b) The winning bidder should be notified in writing, by letter or email, regarding the provisional award of contract subject to contract signature taking place.

- (c) Notification should be sent to the unsuccessful bidders with a notification of the successful bidder and their country upon receipt of performance or upon signature of contract with the winning bidder. Any applicable bid securities should be returned to the unsuccessful bidders at this time.

### 6.2.1 Preparation and vetting of Contract

- (a) Following the notification as detailed above, the Procurement Unit will prepare the Purchase Order and/or draft contract document.
- (b) For all contracts other than simple Purchase Orders without special conditions, the following action will be taken:
- (i) Preparation of the draft contract with the assistance of relevant technical services.
  - (ii) Preparation of Purchase Order including any specific terms of contract.
  - (iii) Assemble the contract documents including all attachments forming part of the contract, and submit to the Office of the Legal Counsel or competent Legal Officer, for vetting of the contract.
- (c) The Office of the Legal Counsel or competent legal Officer will vet the contract documents, other than Purchase Orders without special conditions of contract, to ensure that the interest of the AU is protected.

### 6.2.2 Contract Issue and Contract Signature

Following vetting and clearance of the draft contract the Procurement Unit will:

- (a) Finalise the contract as vetted in two originals.
- (b) The contractor shall retain an original and the AU shall retain the other original.
- (c) Following the signature by both parties to the contract and submission of any performance or advance payment securities specified in the notice of award, the AU shall distribute the contracts as follows:
  - Original: Legal Counsel
  - The Procurement Unit may also keep a copy of the signed document for their records.
  - Copy to the Business unit

- (d) If the bidder fails to provide the performance security if required or refuses without good reason to sign the contract as requested, refer to the relevant authority for a decision on the confiscation of the bidder's bid security and award to the next ranked bidder.

### 6.3 COMPLAINTS BY BIDDERS AND OTHER STAKEHOLDERS

- (a) Bidders and other stakeholders shall be allowed to lodge complaints during any stage of the bidding process
- (b) Complaints must be investigated by Complaints Handling Office and all findings reported to the Controlling Officer
- (c) Upon receipt of a written complaint, the Complaints handling Office shall immediately suspend the procurement process and ensure that the bidder / stakeholder has an opportunity to formally present her / his case and to receive an explanation of the decisions made within seven (7) calendar days of receipt of his complaint. No complaint shall be entertained after seven (7) calendar days upon notification of award.
- (d) Where investigations indicate that the bidder has a valid complaint that may have affected the award of contract:
  - (i) no award of contract shall be made pending resolution of the dispute. or
  - (ii) a notice suspending performance of the contract shall be sent to the supplier awarded the contract.
- (e) If the supplier awarded the contract is believed to have engaged in fraudulent or corrupt practices in obtaining the award of contract, the supplier shall be invited to explain his defence to the Complaints Handling Committee. If no satisfactory explanation is received within 7 days, the contract shall be terminated and the CHC recommend to the Accounting Officer for debarring the supplier from participating in AU procurement for a set period of time.
- (f) If an award of contract was made incorrectly due to internal failures within AU to follow the procedures established in the Manual, the CHC shall recommend any disciplinary action to be taken against AU Officers, and determine the specific actions necessary to resolve the complaint and award of contract.

## 6.4 CONTRACTS

- (a) A contract is a written, legally binding agreement between the AU and suppliers, which establishes the terms and conditions. A contract may take many forms, such as an agreement and purchase order.
- (b) AU standard contract documents should be used at all times, with little modification in the SCC, except where approval has been granted by the Office of the Legal Counsel.
- (c) The list below details the most common type of contractual modalities:
  - (i) Framework Agreement: where a contract is awarded to a supplier(s) for a period of time (not to exceed three (3) years), and there is no obligation to call-off a minimum or maximum number of requirements. Each time a requirement is identified that can be procured using the framework agreement, a PO may be issued to the supplier without the need for further competition.
  - (ii) Consultancy contract; where the consultant/supplier is paid on a monthly or pre-determined basis upon completion of contract milestones.
  - (iii) Lump Sum Contract: where the entire contractual amount will be paid in a lump sum upon delivery of the goods or completion of the services
  - (iv) Unit price contract: where the nature of the goods/services makes it impossible to determine the total quantity required, but the contract does set out a maximum amount not to be exceeded.
  - (v) Construction or works contracts: these can take various forms, with the most common listed below. The method of procurement shall be dependent on the type and value of contract to be put in place.
    - Minor Works Contract: basic or routine works (RFB)
    - Short Form Construction: relatively basic or routine works
    - Measure Price Construction: complex works to be paid on a measured price basis
    - Lump Sum Construction: Complex works to be paid on a lump sum basis
    - Design and Build: for contracting both design and build
    - Design: for contracting only design

### 6.4.1 Advance payments

In general, advance payments for mobilisation of contractors or consultants are accepted as a standard. The use of advance payments in other cases shall be actively discouraged wherever possible throughout AU procurement processes.

#### 6.4.1.1 Advance Payment for Goods

- (a) The offering of advance payment for goods in the bidding documents may be appropriate when items are specifically manufactured to the specifications of the AU. Advance payment shall not be offered as a standard condition in any other bidding document for the procurement of goods.
- (b) The normal practice shall be to offer full payment following delivery or payment by Letter of Credit for international purchases.

#### 6.4.1.2 Advance Payments for Works and Consultant Services

- (a) The provision of advance payments for mobilisation of contractors and consultants shall be subject to the terms stated in the bidding document. Any such advance payments may be initiated on receipt of an advance payment security in a form acceptable to the AU.
- (b) The provision and methodology for repayment of any advance shall be fully defined within the contract document, including a provision for deductions to be made from approved certificates or stage payments to the contractor or consultant.

### 6.4.2 Performance Securities

- (a) Performance securities from a supplier or contractor are used to protect the AU by guaranteeing performance under the terms of the contract. Such securities are normally required in the form of a bank guarantee specifying the specific conditionality for defaults under which the AU may call for payment. Alternative acceptable formats of performance security such as Bankers Cheques, or bonds

issued by insurance companies may be specified as acceptable in the bidding documents.

- (b) In contracts for the supply of goods, the need for performance security depends on the market conditions and commercial practice for the particular kind of goods. Suppliers or manufacturers may be required to provide a security in an appropriate and reasonable amount to protect against non-performance of the contract. The security shall, if required, also cover warranty obligations and any installation or commissioning requirements in accordance with the applicable SBD. Contracts for works and single responsibility contracts shall require security in an amount sufficient to protect the AU in case of breach of contract by the Contractor. This security shall be provided in an appropriate form and amount, as specified in the bidding document.
- (c) The amount of the security may vary, depending on the type of security furnished and on the nature and magnitude of the works or facilities. A portion of this security shall extend sufficiently beyond the date of completion of the works or facilities to cover the defects liability or maintenance period up to final acceptance by the AU. Contracts for works may provide for a percentage of each periodic payment to be held as retention money until final acceptance. Contractors may be allowed to replace retention money with an equivalent security in the form of a Bank security or guarantee after provisional acceptance.
- (d) Any requirement for a performance security shall be indicated in the bidding documents as a set percentage of the contract sum. The value shall normally be set at between 10% and 20% of the contract sum, based on consideration of the risks and costs that AU may suffer in the event of any default by the supplier or contractor.

