

The Gambia

Draft Procurement Instructions

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PART I. GENERAL PROVISIONS

Reserved.

**PART II. ORGANISATIONAL ASPECTS OF PUBLIC
PROCUREMENT**

Reserved.

**PART III. OVERSIGHT AND MANAGEMENT OF PUBLIC
PROCUREMENT**

Reserved.

PART IV. PROCUREMENT OPERATIONS

INSTRUCTION IV.1: APPOINTMENT OF CONTRACTS COMMITTEE

Ref.: Regulation 19

- (1) The permanent members of the contracts committee may be appointed for a term of up to three years. This term is renewable.
- (2) A candidate for appointment as a member of a Contracts Committee should ideally:
 - (a) Have a university degree or equivalent professional qualification;
 - (b) Be a permanent resident of The Gambia;
 - (c) Be of good and honest character;
 - (d) Possess a thorough knowledge of the Acts, Regulations and Instructions regulating public procurement in The Gambia; and
 - (e) Complete procurement training as defined by the Authority or possess equivalent knowledge and skill gained by experience as recognised by the Authority.
- (3) Any ad hoc member, as referred to in section 49(5) of the Act, shall comply with the rules of conduct applicable to the Contracts Committee.
- (4) A member of the Contracts Committee can be removed by the Accounting Officer or Chief Executive Officer of the procuring organisation for just cause. Just cause may include, but not be limited to:
 - (a) Conviction of a criminal offence other than minor traffic violations;
 - (b) Serious illness or loss of physical or mental capacity that impinges upon the proper execution of duties;
 - (c) Gross incompetence;
 - (d) Conduct demonstrating serious disregard of the rules of conduct set forth in section 28 of the Act; and
 - (e) Repeated absence or failure to attend meetings.

INSTRUCTION IV.2: PARTICIPATION BY SMALL ENTERPRISES

Ref.: Regulation 24, 123(1)

1. Definitions

The following definitions relating to small enterprise participation are used in these Instructions:

- (a) *Large business* means any entity that is not an SME.
- (b) *SME* means:
 - (i) an entity legally registered to do business in The Gambia,
 - (ii) which is engaged in active business activities in The Gambia,
 - (iii) which employs residents of The Gambia, and
 - (iv) which is in good standing.
- (c) *Committed SME subcontract amounts* means an amount equal to:
 - (i) the value of work performed in-house by an SME who is competing as a prime contractor for the award of a contract, plus
 - (ii) the value of existing contracts between a prime contractor and an SME subcontractor, and any other form of a firm, legally-binding commitment (e.g. letter of intent) between the prime contractor and the SME subcontractor, and which,
 - (iii) does not contain any of the following burdensome provisions imposed on the subcontractor:
 - 1. A right of set-off in favour of the prime contractor;
 - 2. Rights given to the prime contractor or his agent with no recourse to independent adjudication in the event of a dispute arising;
 - 3. Payment procedures based on a pay-when-paid system;
 - 4. A dispute resolution procedure that does not include inexpensive alternative dispute resolution (ADR) procedures such as arbitration or mediation;
 - 5. Unreasonable retention percentages and periods of retention;
 - 6. Conditions that are more onerous than those that exist in the prime contract.
- (d) *Subcontracting Plan* means a general description and value of work to be performed by the prime contractor "in house" plus a description and value of all committed SME subcontracts as defined in this guideline. For purposes of evaluation during the contract award adjudication process, the subcontracting plan shall contain for all committed SME subcontracts:

- (i) The name of the subcontractor;
- (ii) The objective of the subcontract;
- (iii) The duration of the contract;
- (iv) The type of commitment (existing or proposed subcontract, and if the latter, a description of how the commitment will be enforced if prime contract is awarded);
- (v) A certification by the prime contractor that no burdensome provisions as described in this guideline are or will be part of the subcontract.

