

**2019**

**SOMALIA NATIONAL HIGHWAY AUTHORITY**

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**PROCUREMENT POLICY AND PROCEDURES**

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## **ABBREVIATIONS**

<b>CQS</b>	Consultants Qualification Selection
<b>FBS</b>	Fixed Budget Selection
<b>HoFA</b>	Head of Finance and Administration
<b>GM</b>	General Manager
<b>LCS</b>	Least Cost Selection
<b>LPO</b>	Local Purchase Order
<b>MoPWRH</b>	Ministry of Public Works, Reconstruction and Housing
<b>PC</b>	Procurement Committee
<b>PE</b>	Procuring Entity
<b>PPCDA</b>	Public Procurement, Concessions and Disposal ACT
<b>QB</b>	Quality Based Selection
<b>RFP</b>	Request For Proposal
<b>RFQ</b>	Request for Quotation
<b>SNHA</b>	Somalia National Highway Authority
<b>SSS</b>	Single Sourcing Selection
<b>TC</b>	Tender Committee
<b>TOR</b>	Term of Reference

## DEFINITION OF TERMS

<b>Accounting Officer</b>	The General Manager or chief executive officer of the procuring entity
<b>Authority</b>	Somalia National Highway Authority
<b>Award</b>	The process of awarding a contract
<b>Bid</b>	A quotation or proposal submitted by a bidder
<b>Bidder</b>	Any potential participant in a procurement process
<b>Bidding Document</b>	Document for solicitation of offers, proposal or quotations
<b>Concession</b>	The grant of interest in a public asset by the Government
<b>Contract</b>	Written agreement between the Procuring Entity and Contractor/Supplier
<b>Contractor</b>	Successful bidder that has entered into a contract with the Procuring Entity
<b>Disposal</b>	Selling off the unserviceable, obsolete or surplus supplies of a Procuring Entity
<b>Debarred Contractor</b>	All bidders who are prevented to take part in Public Procurement
<b>Direct Procurement</b>	Method of procurement that does not require Competitive bidding
<b>Goods</b>	Equipment, Commodities, Products or related items
<b>Government</b>	The Federal Government of Somalia
<b>Procuring Entity</b>	Any entity that is responsible for Planning and has a budget allocation
<b>Procurement Section</b>	Department established to carry out procurement activities
<b>Review Panel</b>	The Independent Procurement Review Panel whose work is to conduct independent administrative review of complaints in accordance of Article 55 of The Public Procurement, Concession and Disposal Act 2015.
<b>Request For Proposal</b>	Document commonly used in procuring consultancy service
<b>Request for Quotation</b>	Document used for purchase of low value goods
<b>Works</b>	Any construction, installation of equipment and services

# CHAPTER 1: INTRODUCTION

## 1.1 Introduction

- a) This manual is prepared to address the specific procurement requirements of Somalia National Highway Authority (SNHA). The procurement processes set out in the manual have references to the provisions of the Public Procurement, Concession and Disposal Act 2015 and Regulation. Heads of all departments are therefore required to familiarize themselves with the guidelines provided in this manual and strictly adhere to them.

## 1.2 Objectives of the manual

- a) The objectives of the manual as guided by the Act and regulation are as follows—
  - i. Promote transparency and accountability and reduction of corruption incidence in Public procurement;
  - ii. Ensure that all controls are in place to safeguard the Authority resources;
  - iii. Promote integrity and fairness in procurement processes;
  - iv. Reduce procurement cost and lead time;
  - v. To define the roles within procurement functions and operations;
  - vi. To simplify the methods of procurements;
  - vii. Provide uniformity in all procurement of works; and
  - viii. Ensure that there is consistent application of best practices and international standards.

## 1.3 The scope of the procurement manual

- a) The procedures in the manual shall be used in the acquisition, receipt, storage and disposal of goods, services, and works. This manual shall—
  - i. Be used as a planning tool and reference point of day-to-day operation of the Authority;
  - ii. Be subject to regular reviews and amendments;
  - iii. Entail policies and procedures to be adhered to;
  - iv. Cover disposal of unserviceable, obsolete, surplus store, equipment and other assets;
  - v. Cover procurement planning and budgets preparation and execution;
  - vi. Cover administration of procurement cycle and contracts;
  - vii. Set foundation for achieving transparency and accountability in Public Procurement.

## 1.4 Application and limitation of the manual

- a) Proper and effective application of the manual shall promote sound procurement practice to ensure that—
  - i. All procurement activities shall be within the approved budget;

- ii. All SNHA departments shall familiarize with the procurement policies;
- iii. Annual procurement plan shall be prepared to support budgetary framework; and
- iv. The Procuring Entity (PE) shall undertake all procurement activities.

### **1.5 Revision of the procurement manual**

- a) This manual will be amended from time to time by SNHA to incorporate any emerging procurement best practice and major policy change.
- b) Any user of the manual who has suggestion on areas that may need to be reviewed will notify the General Manager of SNHA.
- c) The General Manager will on a regular basis analyze emerging issues in the course of the implementation of the manual and notify the Minister of Public Works Reconstruction and Housing (MoPWRH) of any areas which may be considered for review.
- d) The Minister of MoPWRH will from time to time appoint a Review Committee, which will be charged with the task of reviewing the manual in consultation with stakeholders.
- e) The Minister will approve and control all amendments to this Manual and notify users.