### 6.4.3 Advance Payment Securities

- (a) Where advance payments of USD 10,000 or above are made, an advance payment security shall be required from the supplier or contractor to cover the full amount of the advance payment. Advance payment securities shall normally be in the form of a bank guarantee specifying the specific conditionality under which the AU may call for payment.

#### 6.4.4 Retentions

- (a) Retentions are normally usually applicable to works projects or occasionally to the supply of machinery and equipment.
- (b) The rates of retention to be withheld from all certificates or stage payments for works contracts shall be 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.
- (c) The balance of any Retention monies are only released to the supplier or contractor on satisfactory completion of the guarantee or warranty period stated in the contract.

#### 6.4.5 Subcontracting

- (a) A Supplier/Contractor may subcontract specific portions of a contract to a third party subject to the following conditions:
  - (i) the portion of the work to be subcontracted is in accordance with any limitations contained in the bidding documents (i.e. the percentage of work which is permitted to be subcontracted is stated in the bidding documents);
  - (ii) the Supplier/Contractor shall notify the AU in writing of all subcontracts awarded under a Contract if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the Supplier from any liability or obligation under the Contract;
  - (iii) the subcontracting arrangement is approved by the AU or, in the case of works procurement, the Project Manager acting on behalf of the AU;
  - (iv) the Supplier/Contractor may not assign the Contract to the subcontractor without the express written approval of the AU;
  - (v) sub - contractors must comply with the provisions of the eligibility clauses and exclusion clauses as detailed within the bidding documents and this manual.
- (b) Procurement Officers may conduct due-diligence on proposed subcontractors to ensure that they have the requisite skills and qualifications to perform the contract.



# CHAPTER 7: CONTRACT MANAGEMENT, DELIVERY AND PAYMENT

## 7.1 CONTRACT MANAGEMENT

- (a) The purpose of contract management is to ensure that all parties to the contract fully meet their respective obligations as efficiently and effectively as possible, delivering the business and operational outputs required from the contract and providing value for money. It also protects the rights of the parties and ensures required performance when circumstances change.
- (b) The Procurement Unit and the Business unit concerned must ensure that routine monitoring of all current contracts is maintained so that swift remedial action can be taken when problems arise, or preventative action taken when problems are foreseen.
- (c) There are many issues that need to be dealt with, monitored and resolved before the contract reaches its conclusion including:
  - (i) Contract Effectiveness;
  - (ii) Delivery and Inspections of Goods;
  - (iii) Insurance Claims, where applicable;
  - (iv) Payments to the Supplier or Contractor;
  - (v) Performance Monitoring for Services and Works;
  - (vi) Contractual Disputes;
  - (vii) Delays in Performance;
  - (viii) Claims for Damages;
  - (ix) Initial and Final Takeover of construction works;
  - (x) Installation and Commissioning of Equipment;
  - (xi) Acceptance of Deliverables;
  - (xii) Release of Performance Securities and Retentions;
  - (xiii) Contract Closure

## 7.2 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:

- (a) Receipt by the AU of a Performance Security;
- (b) Receipt by the AU of an Advance Payment Security;
- (c) Receipt by the Supplier/Contractor of the Advance Payment; or
- (d) Receipt by the Supplier/Contractor of an acceptable Letter of Credit.
- (e) Handing over of the site in case of works
- (f) The contract shall specify the conditions for effectiveness

## 7.3 CONTRACT SUPERVISION AND ADMINISTRATION – GOODS

- (a) Supervision and administration is straightforward in most procurement of goods but monitoring delivery schedules, processing of documents and the inspection of goods are essential to ensure that the right goods are delivered on time.
- (b) Contract supervision and administration for goods will be undertaken by the Procurement Unit in conjunction with the Business unit, as appropriate.
- (c) Supervision shall entail the following:
  - (i) Monitoring the delivery schedules of all purchases to ensure that they are dispatched, delivered or collected on time including partial shipment.
  - (ii) Receiving reports on any pre-shipment inspection of goods and contact the supplier in writing requesting rectification of any discrepancies or deficiencies.
  - (iii) Contacting the supplier or shipper to identify the causes of any delay in delivery;
  - (iv) Initiating and supervising any process for claims against insurance or the supplier.

- (v) Reporting to the relevant authority where appropriate any failure by the Supplier in his contractual obligations.
- (vi) Undertaking customs clearance and payment of handling fees at the port of entry for imported goods.

#### 7.4 PRE-SHIPMENT INSPECTION OF GOODS

- (a) As a quality control measure, Pre-shipment Inspection (PSI) of goods may be required by AU for specialised goods to ensure that the right goods are shipped.
- (b) When pre-shipment inspection of goods is specified in the contract, a third-party agent or a technical team shall be appointed by the AU. The inspector shall carry out the inspection to ensure that the goods and packing are in strict conformity with the requirements.
- (c) Inspection agents shall be recruited through an appropriate procurement method.

#### 7.5 RECEIPT AND INSPECTION OF GOODS

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

##### 7.5.1 Delivery of Goods

On delivery by a supplier, the Stores Unit shall:

- (a) Receive the goods into temporary storage.
- (b) Examine the apparent condition of the goods and packing.
- (c) The receiver shall sign on the delivery note/shipment documents to acknowledge receipt.
- (d) Receive and register the invoices, and other documentation from the supplier or shipper. Retain invoices and other documents pending processing (through the Procurement Unit) to the Accounts Department for payment following the report of the Inspection and Receiving Committee.
- (e) Arrange notification to the Inspection and Receiving Committee and to the Supplier of the date and time of the formal inspection of the delivery.

### 7.5.2 Inspection of Goods

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

- (a) Examine the documentation and packaging for compliance with the contract.
- (b) Ask the Supplier to open the packages (or arrange opening of the packages at the Supplier's expense).
- (c) Examine and analyse the goods for conformity with the contract specifications and/or the samples provided.
- (d) Reject all goods that are damaged or do not conform to the required specifications or samples.
- (e) Prepare the Inspection Report, recording the delivery, and descriptions, specifications and quantities of the goods examined, and the reasons for accepting or rejecting the goods.
- (f) Release accepted goods to permanent storage.
- (g) The Inspection and Receiving Committee Report shall be forwarded to the respective Procurement Unit, Stores Unit and/or Business unit as appropriate, for raising Goods Received Note (GRN), processing of payment to the supplier and for record purposes.