2. List of measures to promote small-enterprise participation

The Authority shall, as stated in section 37(2) of the Act, identify and promote ways of facilitating participation by small enterprises in public procurement. Such measures may include, for example:

- (a) To assist local SME's, Contracts Committees shall encourage SME's to become viable competitors for prime contract opportunities. Also, large businesses will be encouraged to subcontract with SME's in all contracts;
- (b) Simplification and transparency in procurement rules;
- (c) Commercial approach to technical requirements, which widens the possibility of competition and participation by more enterprises;
- (d) Promptness in payment of invoices, including progress payments, and introduction of electronic payment;
- (e) Facilitating access to financing of government receivables;
- (f) Facilitating access to third party security instruments such as bank guarantees, stand-by letters of credit, surety bonds;
- (g) Access to technical data that the government is entitled to release for re-procurement purposes;
- (h) Encouraging in general small-business subcontracting opportunities;
- (i) Where feasible, dividing proposed acquisitions of goods and services into reasonably small lots to permit offers on quantities less than the total requirement;
- (j) Establishing small-enterprise set-asides (may be total, partial, or limited to a particular region);
- (k) In the event of equal low bids, making awards first to small enterprises;
- (l) Allowing the maximum amount of time practicable for the submission of offers;

- (m) Training of public procurement officials in facilitating participation by small enterprises, and training of both public and private sectors in application of procurement procedures, including use of various payment mechanisms, and use of contractual instruments such as INCOTERMS;
- (n) Avoiding excessive regulatory burdens;
- (o) In collection and reporting of data, accurately measuring the extent of small business participation in procurement; publication of notices of planned procurement.

3. Representation by bidder

- (1) To be eligible for award as a small enterprise, a bidder must represent in good faith that it is a small enterprise at the time of its written representation. A bidder may represent that it is a small enterprise in connection with a specific solicitation if it meets the definition of a small enterprise applicable to the solicitation and has not been determined to be other than a small enterprise.
- (2) The procuring organisation shall accept a bidder's representation in a specific bid or proposal that it is a small enterprise unless:
 - (a) Another bidder or interested party challenges the concern's small enterprise representation; or
 - (b) The procuring organisation has a reason to question the representation.

Challenges of and questions concerning a specific representation shall be referred to the Authority, not later than seven days after bid opening. The Authority shall promptly furnish to the enterprise whose representation is being protested a copy of the protest. Within three days after receiving a copy of the protest, the challenged bidder must file with the Authority a statement answering the allegations in the protest, and furnish evidence to support its position. Within fourteen days after receiving a protest, the challenged bidder's response, and other pertinent information, the Authority shall determine the size status of the challenged concern and notify the procuring organisation, the protester, and the challenged bidder of its decision by certified mail, return receipt requested.

4. Penalties

Large businesses, which falsely state any material fact to obtain a benefit under this guideline, including the inclusion of the onerous provisions stated in subparagraph (c)(iii) of section 1 in subcontracts with SME's, may be subject to debarment proceedings.

5. Incentives

To provide an incentive for SME's to participate in public contracting, and for large businesses to form strong links with SME's, contracts with an estimated contract value equal

to or greater than 2,000,000 dalasis shall be awarded on the basis of the lowest evaluated tender or most advantageous proposal, based on a balance of trade-offs between price, quality and the level of prime or subcontracting with SME's.

6. Evaluation for Award

- (1) All competitors for the award of a contract estimated at or above 2,000,000 dalasis shall prepare and submit a subcontracting plan with their tender or proposal.
- (2) Prime contractors who are themselves SME's will be evaluated on the basis of work performed in-house as well as work performed under committed SME subcontracts.
- (3) Large businesses will be evaluated on the basis of work performed under committed SME subcontracts.
- (4) For such contracts, tenders shall be adjudicated using a weighting system based on the following:

1. Price/Other:	90 points
2. SME Subcontract participation value:	10 points (variable)
TOTAL:	100 points

The SME subcontract participation value shall be an amount from 1 to a maximum of 10 points. This shall be applied to all tenders or proposals from competitors in procurements equal to or over the threshold amounts according to the following scale:

Points for Evaluation Purposes	Percentage of Total Price in the Bid, Tender or Proposal Committed to SME Subcontractors
1	More than 5 percent but less than 10 percent
2	More than 10 percent but less than 15 percent
3	More than 15 percent but less than 20 percent
4	More than 20 percent but less than 25 percent
5	More than 25 percent but less than 30 percent
6	More than 30 percent but less than 35 percent
7	More than 35 percent but less than 40 percent
8	More than 40 percent but less than 45 percent
9	More than 45 percent but less than 50 percent
10	More than 50 percent