## **CHAPTER 2: PREQUALIFICATION OF CONTRACTS**

### **2.1 Prequalification**

- a) Pre-qualification for works should be carried out in accordance of Article 19 of the Public Procurement, Concession and Disposal Act 2015. It is used to identify Suppliers, Contractors who are qualified prior to the submission of bids. The Procuring Entity may use Pre-qualification under national bidding to obtain shortlist of bidders. Prequalification shall be use under this guideline where—
- i. The works are highly complex, specialized and require detailed design or methodology;
  - ii. The cost of preparing a detailed bid would discourage competition;
  - iii. The bidding is for a group of similar contracts; and
  - iv. It may be required on Donor funded Procurements.

### **2.2 Prequalification notices**

- a) A procuring entity shall by public advertisement of prequalified notice, invite potential bidders to obtain pre-qualified documents. A prequalified notice shall be published in at least one newspaper of wide circulation, or if feasible, in the National Gazette and procurement bulletin or website; and in case of international competitive bidding, in selected international media in accordance with the Authority's guideline.
- b) Prequalification notice shall contain—
- i. Summary of the scope of procurement;
  - ii. Physical address for submission of the prequalification documents;
  - iii. Deadline for submission of prequalification application;
  - iv. Instruction on obtaining prequalification documents; and
  - v. Any key requirement and criteria for assessing the prequalification application.

Prequalification documents should contain—

- Details of scope of the procurement;
- Statement of requirement and criteria for assessing prequalification application;
- Instructions on sealing and labeling of prequalification application;
- Instruction on location and deadline for submission of prequalification application;
- Contact person, address, email, date limit for obtaining clarification;
- Publication of widely circulated newspaper to reach out many bidders for effective competition.

### **2.3 Prequalification criteria**

- a) A bidder must qualify by meeting the criteria set by the Procuring Entity. Those criteria may include—
- i. Professional and technical qualifications regarding capability and past experience;
  - ii. Legal capacity to undertake the assignment;
  - iii. Bidder not insolvent, or bankrupt;
  - iv. The procuring Entity not precluded from entering contract with the bidder under Article 6 and 9 of Public Procurement, Concession and Disposal Act 2015; and
  - v. The bidder is not debarred under Article 30 of Public Procurement, Concession and Disposal Act 2015.

### **2.4 Prequalification evaluation**

- a) Prequalification Evaluation shall be carried out based on the capabilities of each supplier's technical and financial evaluations against the criteria set out in the advertisement.
- b) The Procuring Entity shall at the end of the evaluation—
- i. Inform all bidders of the outcome of the pre-qualification. Unsuccessful applicants should be briefed on the reasons for missing out in the list
  - ii. Issue the Bid document to all qualified contractors; the shortlist of qualified bidders should be kept in the file.
  - iii. The list of pre-qualified suppliers/contractors shall be valid one financial year.

### **2.5 Internal controls**

- a) The Procuring Entity shall—
- i. Ensure that the pre-qualification notice is published in a widely circulated newspaper to reach out to many bidders for effective competition;
  - ii. Ensure that all the applicants are notified of the result of the prequalification. Applicants who fail to meet the prequalification criteria should be given reasons for their disqualification;
  - iii. Ensure strict compliance of legal and regulatory frame works;
  - iv. Ensure the promotion of transparency and accountability in the Procurement and disposal process.

## **CHAPTER 3: PROCUREMENT PLANNING AND BUDGETING**

### **3.1 The budget preparation process**

- a) The procurement plan shall be prepared annually, based on Government fiscal policy and the PE shall take into consideration the government's annual budget.

### **3.2 The procurement plan**

- a) The Procurement plan is an instrument for implementation of the budget and should be prepared by the Procuring Entity with a view to minimize urgent procurements.
- b) The procurement plan must be integrated into the budget process based on approved budget.
- c) The budget as well as the procurement plan shall be based on realistic cost estimates.
- d) The head of the procuring entity shall consolidate the departmental procurement plans.
- e) The Procurement Unit shall verify the departmental procurement plans and subsequently forward the same for approval to the General Manager.

### **Contents of the procurement plan**

- f) The procurement plan for each procuring entity shall contain—
  - i. The source of funding.
  - ii. Detailed specifications of the works.
  - iii. Procurement methods.
  - iv. Time frame for delivery and implementation.
  - v. Comparison of planned against actual procurement plan.
  - vi. Summary of any committed or planned procurement under multi -year contract.
  - vii. Monitoring and evaluations of procurements.

### **3.3 Role of the Head of Finance and Administration**

- a) Develop procurement planning templates.
- b) Instruct the procurement section to start development of the annual procurement plan.
- c) Ensure that the draft annual procurement plan is constantly reviewed and approved by the General Manager.
- d) Ensure that approved annual procurement plan is included in the Annual Budget before it is submitted to the Ministry of Finance.
- e) Obtain approved revised annual procurement plan from the tender committee
- f) Ensure that the tender committee prepares quarterly updates of the procurement plan for approval.

### **3.4 Procurement section's actions**

- a) In planning their procurement activities, the procurement section shall take the following into account—
- i. Providing information in the Procurement Section's work plans.
  - ii. Aggregation of requirements to achieve lower unit costs;
  - iii. Allocation of biddable lots, ensuring that requirements are not split up without a justified reason;
  - iv. Consider joint procurement with different sections where possible to combine similar requirements and pre-qualification to cover groups of contracts where similar goods, works, services requiring a pre-qualification exercise are required during the financial year;
  - v. The requirements will be supported with descriptions, specifications and estimated costs;
  - vi. The requirements will be related to the institution's budgets and any requirement in excess will be reviewed and scaled down as appropriate;
  - vii. The appropriate method for procurement will be selected depending on the threshold set in this Manual.