### 7.6 PAYMENT FOR GOODS

For simple payments against invoices, the Procurement Unit will:

- (a) Forward a request for payment to PBFA or equivalent with the following attachments:
  - (i) original invoice from the Supplier;
  - (ii) the shipping documents or airway bill, or a delivery note;
  - (iii) original of the Inspection Report;
  - (iv) original Goods Receipt Note;
  - (v) results of any laboratory analysis;
  - (vi) calculation of any penalties for rejected goods not removed by the Supplier, and any liquidated damages if allowable under the contract;

- (vii) copies of the contract document, records of approval and financial authorisations.
- (b) Keep record of all requests for payment sent to PBFA.

## 7.7 CONTRACT SUPERVISION AND ADMINISTRATION – WORKS

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 on larger contracts can mean that daily control and supervision of the contract is not undertaken by the AU. The Responsible Unit shall therefore ensure that routine reports are received of progress and any problems that arise during the contract performance. The Supervising Engineer shall report to the AU. The Project Manager and the Supervising Engineer shall work in close collaboration with AU in all technical matters.

### 7.7.1 Contract Supervision

Day to day supervision of larger works contracts is carried out by the Supervising Engineer or Project Manager who acts for the AU to supervise and administer the contract.

- (i) The Supervising Engineer/Project Manager usually acts at the first level in settlement of disputes and must ensure that the AU is informed of any disputes and their resolution. Any serious disputes which may require an amendment or addendum to the original contract must be reported immediately to the AU.
- (ii) Additional work or costs which are not covered under the terms of the existing contract and total contract value must be referred to the delegated authority for approval before commencement.
- (iii) Requests 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 delegated authority.

### 7.7.2 Payment for Works

- (a) Payment for works contracts will normally be made against Payment Certificates issued by the Contractor, reviewed by the Supervising Engineer and Procurement Unit, and Completion Reports of the Inspection and Receiving Committee on provisional or final takeover.
- (b) The Procurement Unit will ensure that:
  - (i) any required retention specified under the contract is deducted from the value of the Certificate before payment;
  - (ii) agreed deductions in respect of the repayment schedule for any advance payment are deducted from the value of the Certificate before payment;
  - (iii) on issue of an interim takeover certificate by the Inspection and Receiving Committee or project Manager, part of any retention monies held may be paid to the contractor if specified in the contract;
  - (iv) on issue of a final takeover certificate by the Inspection and Receiving Committee, the balance of any retention monies is paid to the contractor.

## 7.8 CONTRACT SUPERVISION AND ADMINISTRATION - SERVICES CONTRACTS

- (a) Contract supervision and administration for simple routine services such as office cleaning, provision of transport or contract maintenance, will be undertaken by the office in charge of facilities Management and Administration
- (b) For consultancy services, the contract will usually nominate a Project Manager to coordinate supervision and administration.
- (c) 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.
- (d) The Project Manager will:
  - (i) Monitor the activity and performance in accordance with the contract to ensure levels of service are maintained and that deliverables are submitted or completed on time.
  - (ii) Ensure that all contractual obligations of the AU are performed promptly and efficiently.
  - (iii) Ensure that all deliverables (and especially reports) are reviewed immediately and responded to in writing where necessary.

- (iv) Contact the service provider to identify the causes of any failings in performance or failure to meet targets.
- (v) Issue a formal letter, except on matters of a legal, contractual or financial nature 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.
- (vi) Report to the Procurement Unit any continued breach by the service provider of his contractual obligations with copy to the Office of the Legal Counsel.

### 7.8.1 Payment for Services

- (a) Payment for service contracts shall be made according to the specific terms of each contract against invoiced claims by the service provider.
- (b) The Project Manager will ensure that:
  - (i) the invoice claim is justified by the evidence of timesheets, submission and acceptance of deliverables, or other criteria as specified in the contract;
  - (ii) agreed deductions in respect of the repayment schedule for any advance payment are deducted from the value of the invoice before payment;

## 7.9 PROMPT PAYMENTS

- (a) The AU has a responsibility to make payments promptly in accordance with the contract. Payment delays not only create a bad impression of the AU, but are also ultimately passed on to the AU in higher prices as Suppliers factor in the cost of payment delays in their prices.
- (b) The periods in which payments have to be made, and any penalties for delayed payment will be those specified in the signed contract.

## 7.10 CONTRACT PERFORMANCE

### 7.10.1 Monitoring Suppliers' Obligations.

- (a) The Supplier or Contractor's performance against the contract must be monitored on a routine basis.
- (b) The Procurement Unit will:
  - (i) notify the Supplier or Contractor immediately in writing of any failings in performance;
  - (ii) update the contract file and Contract Register regularly to reflect the monitoring of performance;
  - (iii) ensure that the relevant authority is informed of any serious failings in performance.

### 7.10.2 Performance of AU Obligations

- (a) The Contract may impose certain conditions on the AU which, if not complied with, may affect the Supplier or Contractor's performance including:
  - (i) Payment within the contracted time limits;
  - (ii) Assistance with import licences, etc;
  - (iii) Approval of drawings or reports within the set time periods;
  - (iv) Provision of storage or working facilities and access permits;
  - (v) Conditions relating to the provision of support services by the AU (e.g. letters of invitation for visas, provision of office space, etc.).
- (b) Ensure that all contractual obligations of the AU are planned and performed without undue delay.

### 7.10.3 Delays in Performance

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



- (i) In accordance with the contract conditions, the Supplier, Contractor, or its subcontractor, must notify the AU in writing of the conditions delaying performance, including full details of the delay, the likely duration and the cause(s).
- (ii) The Procurement Unit or Business unit, where appropriate, will immediately assess the situation, and may at its discretion recommend to the relevant authority an extension of the Supplier or Contractor's time for performance, with or without liquidated damages as specified in the Contract.
- (iii) 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 relevant authority
- (iv) A delay by the Supplier or Contractor in the performance of 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.

#### 7.10.4 Resolution of Disputes

- (a) Most minor disputes may be resolved by amicably and by agreement between the AU and the Supplier or Contractor to rectify the cause of complaint.
- (b) Any formal written complaints received from a Supplier or Contractor should be fully investigated and referred to the Complaints Handling Committee to seek ways and means of addressing the complaints.
- (c) The Procurement Unit shall prepare any necessary addendum to the Contract, for review and approval by the Office of the Legal Counsel, and signature.

#### 7.10.5 Termination of the Contract

- (a) The parties to the contract normally have the right to terminate the contract, but to protect the AU, advice of the Office of the Legal Counsel and the relevant authority should always be sought if the AU is considering such action. Contracts shall only be terminated as per the terms and conditions spelt out in the contract.