PART V. PROCUREMENT PLANNING

INSTRUCTION V.1: FRAMEWORK AGREEMENTS

Ref.: Regulation 26

1. General guidance for framework agreements

- (1) When, for economic, technical or financial reasons, the frequency or extent of the procuring organisation's requirements cannot be determined with sufficient accuracy in the bidding documents, the procuring organisation may conclude an indefinite quantity contract or some other appropriate type of framework purchase order contract.
- (2) Framework transactions are contractual arrangements that can provide an efficient, cost effective and flexible means to procure goods, works or services that the procuring organisation needs continuously or repeatedly over a period of time. Spare parts for routine equipment maintenance, office supplies such as stationery and pens, and medical supplies such as bandages are common examples of the types of goods that might be purchased under a framework transaction. On-call routine maintenance services, like plumbing and electrical repairs, illustrate the type of service needs that may be procured efficiently under framework transactions.
- (3) The purchase order contract sets forth the nature, specifications, and price of deliveries; it sets the minimum and maximum levels of the deliveries, in terms of value or quantity, and the duration of the contract.
- (4) The contract is implemented through the issuance of successive purchase orders, as needs arise. Each purchase order shall specify which of the items enumerated in the framework agreement, and the quantity, is being ordered.
- (5) When the procuring organisation seeks to enter into a framework transaction, it should use the procurement procedures most appropriate to the goods, works or services it is purchasing. Standard contract conditions also apply. In addition, there are special contractual conditions that need to be used depending upon the type of framework arrangement that the procuring organisation is seeking to establish as is set out in this Instruction.

2. Framework agreement categories

Framework transactions may be set up in a variety of different ways. Two broad categories are Requirements Arrangements and Indefinite Quantity Arrangements. Different types of arrangements may be set up under each category.

2.1 Requirements Arrangements

The following common arrangement represents the best practices:

- (a) A competition is held in accordance with the procurement rules and procedures, and a framework agreement is awarded to a single supplier for a specified period of time for one or more goods, works or services at an agreed price. During the period of the arrangement, the procuring organisation promises to place all of its orders with the successful contractor and the contractor promises to fill the orders. This type of arrangement guarantees the supplier an exclusive relationship and ensures the procuring organisation a source of supply. It saves the procuring organisation the administrative cost of repeated procurements within a short period of time and also should result in overall better prices. This type of arrangement might be used for stationery or maintenance contracts.

2.2 Indefinite Quantity Arrangements

The following common arrangement represents the best practices:

- (a) A competition is held in accordance with the procurement rules and procedures, and a framework agreement is awarded to a single supplier for a guaranteed minimum quantity of one or more goods, works or services at an agreed price. This type of arrangement is used when the procuring organisation does not know the quantity it may need over a fixed period, but must guarantee to purchase a minimum quantity in order to interest suppliers in the procurement. Like the arrangement described above, deliveries or performance are scheduled by placing orders with the supplier. Circumstances for using this type of arrangement include goods made to specific specifications; for example, a product imprinted with a specific logo that requires the supplier to set up a special process for producing the product. If there is no alternative market for the product, the supplier must have a guaranteed minimum quantity in order to justify the cost of production. However, the framework arrangement also allows the procuring organisation to order additional quantities as needed at an agreed price.
- (b) A competition is held in accordance with the procurement rules and procedures and a framework agreement is awarded to two or more suppliers for a specified period of time for the same or alternative goods, works or services at an agreed price. During the period of the arrangement, the procuring organisation promises to place a minimum quantity of orders with each supplier. Again, this type of arrangement is used when the procuring organisation does not know the quantity it may need over a fixed period, but under the circumstances of the procurement, the procuring organisation prefers contracting with more than one supplier. There are various reasons that this might be preferred. For example, because of the nature of the object of the procurement, the procuring organisation may want to ensure more than one source of supply. Or, the procuring organisation may contract for a minimum amount of alternative objects because it does not know which will be best for additional supply. In other circumstances, it may be more economical to divide the procurement between several suppliers. For example, one maintenance supplier may offer the best price in one geographical region while another supplier can offer a

better price in another regional. Here again, the deliveries or performance are scheduled by placing orders with each supplier.

- (c) A competition is held in accordance with the procurement rules and procedures and a framework agreement is awarded to a two or more suppliers for a specified period of time for goods, works or services that are to be specified and priced with each order. For example, the procuring organisation expects that it will need engineering consultant services on several public works projects over the next two years. It enters into a framework arrangement with two or more engineering-consulting firms to perform the services as and when needed. When the specific service is needed, the procuring organisation competes the specific order among those who are parties to framework agreements won under the initial competition. The supplier that submits the most successful tender or the most advantageous proposal wins the particular order.