### **3.5 Monitoring and updating of procurement plan**

- a) The procurement plan shall form the basis for monitoring procurements. The Procurement plan should be reviewed and updated on quarterly basis.
- b) The purpose of monitoring is to compare the planned activities against the actual performance, also to assess whether there are major variations with what was planned and make adjustments in the procurement plans.
- c) The Procurement unit prepares quarterly updated Procurement plan and submit the same to the tender committee for review and approval.

### **3.6 Internal Controls**

- a) Ensure that approved annual procurement plan is included in the Annual Budget.
- b) Ensure that the draft annual procurement plan is constantly reviewed and approved.
- c) Ensure that monitoring and updating of Procurement Plan is done on quarterly basis.

## **CHAPTER 4: PROCUREMENT METHODS AND PROCESSES**

### **4.1 Introduction**

- a) There are different types of procurement methods applicable to works. These are listed below—
  - i. Open bidding;
  - ii. Request for proposal for consultancy;
  - iii. Restricted tendering;
  - iv. Direct tendering or single sourcing;
  - v. Low value procurement (RFQ);
  - vi. Two stage tendering.

### **4.2 Open bidding**

- a) Open bidding can be done through national competitive bidding and International competitive bidding as explained below.

#### **4.2.1 International competitive bidding**

- a) The Procuring Entity shall employ international competitive bidding procedures when—
  - i. The estimated contract amount is higher than the value of threshold as specified in the Regulation.
  - ii. When effective competition cannot be obtained unless foreign firms are invited to participate.
- b) The following shall apply to international competitive bidding—
  - i. The invitation to bid and bidding documents must be in English
  - ii. The invitation to bid shall be placed in a newspaper with adequate circulation to attract foreign competition
  - iii. Technical specification shall be compatible with national requirements and be based on international standards as per the provision of Article 45 of Public Procurement, Concession and Disposal Act 2015.
  - iv. General and special condition of contract shall be of a kind widely used in International trade.

#### **4.2.2 National competitive bidding**

- a) National competitive bidding is appropriate when the estimated contract amount is within the value specified as per the threshold in the schedule.
- b) The following shall apply—

- i. The procuring Entity may stipulate in the bidding documents that bidder must quote price in the local currency.
- ii. The invitation to bid and the bidding document shall be both in English and Somali.

### **4.3 Request for proposal (RFP)**

- a) RFP is the most suitable method to engage consultants to help with the intellectual services such as civil engineering, project management, surveying etc. The RFP shall be the standard format issued by the Authority and listed in the Regulation. This shall include—
  - i. Name and address of the Procuring Entity;
  - ii. Nature, timeframe and location of the service to be provided;
  - iii. Terms of reference, required tasks and outputs;
  - iv. The criteria to be used in evaluating and comparing proposal;
  - v. Contractual terms of the procurement;
  - vi. Instructions for preparation and submission of proposal;
  - vii. Deadline for submission of the proposal;
  - viii. Final selection procedures to be applied; and
  - ix. Notice of conflict of interest and anti-fraud and corruption rules.

#### **Selection procedure for Consultants**

- b) The Procuring Entity shall select consultant based on the following methods—
  - i. Quality and Cost Based Selection (QCBS) method;
  - ii. Quality Based Selection (QBS) method;
  - iii. Fixed Budget Selection (FBS) method;
  - iv. Least Cost Selection (LCS) method;
  - v. Consultant's Qualification Selection (CQS) method;
  - vi. Single Source Selection (SSS) method; and
  - vii. Use of Individual Consultant.

#### **4.3.1 Quality and Cost Based Selection (QCBS)**

- a) The QCBS method is a method, which is commonly used for consultancy services. The Procuring Entity may use QCBS if the assignment—
  - i. Is for a complex or highly specialized assignment for which it's difficult to define the TOR and required output;
  - ii. Has a high downstream impact.
- b) The QCBS would normally involves two stages, namely—
  - i. The technical proposal; and

- ii. Financial proposal.

#### **4.3.2 Fixed Budget Selection (FBS) Method**

- a) The Procuring Entity may use fixed budget selection procedure when the assignment is simple and can be easily defined, and when the budget is fixed.
- b) Proposal that exceeds the indicated budget shall be rejected.

#### **4.3.3 Least Cost Selection**

- a) This method is only suitable for selecting consultants for assignments of a standard or routine nature, including audits, engineering design of non-complex works.
- b) The selection procedure to be used for this method shall be the same as Quality and Cost Based Selection.

#### **4.3.4 Consultant's Qualification Selection (CQS)**

- a) This method may be used for firm's assignments that do not exceed the threshold set in the regulations.
- b) Expression of interest and information on the consultants experience and competence is relevant
- c) The selected individual or firm shall be asked to submit combined technical and financial proposal and then be invited to negotiate a contract.

#### **4.3.5 Single Source Selection (SSS)**

- a) Subject to the approval of the procurement committee, the PE may use single sourcing selection of consultants only in exceptional cases such as—
  - i. In emergency cases, such as in response to disasters for consulting services required during the period of emergency; and
  - ii. For task that represent natural continuation of ongoing works.

#### **4.3.6 Selection of individual consultants**

- a) Individual Consultants are employed on assignment where team of personnel is not required.
- b) Individual consultants shall be selected on basis of their qualification for the assignment.