The Procurement Unit shall examine the Contract carefully to be aware of all contract conditions and penalties relating to the Termination of Contract.

- (b) The Legal Counsel shall prepare the necessary correspondences in relation to termination of contract and settlement of any contractual penalties.

## 7.11 CONTRACT AMENDMENTS

- (a) 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 AU, agreements to extend the time schedule, or from specified increases or decreases in commodity prices permitted in the contract.
- (b) The Business unit shall obtain a confirmation of Availability of Funds from the PBFA Directorate for any increase in the funding requirement;
- (c) All amendments to costs, quantities, delivery timescales and other terms and conditions of the contract must be approved by relevant authority as appropriate and confirmed in a formal contract amendment or addendum.
- (d) The Procurement Unit will:
  - (i) Identify and agree with the Business unit and 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;
  - (ii) Issue supplementary Purchase Order for increases on simple Purchase Order contract values of less than 10% of the original sum
  - (iii) Seek approval of the relevant authority and prepare a draft contract amendment document for increases exceeding USD 10,000.
  - (iv) Send the draft contract amendment to the Office of the Legal Counsel or equivalent for vetting
  - (v) Following approval by the relevant authority:
    - record any change in the value of the contract in the Contracts 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 ;
    - distribute copies in the same way as the original contract.

## CHAPTER 8: SUPPLIER REGISTERS

### 8.1 INTRODUCTION

Effective procurement depends greatly on the quality and delivery performance of suppliers, contractors and consultants, and their products and services. The Procurement Unit is responsible for maintenance and supervision of registers of suppliers, contractors and service providers who are assessed to be of a suitable standard to meet the requirements of the AU.

### 8.2 MAINTENANCE AND MANAGEMENT OF SUPPLIER REGISTERS

The Procurement Unit will maintain or supervise all Registers of Suppliers used at AU based on the following principles:

- (a) Periodic open advertisement to invite applications;
- (b) Establishment and publication of clear evaluation criteria for acceptance into the defined categories;
- (c) Monitoring and evaluation of the performance of suppliers on contracts awarded and removal from the register of suppliers who fail to perform satisfactorily;
- (d) Sharing of database information among AU Procurement Units;
- (e) Registration to be subject to periodic formal renewal, or cancellation if a supplier has not undertaken any AU contracts or re-registered within a three-year period.

### 8.2.1 Additions to the Register of Suppliers

- (a) To ensure that any new suppliers, contractors or service providers are given the opportunity to join the Register, open advertisement to invite applications shall be published not less than once every year;
- (b) Where invitations are issued for expressions of interest or pre-qualification, suppliers and contractors/service providers who respond and are found to be suitably qualified, but are not already on the Register, shall be added to the database accordingly;
- (c) In open competition, where the AU 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 shall also be placed on the Register of Suppliers;
- (d) Unsolicited application for registration may be accepted after assessment on the basis of the published criteria.

### 8.2.2 Supplier Performance Monitoring:

- (a) The Procurement Unit 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 File.
- (b) 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 AU such as failure to make a payment or to provide required information on time.
- (c) Suppliers 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, shall be removed from the Register.
- (d) Suppliers failing to perform satisfactorily shall be notified in writing, specifying the deficiencies to be addressed, and may be given an opportunity to improve their performance.

- (e) Subject to approval by the relevant authority, suppliers who consistently and seriously fail in contract performance or consistently fail to sign contracts after award for no justifiable reason shall be debarred for a specified period of time after which the supplier will be re-evaluated before readmission.

### 8.2.3 Categories of Registration

Suppliers are to be registered into appropriate categories for the specific goods or services they supply. Some common examples may be:

- (a) Type or value of works contracts;
- (b) Office Stationery and Computer Supplies;
- (c) Computer Services;
- (d) Office Equipment;
- (e) Medical Equipment;
- (f) Tyres and Batteries;
- (g) Vehicle Repairs;
- (h) Architectural Design;
- (i) Office Cleaning Services: and
- (j) Medical supplies.
- (k) Hotels and Catering services

### 8.2.4 Other provisions

- (a) Internal Procurement Committees have overall responsibility for approval of the suppliers that are entered onto or removed from the Register of Suppliers.
- (b) Except when open tendering is required, and where no other method of pre-qualification is used or required, suitable bidders for a limited Competition may be selected directly from the Register.

- (c) The selection of shortlists of suppliers shall ensure that a rotation of suppliers on the Register is made to ensure transparency rather than using the same suppliers every time.

## CHAPTER 9: COMMUNICATIONS AND RECORDS MANAGEMENT, E-PROCUREMENT AND MONITORING AND EVALUATION

### 9.1 CORRESPONDENCE/COMMUNICATIONS

Correspondence and communications are essential to the management of relationships with suppliers and other bodies, but communications issued by the AU may commit or bind it to a course of action with legal, contractual or financial implications. Therefore, all procurement correspondence and other communications issued by the AU shall emanate only from the Procurement Unit in writing.

### 9.2 DOCUMENTATION/RECORDS MANAGEMENT

#### 9.2.1 Documentary Records

- (a) 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.
- (b) All Officers shall ensure they obtain, retain and maintain appropriate documentation supporting the activities for which they are responsible.
- (c) Officers involved in approval or authorisation shall ensure that any transactions they approve or authorise are backed by appropriate supporting documentation.

### 9.2.2 Filing/Record Management System

- (a) Procurement Unit has a general responsibility for maintaining Procurement Files and Contract Registers. Records and files can be kept in electronic and/or paper based format, as long as the information contained within is kept confidential within the Procurement Unit.
- (b) Responsibility for the official maintenance of record files, authority to access files, and co-ordination of management and follow-up actions must be clearly defined in each Procurement Unit to provide an audit trail and to avoid:
  - (i) partial and incomplete records being held by several different sections and individuals;
  - (ii) unauthorised access to records; and
  - (iii) failure to take any necessary action at the right time.

### 9.2.3 Procurement Unit Records Management

All documents regarding a particular procurement case shall be kept for future reference and monitoring and control purposes. The recommended filing structure for a procurement dossier is divided into four main categories to include the following documentation where applicable:

- (a) **Correspondence:**
  - Original Request from Originating Officer.
  - Correspondence with Originating Officer.
  - Correspondence with Suppliers.
  - Internal Correspondence within the Procurement Unit.
- (b) **Bidding Process**
  - Request for Expressions of Interest or Prequalification.
  - Shortlist or Advertisement.
  - Bidding documents and Specifications/Terms of Reference.