3. Contract conditions

3.1 Contract conditions for all Framework Arrangements

The following conditions shall be included in all framework arrangements:

(a) Ordering:

- (i) Any goods, works or services to be furnished under this contract shall be ordered by issuance of delivery orders or specific task orders by the procuring organisation. Such orders may be issued from _____ through _____ [insert dates].
- (ii) All delivery orders or specific task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or a specific task order and this contract, the contract shall control.
- (iii) If mailed, a delivery order or specific task order is considered "issued" when the procuring organisation deposits the order in the mail. Orders may be issued orally or by electronic communication methods only if authorised in the contract.

(b) Order Limitations:

- (i) Minimum order: when the procuring organisation requires goods, works or services covered by this contract in an amount of less than _____ [insert currency figure or quantity], the procuring organisation is not obligated to purchase, nor is the Supplier obligated to furnish, those goods, works or services under the contract.
- (ii) Maximum order: the Supplier is not obligated to honour:
1. Any order for a single item in excess of _____ [insert currency figure or quantity]; or
 2. Any order for a combination of items in excess of _____ [insert currency figure or quantity]; or

3. A series of orders from the same ordering office within _____ days that together call for quantities exceeding the limitation in subparagraph (ii)(1) or (2).
- (iii) If this is a requirements arrangement (i.e., includes the requirements condition), the procuring organisation is not required to order a part of any one requirement from the Supplier if that requirement exceeds the maximum-order limitations in subparagraph (ii).
- (iv) Notwithstanding subparagraphs (ii) and (iii), the Supplier shall honour any order exceeding the maximum order limitations in subparagraph (ii), unless that order (or orders) is returned to the ordering office within _____ days after issuance, with written notice stating the Supplier's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the procuring organisation may acquire the goods, works or services from another source.

3.2 Contract conditions for Requirements Arrangements

The following conditions shall be included in Requirements Arrangements:

- (a) This is a requirements arrangement for the goods, works or services specified, and effective for the period stated, in the contract. The quantities of goods, works or services specified in the contract are estimates only and are not purchased by this contract. Except as this contract may otherwise provide, if the procuring organisation's requirements do not result in orders in the quantities described as "estimated" or "maximum" in the contract, that fact shall not constitute the basis for an equitable adjustment.
- (b) Delivery or performance shall be made only as authorised by orders issued in accordance with the Ordering clause. Subject to any limitations in the Order Limitations clause or elsewhere in this contract, the Supplier shall furnish to the procuring organisation all goods, works or services specified in the contract and called for by orders issued in accordance with the Ordering clause. The procuring organisation may issue orders requiring delivery to multiple destinations or performance at multiple locations.
- (c) Except as this contract otherwise provides, the procuring organisation shall order from the Supplier all the goods, works or services specified in the contract that are required to be purchased by the procuring organisation activity or activities specified in the contract.
- (d) The procuring organisation is not required to purchase from the Supplier requirements in excess of any limit on total orders under this contract.
- (e) If the procuring organisation urgently requires delivery of any quantity of an item before the earliest date that delivery may be specified under this contract, and if the Supplier will not accept an order providing for the accelerated delivery, the procuring organisation may acquire the urgently required goods, works or services from another source.

- (f) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Supplier within the time specified in the order. The contract shall govern the Supplier's and procuring organisation's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Supplier shall not be required to make any deliveries under this contract after _____ [insert date].

3.3 Contract conditions for Indefinite Quantity Arrangements

The following conditions shall be included in Indefinite Quantity Arrangements:

- (a) This is an indefinite-quantity contract for the goods, works or services specified, and effective for the period stated, in the contract. The quantities of goods, works and services specified in the contract are estimates only and are not purchased by this contract.
- (b) Delivery or performance shall be made only as authorised by orders issued in accordance with the Ordering clause. The Supplier shall furnish to the procuring organisation when and if ordered, the goods, works or services specified in the contract up to and including the quantity designated in the contract as the *maximum*. The Government shall order at least the quantity of goods, works or services designated in the contract as the *minimum*.
- (c) Except for any limitations on quantities in the Order Limitations clause or in the contract, there is no limit on the number of orders that may be issued. The procuring organisation may issue orders requiring delivery to multiple destinations or performance at multiple locations.
- (d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Supplier within the time specified in the order. The contract shall govern the Supplier's and the procuring organisation's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Supplier shall not be required to make any deliveries under this contract after _____ [insert date].