### **4.4 Restricted bidding**

- a) Limited or Restricted bidding procedures are followed when the invitation to bid is directly addressed to a pre-selected list of international or national contractors.
- b) The PE may use restricted or limited competitive bidding in lieu of open advertisement competitive bidding subject to approval by the procurement committee, when—
  - i. The goods, or services are only available for a limited number of known bidder;

- ii. Where the procurement is complex and there is need to restrict bidding to prequalified bidders;
- iii. There are exceptional reasons such as emergency actions related to natural disaster, which may justify the waiving of advertising for competitive bidding; and
- iv. Advertising would be a waste of time for small value procurement in which the cost of advertising is equally high.

**c) Steps of restricted bidding is clearly stated in the table below—**

No	Step Description
1	Define organization's need
2	Prepare prequalification list and pre-select 3-4 bidders
3	Request and obtain Technical and financial offers from 3-4 bidders
4	Appoint tender opening committee Appoint tender evaluation committee to check compliance, evaluate both technical and
5	financial capacity of bidders
6	Prepare evaluation report
5	Issue contract notification, and inform unsuccessful bids
6	Sign and manage contract, and payments

#### 4.5 Direct procurement

- a) Direct contracting involves procurement of goods or services or works from single source without competition. With prior approval of the procurement committee, a PE may directly or sole source under the following circumstances—
- i. The procurement is for an extension of an existing contract of similar nature of goods, works or technical services and was procured through competitive process.
  - ii. Additional purchases from the original supplier may be justified for standardization of spare parts so as to be compatible existing machines.
  - iii. The required items can only be obtained only from one source and no alternative items with equivalent performance characteristics are available.
  - iv. Where goods, works and services are only available from one particular contractor and that the contractor has exclusive rights in respect of the goods, services or works.
  - v. There is an urgent need for the works, goods or services, and going through tender process is deemed tedious and impracticable due to the emergency.
  - vi. A repeat procurement of goods, works or services, which has recently been acquired through competitive bidding, and satisfactorily, carried out.



- vii. And the contractor is willing to maintain their tender price.

**b) Steps of direct procurement are as follows—**

- i. Define the organization's need and identify the procurement requirement;
- ii. Prepare statement of requirements;
- iii. Request and obtain technical and financial offers from a single source;
- iv. Negotiate for the supply; and
- v. Sign and manage contract with the supplier.

#### **4.6 Low cost value bidding**

- a) Request for Quotation (RFQ) procedure may be used when the estimated contract amount for goods, works or technical services is lower than the value threshold specified in the regulation. The Qualified bidders shall be selected in non-discriminatory manner.

**b) Steps of RFQ—**

- i. Prepare Technical specification;
- ii. Invite minimum of 3 bidders;
- iii. Obtain bids in writing;
- iv. Evaluate the bids;
- v. Select the bid with the lowest quotes;
- vi. Award contract and inform the unsuccessful bidders; and
- vii. Sign and manage contracts.

#### **4.7 Two-stage bidding**

**a) In the first stage—**

The bidding document shall call upon bidders to submit initial bids without a bid price. Such document may solicit the initial proposal relating to the technical quality or other goods, services, works as well a contractual terms and conditions. All the discussions entered into at this stage shall be reduced into writing and be part of the procurement records.

**b) In the second stage—**

The Procuring Entity shall invite bidders whose bids have not been rejected in the first stage to submit final bids with prices to the revised bidding documents. A bidder not wishing to submit final bid may withdraw from the bidding without forfeiting any bid security. The final bids shall be evaluated and compared in accordance with criteria and methodology included in the revised bidding documents

#### **4.8 Internal controls**

- a) The invitation to bid and bidding document should both in English and Somali;
- b) The proposal received shall be reviewed by a panel composed of various heads of department and ensuring that the recommended name shall be submitted to the Minister who shall discuss with SNHA General Manager;
- c) The terms of reference for the consultancy shall be mutually agreed upon and the financial officer shall be involved in the negotiation of financial aspects of the terms;
- d) The contract agreement shall be signed by both parties before commencement of the consultancy assignment;
- e) Payment is conditional on satisfactory completion of the whole tasks, unless the agreement provides for installments at completion of specifically agreed tasks.

## **CHAPTER 5 TENDERING PROCESS**

### **5.1 Needs identification**

- a) Need assessment should be carried out with detailed technical specifications, Bill of Quantities (BOQ) and drawings, and plans for the required works.
- b) It is always advisable that the Procuring Entity to seek technical assistance from The MoPWRH to assist in the tendering process.

### **5.2 Tender Evaluation Committee**

- a) The Head of Finance & Admin(HoFA) shall propose members of Evaluation committee to the General Manager(GM)
- b) The GM shall appoint the Evaluation Committee
- c) The Evaluation Committee shall consist of neutral Chairman and two representative from Procuring Entity, Representative from finance and Procurements, Representative from Procurement section (Supply Chain) to be the secretary
- d) Roles of Evaluation Committee—
  - i. Award Contract
  - ii. Review tender documents
  - iii. Award contract through open tender, quotations
  - iv. Approve bid analysis
  - v. Approve selection of the successful bidders
  - vi. Undertake any other duties assigned by the General Manager

### **5.3 Tender Document**

- a) The complete of set of tender documents shall comprise of—
  - i. Instructions to the tenderer;
  - ii. Form of tender;
  - iii. Terms and conditions of the contract;
  - iv. Specifications;
  - v. Drawings; and
  - vi. Bill of quantities.