- Correspondence with Bidders.
  - Record of pre-bidding meetings or site visits
  - Tenders, Quotations or Pro-forma invoices received.
  - Bid opening records.
  - Copies of Bid Securities.
  - Evaluation Report.
  - Minutes of negotiations
  - Submission to the relevant authority& Minutes of decisions.
- (c) **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.
- (d) **Finance**
- Copy Invoices or Certificates.
  - Record of Retentions and release, where appropriate.
  - Performance Security and release.
  - Copy of advance payment guarantee

### 9.3 ELECTRONIC PROCUREMENT

- (a) Where possible, it is encouraged to give bidders the opportunity to submit their offers electronically. This is an effective way to increase efficiency as well as reducing the environmental impact of traditional paper based tendering.
- (b) For electronic submissions, a dedicated portal or email address as appropriate must be set up, and the bidding documents must clearly state that documents received to any other address will be rejected. Only individuals who are not involved in the procurement process may have access to the inbox. Bids received

electronically should not be printed prior to the bid deadline or official opening in order to ensure that the contents remain confidential.

- (c) Bidding documents may also be distributed electronically, as long as all suppliers are treated equally and receive access to the same information at the same time.
- (d) When distributing bidding documents electronically, the Procurement Unit must ensure that the contacts of the other shortlisted suppliers are kept confidential.
- (e) Electronically received bids are legally binding, and it is not necessary for suppliers to submit a hard copy bid also, unless otherwise legally required.
- (f) The deadline stated in the bidding documents, applies equally to hard copy and electronically received submissions, and the AU will not be responsible for any network problems and format incompatibility. The format for submission shall be specified in the bid document. It is the responsibility of the supplier to ensure that electronically received bids are received on time.

#### 9.4 MONITORING AND EVALUATION

- (e) Procurement monitoring and evaluation is a process that must be routinely conducted by the AU to:
  - (i) ensure that procurements are within the annual procurement plan;
  - (ii) identify weaknesses and delays in the procurement process;
  - (iii) compare prices against market standards;
  - (iv) identify the scale and values of common use items that may benefit from the introduction of framework contracts;
  - (v) identify regular procurements of identical items which may indicate that requirements have been split to avoid an approval threshold or a procurement procedure;
  - (vi) assess performance of Procurement Units, Tender Board, IPCs and LIPCs;
  - (vii) assess performance of suppliers, contractors and consultants; and to
  - (viii) identify any necessary remedial action.

### 9.4.1 Sources of Information

- (a) The Procurement Unit will prepare an Annual Procurement Report for the Financial Year analysing the Entity’s procurement activity by categories, volumes and values, and reporting on specific issues, failings and successes in performance.
- (b) Procurement monitoring and evaluation information is obtained from:
  - (i) Annual Reports of Procurement from LIPCs;
  - (ii) Monthly status of Purchase Orders;
  - (iii) Report of Tender Board/IPC/LIPC meetings
  - (iv) Regular meetings with stakeholders;
  - (v) Reports of the Directorate of Internal Audit;
  - (vi) Reports of any specialist external procurement audits;
  - (vii) Bidder and supplier complaints made to the AU;
  - (viii) Routine sampling of Procurement Dossiers for individual procurements;
  - (ix) Procurement Dossier for any procurement which appears to deviate from compliance with the Regulations.

## 9.5 PROCUREMENT REPORTING

- (a) To ensure that full information for all activities can be incorporated into the Annual Report, all LIPCs are required to submit an annual summary report to the Headquarters Procurement Unit, of all contracts entered into during the year.
- (b) The report should be sent to the Procurement Unit within 30 days of the end of each financial year to include for each procurement:
  - (i) Reference Number (Purchase Order Number or other reference);
  - (ii) Subject of Procurement;
  - (iii) Name of Supplier/Contractor;

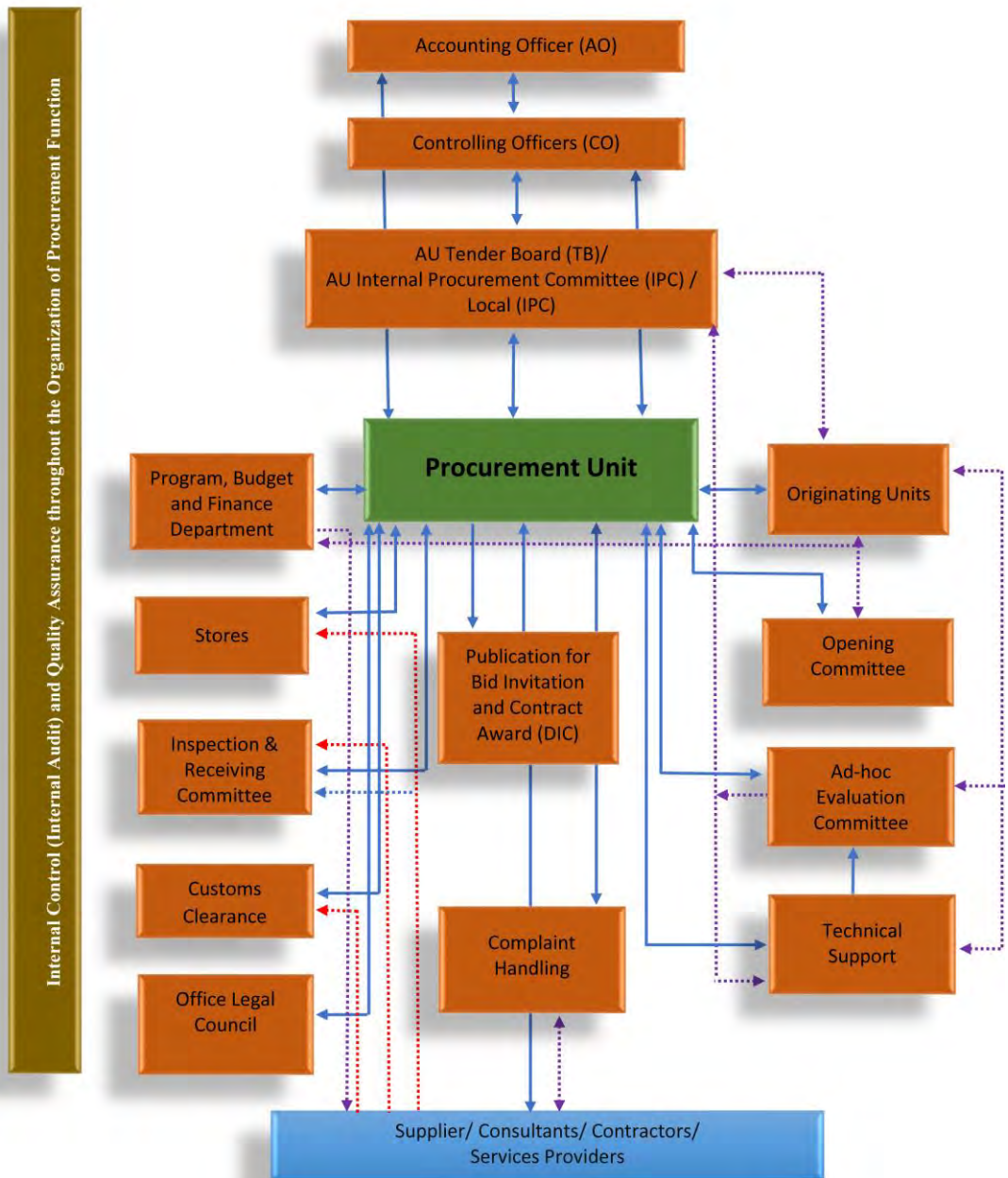
- (iv) Source of Funds (if other than AU);
- (v) Date of Contract Award;
- (vi) Contract Value in USD.