### **5.4 Preparation of Bid documents**

- a) All documents relating to the tender and any correspondences shall be in English and Somalia languages; and unit rate and price shall be in Dollars (USD) and Somali shilling.
- b) These documents shall comprise of—

- i. Invitation for tender (IFT);
- ii. Instruction to tender (ITT);
- iii. Contract agreement;
- iv. Detailed technical specification;
- v. Drawing;
- vi. Bill of Quantities (BOQ);
- vii. Confidential business questionnaire;
- viii. Tender security.

### **5.5 Invitation for tender**

- a) In order to allow sufficient time for the invitation to reach many bidders and enable them to prepare and submit their application, the Procuring Entity shall allow 30 days for National competitive bidding and 45 days for International competitive bidding.
- b) The advertisement must be published in a widely circulated newspapers and also the Procuring Entity's website. For international bidding it should be advertised in a recognized international media or journal.

### **5.6 E-procurement**

- a) Under Article 10 of the Public Procurement, Concession and Disposal Act 2015, the Authority may authorize the PE to use electronic communication for publication of invitation to bid, transmission and submission of the bidding documents, provided that—
  - i. Adequate security is provided by such communication;
  - ii. Accessibility of the procurement documents and opportunities are not restricted;
  - iii. Both the Procuring Entity and bidders should have computer software for the tendering process; and
  - iv. Payment for tender should be made prior to the submission of the bid.

### **5.7 Contents of advertisements**

- a) The contents in the tender document should tally with information provided in the advert. The advertisement should specify—
  - i. Ways of obtaining tender document;
  - ii. Qualification and experience of the tenderer;
  - iii. Tender fees (if any);
  - iv. Deadline for submission of the bid;
  - v. Place where the bid is to be submitted;
  - vi. The value of bid security.

## 5.8 Tender Clarifications

- a) A Procuring Entity shall respond in writing to any clarification raised by the bidder within the specified time in the tender document.
- b) The Procuring Entity shall reply to any clarifications sought by the tenderer to enable the tenderer to make timely submission of its tender.

## 5.9 Extension of tender closing date

- a) The closing date for submission of bids may be extended by the Procuring Entity, on justifiable grounds. The PE shall, where necessary allow clarifications and modification to be taken into account, and may extend the deadline for submission of bids.
- b) In Accordance with Article 20 (3) of Public Procurement, Concession and Disposal Act 2015, the procuring entity shall—
  - i. Ensure that there adequate justification for extending the deadline for submission of bids.
  - ii. Issue addendum of the tender document.

## 5.10 Cancellation of tender process before tender opening

- a) A procuring Entity may cancel the procurement proceedings under the following circumstances—
  - i. That the procurement needs has ceased to exist or changed significantly;
  - ii. That there is no sufficient funding available for procurement;
  - iii. That there is a significant change in the required technical details, bidding conditions, condition of contract or other details such that the recommendation of proceeding is deemed necessary;
  - iv. That no responsive bids are received;
  - v. That there is evidence of corruption, fraud, coercion, or collusion among bidders;
  - vi. That cancellation of bids is deemed to be necessary for interest of national security;
  - vii. That it has been proven beyond reasonable doubts that the procurement process was not initiated in accordance with the provision of the Act and Regulation.
- b) Before rejecting or cancelling bids of any tender, the procurement section shall prepare a written request for approval for rejection and cancellation. This shall be submitted to the procurement committee, and shall clearly state—
  - i. Detailed reasons for recommending the rejection;
  - ii. The status of the procurement proceeding, whether bids have been opened or not; and
  - iii. Whether new procurement process is recommended, giving the modifications recommended.
- c) The reason for rejecting or cancelling all bids shall be noted in the records of the procurement section and immediately communicated to bidders. If the rejection or cancellation decision is taken

before the deadline for submission of bids, any bid received shall be returned unopened to the bidders.

### **5.11 Receipt of tenders**

- a) The tender box shall be placed in a visible place or location, at the front office;
- b) All bids, duly filled and sealed in an envelope shall be deposited in the locked tender box until opening date;
- c) The Procurement Section will spearhead the whole process and will provide clear instructions;

The receptionist at the front office—

- i. Shall be fully aware of the tenders received and the role they play towards the tenders received;
- ii. Shall make sure that the tender box is kept locked until the opening date;
- iii. Shall register all the tender received via courier and ensure they are stamped with date, time of receipt, and put the envelope unopened in the tender box;
- iv. Shall close, seal the tender box immediately after the deadline for submission of the tender.

### **5.12 Tender opening**

- a) Bids shall be opened at the time and place stipulated in the bidding documents, and it should be done immediately after the deadline for submission.
- b) The bids will be opened in the presence of the bidders' representatives who choose to attend at the time and place specified in the invitation to tender.
- c) Procurement section's actions—
  - i. Ensure that the tenderer representatives are seated separately from the tender opening committee and procurement officials;
  - ii. Ensure that the name of the organization represented, contact details of all attendees are captured in a register;
  - iii. Ensure that the security document are prevented from unauthorized inferences;
  - iv. Bring unopened tender box to the meeting room, and all tender documents received from the tenderer which couldn't fit in the tender box;
  - v. Open the tender box, and empty it;
  - vi. The Chairman of the tender opening committee shall then open the meeting and give clear instruction on how the process will be carried out;
  - vii. Ensure that tenders received after the deadline to be returned unopened
  - viii. Check for any withdrawal or modifications submitted, and matched with the original tenders;

- ix. Open the first bid document confirming all it was marked and sealed and has not been tampered with;
- x. Sign and stamp on each copy of the tender, and give each tender a sequential serial number;
- xi. Examine the contents of the envelope and identify, stamp, sign and number all the originals and copies, and any support documents;
- xii. Clearly read out to the committee the details of each tender from the original copy—
  - 1. The number allocated to the tenderer;
  - 2. Name, country of the tenderer;
  - 3. Any tender withdrawal, or amendments;
  - 4. The currency of the tender;
  - 5. The total price/amount quoted;
  - 6. Any discounts offered;
  - 7. Tender security;
  - 8. Any other information provided.
- xiii. Pass all tender securities to the representative of the tenderer;
- xiv. Any corrections to the price, or errors shall be circled in red ink and signed;
- xv. Record the details read out of each tender in the tender opening register;
- xvi. Any extra envelope containing substitutions, modifications, must be scrutinized like any other document;
- xvii. Minutes of the tender opening shall be prepared by the procurement section and signed by the Chairman of the tender opening committee. The minutes can be shared with tenderers.

### **5.13 Issue of request for quotations (RFQ)**

- a) The standard tender document format for RFQ shall be used for simple procurement. The Procuring Entity may use RFQ when procuring for goods, works, and services which are available in the market and whose cost is lower than the value specified in the threshold.
- b) In the procurement of goods and services, the PE shall use request for quotations, which shall contain the following information—
  - i. Quotation number;
  - ii. Name and address of the PE;
  - iii. Name and address of supplier invited to quote;
  - iv. Date and time of submission of the quotation;
  - v. Description of the item including item no, specifications, unit of issue, quantity required;
  - vi. Unit price, discount, total cost;

- vii. Space for official use;
  - viii. Space for supplier's signature.
- c) Submission process of RFQs shall entail—
- i. All quotations shall be submitted in a plain sealed envelope;
  - ii. The quotation shall be deposited in the quotation box;
  - iii. The quotation shall specify the closing date and time.

#### **5.14 Opening of RFQs**

- a) Quotations are immediately opened after the specified deadline for submission;
- b) Opening shall be witnessed by at least a committee of 3 persons, one must be a procurement specialist;
- c) Successful quotation shall be the one with the lowest price, and meet all the requirements set in the quotes;
- d) The procurement shall reject all offers whose price is above the prevailing real market price.

#### **5.15 Tender evaluation**

- a) Tender evaluation process shall be carried out in three stages as follows
  - i. Preliminary Evaluation;
  - ii. Technical evaluation; and
  - iii. Financial/commercial evaluation.

##### **5.15.1 Preliminary Evaluation**

- a) Upon opening of tenders, pursuant to Article 80 of Public Procurement, Concession and Disposal Act 2015, the evaluation committee shall first conduct a preliminary evaluation to determine whether—
  - i. The tender has been submitted in the required format;
  - ii. The required number of copies of the tender have been submitted;
  - iii. All the required documents and information have been submitted;
  - iv. Any samples required have been submitted;
  - v. The tender has been correctly authorized.

##### **5.15.2 Technical evaluation**

- a) After preliminary evaluations have been finalized, the successful bidders shall be subjected to a technical evaluation;



- b) A technical evaluation shall be conducted by comparing each tender to the technical requirements of description of goods, works or services in the tender documents;
- c) The technical evaluation committee shall analyze, question and evaluate the technical capacity of each bidder and give their verdict. The committee shall reject all bidders that do not meet technical requirements.

#### **5.15.3 Financial evaluation**

- a) Upon completion of the technical evaluation of tenders under the regulation, the evaluation committee shall then conduct financial evaluation and for comparison to determine the evaluated price of each technically qualified bidder.

#### **5.16 Standstill period prior to Award of Contract**

- a) There should be a grace period of 14 days between notification of award to the successful bidder and the award of contract. The standstill period will allow the unsuccessful bidders to lodge their complaints, if any.

#### **5.17 Notification of award**

- a) The Procuring Entity shall notify the successful tenderers and at the same time notify the unsuccessful bidder/s. The contract will not be issued to the successful bidder until the lapse of standstill period. If no complaints have been received within the 14 days, then contract award shall be made.

#### **5.18 Award of Contract**

- a) The contract shall be awarded to the bidder who has offered the lowest evaluated tender price.
- b) The tenderer whose tender has been accepted will be notified of the award prior to expiration of tender validity period in writing.
- c) The Contract Agreement will incorporate all agreements between the Procuring Entity and the successful bidder.
- d) The agreement shall be signed by the PE and sent to the successful bidder, within 21 days of receipts, the successful bidder will sign the agreement letter and return it to the PE.
- e) The PE may at any time terminate procurement proceeding before contract award and shall not be liable to any person for the termination.
- f) The Procuring Entity shall give prompt notice of the termination to the bidders and on request, give its reason for terminations.

#### **5.19 Internal Controls**

- a) The procurement section shall—

- i. Ensure that bids are placed under lock and key until the evaluation process is completed;
- ii. Ensure that the tender box is locked until the time for tender opening;
- iii. Ensure that the key for each lock is kept by different officers;
- iv. Ensure that the appropriate tender forms are used for different tendering process;
- v. Ensure that the tender process is not carried out by one officer from the beginning to the end;
- vi. Ensure that the opened bids are marked, signed, and stamp so that they are not tampered with;
- vii. Ensure fairness and equity in all stages of the tender process i.e. from invitation to award;
- viii. Ensure that there is adequate justification for extending the deadline for submission of bids.