### 9.5.1 Action by Procurement Unit

- (a) On receipt of yearly Reports:
  - (ii) Consolidate the various reports into a single annual procurement reports;
  - (iii) Identify any procurement decision which appears to deviate from compliance with the provisions of the Manual and highlight in the report;

# Annexes

ANNEX I: ORGANISATION OF THE PROCUREMENT FUNCTION



## ANNEX II: THRESHOLDS

**N.B.:** The thresholds for procurement methods by AU Grant recipients shall be determined by the Accounting Officer on a case by case basis following procurement capacity assessments and depending on the exigencies of the Grant Programme.

### CATEGORY 1: ORGANS, INSTITUTIONS AND PEACE SUPPORT MISSIONS /OPERATIONS

Threshold to Select Type of Competition and Method of Selection		
Threshold	Type of Competition	Appropriate Method
Up to USD 2,000	Non-competitive or limited competition	Direct Selection /RFQ
Above USD2,000-100,000	Open or Limited Competition	RFQ/RFB/RFP*
Above 100,000	Open Competition (Limited or non-competitive may apply where there is sufficient justification)	RFP/RFB
US\$2000-30,000 the selection method may be RFQ. Above 30,000-100,000 the selection method may be RFQ/RFB/RFP depending on the nature of procurement		

**CATEGORY II: REGIONAL, REPRESENTATIVE OFFICES, SPECIALISED & TECHNICAL AGENCIES, LIAISON OFFICES**

<b>Threshold to Select Type of Competition and Method of Selection</b>		
<b>Threshold</b>	<b>Type of Competition</b>	<b>Appropriate Method</b>
Up to USD 1,000	Non-competitive or limited competition	Direct Selection /RFQ
Above USD1,000-50,000	Open or Limited Competition	RFQ/RFB/RFP*
Above 50,000	Open Competition (Limited or non-competitive may apply where there is sufficient justification)	RFP/RFB
US\$2000-20,000 the selection method may be RFQ. Above 20,000-50,000 the selection method may be RFQ/RFB/RFP depending on the nature of procurement		

The above thresholds may be revised for a specific Emergency situation following authorisation and approval by the Accounting Officer.



## AUTHORITY LEVELS

### CATEGORY I: AU TENDER BOARD

<b>AU TENDER BOARD</b>
Approval of contracts above US\$1,500,000

### CATEGORY II: ORGANS AND INSTITUTIONS

Delegated authority\*: Any Official or official in an acting capacity, on behalf of the current authority or acting as Officer-In-Charge

Threshold for Contract Approval					
AFRICAN UNION COMMISSION	THRESHOLDS (USD)				
Authority	0 – 15,000	15,001-20,000	20,001 – 50,000	50,001 – 1,500,000	UIP (STANDARDIZED ITEMS/SERVICES)
AUC IPC				→	
CONTROLLING OFFICER OR DELEGATED AUTHORITY		→			
COMMISSIONER		→			YES
DIRECTOR/ACTING DIRECTOR, OR O.I.C	→				YES
HEAD OF PROCUREMENT TRAVEL AND STORE DIVISION	→				YES

Threshold for Contract Approval					
PAN AFRICAN PARLIAMENT	THRESHOLDS (USD)				
Authority	0 – 15,000	15,001- 50,000	50,001 – 100,000	100,001 – 1,500,000	UIP (STANDARDIZED ITEMS/SERVICES)
AUC IPC				→	
IPC			→		
CLERK TO PARLIAMENT OR DELEGATED AUTHORITY*		→			YES
DEPUTY CLERK	→				YES
HEAD OF PROCUREMENT UNIT	→				YES

Threshold for Contract Approval					
NEPAD	THRESHOLDS (USD)				
Authority	0 – 15,000	15,001- 50,000	50,001 – 100,000	100,001 – 1,500,000	UIP (STANDARDIZED ITEMS/SERVICES)
AUC IPC				→	
IPC			→		
CEO OR DELEGATED AUTHORITY *		→			YES
DIRECTOR/ACTING DIRECTOR, OR O.I.C	→				YES
HEAD OF PROCUREMENT UNIT	→				YES

Threshold for Contract Approval					
APRM	THRESHOLDS (USD)				
AUTHORITY	0 – 15,000	15,001- 50,000	50,001 – 100,000	100,001 – 1,500,000	UIP (STANDARDIZED ITEMS/SERVICES)
AUC IPC				→	
IPC			→		
CEO OR DELEGATED AUTHORITY *		→			YES
DIRECTOR/ACTING DIRECTOR, OR O.I.C	→				YES
HEAD OF PROCUREMENT UNIT	→				YES

Threshold for Contract Approval					
AFCHPR	THRESHOLDS (USD)				
AUTHORITY	0 – 15,000	15,001-50,000	50,001 – 1,500,000		UIP (STANDARDIZED ITEMS/SERVICES)
AUC IPC			→		
IPC		→			
REGISTRAR	→				YES
HEAD OF PROCUREMENT UNIT	→				YES

Threshold for Contract Approval				
ACHPR	THRESHOLDS (USD)			
AUTHORITY	0 – 15,000	15,001-50,000	50,001 – 1,500,000	UIP (STANDARDIZED ITEMS/SERVICES)
AUC IPC				
IPC				
EXECUTIVE SECRETARY				YES
HEAD OF PROCUREMENT UNIT				YES

Threshold for Contract Approval				
AU ADVISORY BOARD ON CORRUPTION	THRESHOLDS (USD)			
AUTHORITY	0 – 15,000	15,001 – 50,000	50,001 – 1,500,000	UIP (STANDARDIZED ITEMS/SERVICES)
AUC IPC				
IPC				
Executive Secretary				YES

CATEGORY III – PEACE AND SECURITY

Threshold for Contract Approval						
PEACE KEEPING MISSION/OPERATIONS	THRESHOLDS (USD)					
AUTHORITY	0 – 10,000	10,001 – 15,000	15,001 – 30,000	30,001 – 50,000	50,001 – 1,500,000	UIP (STANDARDIZED ITEMS/SERVICES)
AUC IPC						
LIPC						
SRCC						YES
HEAD OF MISSION SUPPORT						YES
HEAD OF ADMINISTRATION/ PROCUREMENT						YES

Threshold for Contract Approval						
LIAISON OFFICE	THRESHOLDS (USD)					
AUTHORITY	0 – 10,000	10,001 – 15,000	15,001 – 50,000	50,001 – 1,500,000	UIP (STANDARDIZED ITEMS/SERVICES)	
AUC IPC						
LIPC						
HEAD OF OFFICE					YES	
HEAD OF ADMINISTRATION/ PROCUREMENT					YES	

CATEGORY IV: REGIONAL AND REPRESENTATIVE OFFICES

Threshold for Contract Approval					
REGIONAL OFFICES	THRESHOLDS (USD)				
AUTHORITY	0 – 10,000	10,001- 15,000	15,001 – 50,000	50,001 – 1,500,000	UIP (STANDARDIZED ITEMS/SERVICES)
AUC IPC					
LIPC					
HEAD OF REGIONAL OFFICE					YES
HEAD OF ADMINISTRATION/ PROCUREMENT					YES

CATEGORY V: SPECIALISED AND TECHNICAL AGENCIES

Threshold for Contract Approval					
SPECIALIZED AND TECHNICAL AGENCIES	THRESHOLDS (USD)				
AUTHORITY	0 – 10,000	10,001- 15,000	15,001 – 50,000	50,001 – 1,500,000	UIP (STANDARDIZED ITEMS/SERVICES)
AUC IPC					
LIPC					
HEAD OF OFFICE					YES
HEAD OF ADMINISTRATION/ PROCUREMENT					YES

The thresholds may be revised for a specific Emergency situation following authorisation and approval by the Accounting Officer.

#### Threshold for Inspection Committee

AUC, PAP, NEPAD, APRM, Peace Keeping missions,	US\$50,000 and above
Advisory Board on Anti-corruption, ACHPR, All regional, representative, liaison, specialised and technical offices	US\$10,000 and above

#### Publication for Invitation for Procurement Opportunities

Any publication related to AU Procurement will be published on the African Union website, <http://www.au.int/>, United Nations Development Business (UNDB) website, and any other widely read publications and media. Subscription information for UNDB, which is a gateway to global procurement notices, is available on the website <http://www.devbusiness.com/> and accessible by contacting [dbsubscribe@un.org](mailto:dbsubscribe@un.org).

## ANNEX III-PEACE SUPPORT OPERATIONS/MISSIONS

### Organisation and functions of Procurement in PSOs

#### PROCUREMENT UNIT IN PSOS

All Missions shall set up a separate procurement office with the responsibility for conducting procurement operations. The size of the Unit shall be tailored to the complexity and size of the Mission. At a minimum it shall consist of a Senior Procurement Officer and support staff. One or more Procurement Officers and Clerks will be employed to handle the day to day procurement actions with the Senior Procurement Officer serving in a supervisory role.

#### *Functions of the Procurement Unit*

The Procurement Unit of each PSO has the responsibility for the coordination of the procurement function in a professional manner in all procurements by ensuring efficiency, accountability value for money and transparency in the requisition, recording, accounting for, or any form of management of suppliers. The functions of the procurement unit are to:

- a. Advise the Mission on procurement policy issues;
- b. Plan and manage all procurement activities.
- c. Prepare, consolidate and update the annual procurement plan from all Units, projects, programmes, and other Business units.
- d. Support the functioning of the LIPC.
- e. Review and assist Business units in the preparation of specifications, terms of reference and scope of work;
- f. Prepare bidding documents for works, goods, consulting and non-consulting services, and advertise bid opportunities and shortlisting of suppliers, as appropriate.
- g. Arrange for publication of notices of contract award on the website of the entity;
- h. Notifying award of contract to the winning bidder, and to unsuccessful bidders;



- i. Maintain a register of prequalified suppliers;
- j. Prepare and issue contract document after vetting and approval by the office of the Legal Counsel;
- k. Receive procurement requisitions with detailed specifications from Business units;
- l. Recommend the appropriate procurement method;
- m. Coordinate the receiving, storage and opening of tender documents;
- n. Maintain, safeguard and archive records of the procurement process
- o. Appoint members of the ad hoc bid evaluation committee;
- p. Coordinate the evaluation of tenders, quotations, and proposals; compile the evaluation reports;
- q. Prepare and issue rejection and debriefing letters;
- r. Prepare contract amendments;
- s. Perform market surveys and procurement research;
- t. Implement the decisions of the Tender Board and IPC/LIPC;
- u. Prepare periodic procurement reports;
- v. Act as secretariat to the LIPC to provide general secretarial and technical support and advice to meetings which include preparation of correspondence, notices, agendas, minutes of meetings, and communication of the decisions or queries of the meeting;
- w. Monitor contract management by Business units to ensure implementation of contracts in accordance with the terms and conditions of the contracts and notifying the supplier immediately in writing of any failings in performance of his obligations including discrepancies and pursue appropriate follow up measures;
- x. Co-ordinate internal monitoring and evaluation of the procurement functions;
- y. Manage and safeguard the tender box;
- z. Responding in writing to any requests for clarifications from bidders where permitted within the bidding documents;

- aa. Registering and maintaining any samples required to be submitted by bidders;
- bb. Monitoring delivery schedules and the inspection and certification of delivery or performance in liaising with the Business unit;
- cc. Registering and securing bid guarantees or performance guarantees, and actioning any claims against securities or retentions.
- dd. Advising and ensuring prompt release and returning all securities as soon as they are no longer required for protection of the AU;
- ee. Preparing a detailed Annual Report on procurement activities;
- ff. Prepare annual average pricelist;
- gg. Manage all tender opening meetings with a bid opening committee;
- hh. Maintaining detailed records for each procurement;
- ii. Ensuring the effective management of contracts, including the initiation of advance payments, that all contractual obligations of the AU are performed promptly and efficiently, the processing of invoices for payment, and file closure on completion of all obligations of both parties to the contract;
- jj. Monitoring delivery schedules and the inspection and certification of delivery or performance;
- kk. Undertake any other duties or tasks as directed by the Tender Board and or IPC.