## **CHAPTER 6: CONTRACT MANAGEMENT**

- a) Contract management involves the preparation, documentation, processing and approval of contract documents. This ensures that the contract entered into, between the PE and contractor is performed as per the terms and conditions stated in the contract.

- b) There are post contract issues that need to be closely monitored and resolved before contract completion date.

## **6.1 Contract Administration**

- a) The contract administrator ensures that the contractor supplies the right quality and quantity of items and at the right time as specified in the contract. The contract Administrator is responsible for—
  - i. Monitoring the contract performance, to ensure that all performance obligations are met;
  - ii. Ensuring that the contractor submits all the required documentation as stated in the bidding documents;
  - iii. Ensuring that that there is adequate cost, quality and time control;
  - iv. Ensuring any variations must be justified in writing;
  - v. Managing any handover or acceptance procedures;
  - vi. Ensuring that the contract is complete, before closing the contract file including release of tender security, final retention payment has been made.

## **6.2 Contract Performance**

- a) The contractor or service provider's performance against the contract must be monitored on a routine basis. The Chief Engineer shall—
  - i. Notify the contractor immediately in writing of any failings in performance and seek an agreed solution;
  - ii. Update the contract file regularly to reflect the monitoring of performance of the contract.

## **6.3 Defects Liability**

- a) The contractor has to bear the responsibility to repair any defects at his own cost unless the defects are as result of poor designing where the contractor was not involved.

## **6.4 Payments for Works**

The Chief Engineer raises payment for works. The PE shall therefore—

- a) Prepare completion certificate for the works;
- b) Prepare payment voucher and will attach—
  - i. Contractors invoice and original contract letter;
  - ii. Interim and final inspection reports;
  - iii. All the supporting documents of the bids;
  - iv. Record the payment in the payment file;
  - v. Forward the payment to the accounts unit for processing.

## 6.5 Resolution of contractual disputes

- a) The contractual disputes are normally solved between the Contractor and PE.

## 6.6 Termination of contract

- a) Either of the parties have the right to terminate the contract. The PE should be aware of the contract conditions and penalties as a result of contract termination. The PE should request approval from the tender committee (TC) and shall give the following—
  - i. Reason for termination;
  - ii. Contractual ground for terminating;
  - iii. The cost associated with termination.

## 6.7 Contract amendment

- a) Increase or decrease of the contract price, or change of government policies may necessitate contract amendment, but this has to be captured in the initial contract.
- b) The supervising department shall—
  - i. Identify and agree with the contractor or service provider on the specific clauses in the contract which need to be changed, and the new terms and conditions which are to apply;
  - ii. Prepare a draft contract amendment document for approval, together with a report justifying the reason for amendment;
  - iii. Obtain approval from the relevant authority;
  - iv. Distribute copies in the same way as the original contract.

## 6.8 Risk management

- a) Risk can be managed as follows;
  - i. Selecting a procurement method;
  - ii. Seeking, clarifying and closing offers;
  - iii. Identifying the preferred contractor;
  - iv. Evaluating bids;
  - v. Negotiating the contract;
  - vi. Managing the contract;
  - vii. Evaluating the procurement process.

## 6.9 Initial and final takeover

- a) The inspection and acceptance committee shall certify the initial and final takeover of works and—
  - i. Once inspection and acceptance committee issues the takeover certificate any money retained may be paid to the contractor;

- ii. After all the defects are rectified, the IAC shall certify the final takeover of the works and sign the certificate of completion;
- iii. Once the certificate of completion is signed, payment voucher is raised for any balance of any retention monies due to the contractor.

### **6.10 Internal control**

- a) Ensure that the terms and conditions of the contract are adhered to by both parties;
- b) Ensure that proper clarify is provided on project specifications and design;;
- c) Ensure that there is segregation of duties among the officers handling the contracts
- d) Ensure that the contract file is regularly updated;
- e) Ensure that the procurement office shall ensure that goods, works, and services are checked against contracts, waybill, invoices and delivery notes;
- f) Ensure that physical checking shall be done by the requisitioning department and not by the procurement section;
- g) All payments must be made in accordance with the contractual terms.

## **CHAPTER 7: RECORDS MANAGEMENT**

### **7.1 Documentation**

- a) The PE shall maintain both printed and electronic files and records of all procurement proceedings. Under article 31 of Public Procurement, Concession and Disposal Act 2015, the PE shall retain and maintain all documentation for a minimum period of six (6) years after the date of final completion of the procurement process.

## 7.2 Filing

- a) The procuring entity ensures that all the procurement files are clearly labeled in sequential order with unique identification code.

## 7.3 Records Management

- a) The procuring Entity shall maintain record of all procurement proceedings. Such information shall include—
  - i. Requisitions;
  - ii. Term of Reference;
  - iii. Quotations;
  - iv. Tender documents;
  - v. Tender opening information;
  - vi. Record of tender securities;
  - vii. Evaluation report;
  - viii. Contract awards;
  - ix. Signed contract document;
  - x. Record of claims and dispute resolutions;
  - xi. Inspection and acceptance reports;
  - xii. Copy of invoice;
  - xiii. Copy of payment Voucher;
  - xiv. Record of retentions and release;
  - xv. Record of security release.
- b) Records and documents maintained by the PE shall be made available for inspection upon request by investigators and auditors. Donors shall also have access to all procurement files for the purpose of audit and review.

## CHAPTER 8: Procurement Reporting & Monitoring

- a) Reporting of procurement proceedings is very essential for budgeting, planning and monitoring and evaluation.
- b) The PE shall on regular basis submit procurement reporting to the General Manager of the Authority.
- c) Tender committees shall submit monthly procurement report to the General Manager.

- d) The purpose of monitoring is to compare the planned activities against the actual performance, and also to assess whether there is major variations with what was planned; and make adjustments in the procurement plans.

### **8.1 Procurement Monitoring and Evaluation**

- a) The procurement section shall maintain records for monitoring procurement and updating the management on procurement status.
- b) The report shall be analyzed into goods, works, and services. Procurement monitoring and evaluation is conducted by the PE to—
  - i. Ensure that the procurements tally with the annual budget and procurement plan;
  - ii. Identify any gaps in the procurement processes;
  - iii. Assess performance of the procurement section;
  - iv. Identify any risk and mitigations.

### **8.2 Sources of Information**

Procurement monitoring and evaluation information is derived from—

- a) Requests for variations from the procurement procedures
- b) Monthly Procurement reports;
- c) Regular meetings;
- d) Routine reviews or procurement audits;
- e) Auditors reports;
- f) Contractual disputes.

### **8.3 Other monitoring and evaluation activities**

- a) Conduct regular follow up meetings with stakeholders to report on procurement status;
- b) Undertake periodic reviews of Procurement performance of PEs and advice on issues that require attention;
- c) Review and initiate remedial action as per the tenderer's complaints;
- d) Undertake a programme of routine sampling of records of procurement proceeding, and report findings and recommendations to the PE;
- e) Review the procurement procedures, guidelines, standard documentation, and report any area that need improvements;
- f) Consolidate all the findings, recommendations and report the same to the PE.

## **CHAPTER 9: COMPLAINTS ON THE PROCUREMENT PROCESS**

### **9.1 Review of Procurement Process**

- a) A potential bidder that claims to have suffered loss or injury due to a breach of a duty imposed on the Procuring Entity may seek a review at the stage of procurement proceedings in accordance with Article 55 of the Public Procurement, Concession and Disposal Act 2015.
- b) Complaints should be addressed to the Public Procurement Administrative Review Board.
- c) An application for review shall not be entertained unless it identifies the specific act of omission, agency or PE alleged to have violated the Act or the Regulations and the bidding documents.
- d) The Purpose of the Review Panel is to conduct independent administrative reviews of complaints raised by the bidders.



- e) The Review Panel is composed of five (5) members appointed by the Minister (MoPWRH). Three (3) members shall be Professionals from different backgrounds and two (2) members from Private Sector

#### **9.1.1 Review by the Independent Procurement Administrative Review Board**

A bidder shall be entitled to seek review and may submit a complaint to the independent Procurement Review Panel if—

- a) A bidder who is aggrieved by a decision made by a PE may henceforth make an application to the Review Panel;
- b) A bidder who alleges that the PE has a conflict of interest in respect of a matter before the PE and who believes that the matter cannot be handled impartially by the Procuring Entity, may apply to the Review Panel for a determination of the allegation.

#### **9.1.2 Remedies available to aggrieved parties**

If the aggrieved parties are not satisfied with the outcome of Independent Procurement Administrative Review Board, the aggrieved parties may seek—

- a) Judicial review. A party aggrieved by the decisions of the Review Panel may within 14 days after being notified of the final decision, apply for judicial review in the High Court;
- b) Request for further review of the independent administrative review Board.

#### **9.1.3 Intervention of The Review Board on Investigations**

A request can be made to the Review Board of the decision taken by the General Manager within 21 days, upon the prescribe fee. The board may—

- a) Dismiss the case if not valid; or
- b) The Review Board may meet to review the request.

After the conclusion of the reviews, the Review Board May—

- i. Reject the decision or confirm the same; or
- ii. The Review Board may order compensation payment.

## **CHAPTER 10 Disposal of Unserviceable Assets**

The PE shall ensure that the entire inactive/surplus asset are identified and disposed off to benefit SNHA.

Disposal of unserviceable, obsolete, or surplus supplies and equipment shall be by the following methods.

- a) Transfer to the government department or other public entities where the asset may be useful;
- b) Sale by public bidding to the highest bidder, provided the following criteria is met—
  - i. Setting of a reserve price;
  - ii. Public advertisement issued in designated mandatory procurement bulletins of widely circulated media;
  - iii. The advertisement shall indicate the time and place for submission of bids;
  - iv. The timeline for bids opening shall not be less than 14 days;
  - v. Bids shall be opened in the presence of the public and all interested bidders;
  - vi. Bid prices shall be read out loud to all.
- c) Sale by Public auction, subject to:

- i. Setting of a reserve price;
  - ii. Public advertisement in at least one widely used newspaper inviting bidders to inspect and view the items to be auction;
  - iii. The advertisement shall indicate the time and place for auction.
- d) Destruction, burying, or dumping, or other forms of disposal as appropriate, but this method can be used—
  - i. Where the asset has no residual value, or cannot be utilized by other entities;
  - ii. Where the asset is not fit for use;
  - iii. Where the disposal is rendered necessary on the grounds of national security or public interest.
- e) Any disposal method shall only be done with written approval of SNHA General manager.