#### **THE BUSINESS UNIT**

The functions of the business unit are to;

- (a) Identify all procurement requirements for goods, works and services for the next Financial Year for inclusion in the Annual Procurement Plan.
- (b) Liaise with the Procurement unit to develop an annual procurement plan
- (c) Initiate and prepare statement of requirements, specifications, terms of reference, and scope of works, Bills of Quantities and forward them to the procurement unit
- (d) Certify services and recommend invoices for payments to suppliers

- (e) Implement and monitor contracts in collaboration with Procurement Unit
- (f) Propose amendments for awarded contracts

### **Local Internal Procurement Committee (LIPC)**

The Composition of LIPC for Peace support Operations shall be:

#### **LOCAL INTERNAL PROCUREMENT COMMITTEES (LIPC)**

- (a) The Controlling Officer shall establish Local Internal Procurement Committees in Peace support Operations/Missions.
- (b) The composition of the LIPC shall be at least three (3) Members including:
  - i. Head of Mission or his/her delegated authority
  - ii. Finance and Administration Officer,
  - iii. Other professional staff appointed by the Head of Mission
  - iv. An Officer in charge of legal matters, where applicable;
  - v. The Officer in charge of Procurement shall provide secretarial and technical services to the LIPC, without a right to vote.
- (c) A Chairperson shall be selected from amongst the members.
- (d) The Officer handling the procurement function shall not be eligible to be a member.
- (e) Members shall be appointed in their individual capacities and alternates may be appointed for each member;
- (f) The tenure shall be three years subject to renewal.

#### **PROCEDURES FOR THE FUNCTIONING OF LIPCS IN PEACE SUPPORT OPERATIONS/MISSIONS.**

- (f) The following shall constitute the rules of procedures that govern the functioning of the LIPCs in PSOs in the discharging of their duties and responsibilities:

- (a) For LIPCs the quorum shall be at least 3 members including the Chairperson.
- (b) Decisions shall be by consensus; failing which, by 2/3 majority of members present. A dissenting member may request that his/her dissent be recorded in the minutes of the meeting;
- (c) The LIPC shall meet as and when required;
- (d) Working documents shall be distributed at least two days before the meeting with the exception of emergencies.
- (e) At the commencement of each meeting, the members must sign a Declaration of Confidentiality and impartiality which covers all matters arising from the meeting. This Declaration shall be attached to the final report by the Secretary;
- (f) Matters of substance, requiring the LIPC to take a decision shall not be discussed during a meeting under “Any Other Business”;
- (g) The Secretary of the LIPC shall circulate to the members who attended the said meeting, copies of a draft report for their comments or amendments. Such comments or amendments shall be sent to the Secretary within 48 hours upon receipt of the draft report. If no comment or amendment is received within the deadline above, the Secretary shall proceed with the finalization of the report. No amendment to the report shall be allowed after members have signed it;
- (h) Deliberations and minutes of the LIPC shall be classified and be treated with confidentiality and shall not be disclosed to suppliers and other parties external to the procurement process.
- (i) The LIPC members shall sign the report and initial all the pages;
- (j) Specific Decisions of the LIPC meetings shall be communicated in writing to respective business units;
- (k) The LIPC may invite technical or resources persons to provide expert advice. The experts shall not have voting powers.
- (l) Where a member of the LIPC has a direct or indirect interest in any matter, he or she shall declare his or her interest in the matter and shall not participate in the deliberations or decision-making process in relation to that particular matter.

In respect of submissions from the Bid Evaluation Committee, LIPC may;

- i. Review and make decisions on submissions through meetings or by circulation where necessary,
- ii. For any rejected submission, explanation and justification for the rejection shall be provided.
- iii. The LIPC shall not make any changes or amendments to submissions once they have been received. Any required changes or clarifications should be returned to the Business unit for action.

(m) Decisions of the LIPC shall be communicated to the Business unit.

(n) Where it is not practical to convene a meeting of the LIPC for matters on which a decision is needed urgently, approving an award by circulation is permitted.

- (i) A draft decision may be circulated to the Members together with the necessary supporting documents for seeking their approval, physically or electronically through email or fax.
- (ii) Due consideration shall be taken to ensure that the decision is circulated to all members where possible or as minimum, the number of members who form a quorum.
- (iii) The decision is approved when it is endorsed by majority of the Members.
- (iv) Decisions approved by Circulation should be presented at the next LIPC meeting and recoded in the minutes of that meeting.

*Responsibilities of the Secretary of the LIPC.*

The Secretary is responsible for the following:

- (i) Advising and guiding the LIPC on technical and specific procurement provisions, policies, rules and regulations.
- (ii) Arranging and coordinating LIPC meeting;
- (iii) Ensuring the timely and efficient distribution of relevant documentation to the LIPC members;
- (iv) Drafting of minutes of meetings and the LIPC recommendations;
- (v) Preparing LIPC related correspondence;
- (vi) Circulate submissions for consideration and approved by LIPC by circulation method.
- (vii) Maintaining a permanent record of all LIPC minutes recommendations;
- (viii) Ensuring that decisions of the LIPC are implemented.

Three Members including the Chairperson shall constitute a quorum.

**Requisitions for Supplies**

The Field Mission shall determine the needs, specifications and quantities as well as the source of supply. It shall conduct the bidding processes within the thresholds specified in this manual. Justification must be provided in writing in cases of single/direct sourcing.

**Award of contract***Thresholds for Authority approval*

- (a) The thresholds for review and approval by the relevant Authority can be found in Annex II of this manual.

- (b) In accordance with FRR, the Authority responsible for the approvals of the recommendation for award is pursuant to the value of the contract to be awarded.
- (c) The appropriate authority will review the evaluation report and recommendations presented by the Bid Evaluation Committee.
- (d) Before giving approval, the Authority will ensure that any written complaints made by bidders concerning the bid opening procedures have been reviewed and responded to. If the complaint indicates a serious breach of procedures or ethics, the Authority shall reject the evaluation report and call for re-tendering.
- (e) The Authority shall award the contract to the bidder who has submitted the bid that is responsive to the bidding documents, and has been determined to be qualified to be able to perform the contract.
- (f) For Partner funded projects, award of contract for procurement of goods, Consultancy services, non-consultancy services and works may be subject to Prior review by the Partner. The thresholds for prior review will vary in accordance with the project and will be specified in the agreement or any other legal document between the AU and the Funding Partner.

## Supplier registers

In order to enhance the efficiency and transparency of procurement actions, the AU maintains a database of potential suppliers for goods, consultancy services, non-consultancy services and Works. The Peace Support Operations/ Missions may develop and maintain a local register of potential Suppliers who could be invited to compete in future tenders. Ongoing efforts shall be made to broaden the supplier database by identifying new suppliers of goods, services or works of interest to the Mission through, among other things, regular market research exercises.

## Framework contracts

These are used when the Procurement Unit determines, in consultation with the Business units based on previous experience and project needs, that the

deliverables to be procured are required on a recurring basis over an extended period. A framework agreement is a long term agreement with a supplier (or multiple suppliers) which sets out the terms and conditions and agreed pricing under which specific procurements (call-offs) can be made throughout the duration of the agreement. Framework Agreements or Framework Contracts shall normally be awarded after a competitive bidding process.



## ANNEX IV: ELECTRONIC VERSION

1. Evaluation Reports
2. Forms
3. Framework Contract
4. Standard bidding documents
5. Standard Letters

The above forms and standards templates are available on the on the Electronic version of the Procurement Manual.







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