INSTRUCTION V.2: PROCUREMENT REQUESTS

Ref.: Regulation 28

- (1) The procurement request should be prepared in English and, in accordance with Regulation 28, by using GPPA-Form 100: Procurement Request.
- (2) Depending on the nature of the procurement, a procurement request shall consist at a minimum of the following parts:
 - (a) Proposed instructions to bidders;
 - (b) Proposed special conditions of contract;
 - (c) Technical Specifications, as described in Instruction V.3
 - (d) Bill of quantities; and
 - (e) Drawings and plans.
- (3) In all cases, including procurement that is specially designated to a particular procuring organisation for reasons of economy and efficiency pursuant to Regulation 15, a request for procurement shall be addressed to the Chairman of the Contracts Committee who shall cause it to be properly recorded and dealt with promptly by the specialised procurement unit of the entity designated to conduct the procurement. The user body has the responsibility to solicit the approval of the budget authorities to justify availability of funds. In respect of donor funds, the request should have proof of availability of funds.
- (4) The specialised procurement unit shall examine the procurement request for compliance with the Act, the Regulations and these Instructions. In the event of non-compliance, the procurement request shall be sent back promptly and directly to the user body for the appropriate modifications.

INSTRUCTION V.3: DESCRIPTION OF PROCUREMENT REQUIREMENTS

Ref.: Schedule 1-A par. (d), Instruction V.2

1. General policy for description of procurement requirements

- (1) Standardised features, requirements, symbols and terminology relating to the technical and quality characteristics of the goods, works or services to be procured shall be used, where available, in formulating any specifications, plans, drawings and designs to be included in the pre-qualification documents or bidding documents.
- (2) Due regard shall be had for the use of standardised trade terms, where available, in formulating the terms and conditions of the procurement contract to be entered into as a result of the procurement proceedings and in formulating other relevant aspects of the pre-qualification or bidding documents.

2. Writing technical specifications

Writing technical specifications shall be done as follows:

- (a) Use the active rather than the passive voice when stating a requirement in order to be more direct and concise.
- (b) Avoid words that are vague or inexact. Rather than using routine words, search for accurate, descriptive words.
- (c) Eliminate repetition. Use simple, short and concise sentences so that a minimum of punctuation is needed. Make a conscious effort to break up long sentences.
- (d) Limit each paragraph to a single idea. State the idea at the beginning. Add other sentences only as necessary to develop and support the original idea.
- (e) Use adjectives sparingly, since they often soften nouns and make their meaning vague. For example, adjectives such as 'successful', 'substantial' and 'adequate' used to describe expected performance tend to decrease rather than increase the supplier's obligations.
- (f) Use the same words, phrases and descriptive labels throughout the text to express the same meaning; creativity comes after clarity to avoid misinterpretation.
- (g) Use mandatory language: use the word 'shall' to express a binding provision. Use the permissive terms 'should' and 'may' to express a declaration of purpose or other non-mandatory provisions. Use 'will' in cases where future action is required.
- (h) Avoid using words and phrases that obscure meaning. Do not use 'and/or' in the specifications; use 'or' to indicate an alternative and use 'and' to indicate additive requirements.

- (i) Use only abbreviations and acronyms that are commonly used or those that you will use several times per page. Identify the abbreviation or acronym the first time it is used. For complicated solicitations, it may be helpful to develop, and include in the bidding documents, a list of definitions.

3. Technical specifications for procurement of goods

Technical specifications for procurement of goods shall contain the following elements and descriptions of requirements:

- (a) Listing of the goods to be procured, including the required performance characteristics, quantity, delivery times and incidental services (e.g., operating or descriptive manuals, training of procuring organisation's personnel, installation, supplier's on-site personnel required, after sale service);
- (b) Required availability of spare parts and service during life of goods;
- (c) Descriptive literature or samples to be provided with the bid;
- (d) Description of any required performance or quality guarantee;
- (e) Technical configurations;
- (f) Inspection and quality testing to be conducted, including pre-shipment testing and inspection;
- (g) Environmental impact and safety standards to be met by the goods;
- (h) Criteria and performance tests or inspections for final acceptance.

4. Technical specifications for procurement of works

Technical specifications for procurement of works shall contain the following elements and descriptions of requirements:

- (a) General description of the scope and purpose of the works;
- (b) Precise description of scope of work to be carried out, i.e., elements such as design, works, erection, any manufacturing, installation of equipment, etc.;
- (c) Physical nature and conditions of works site;
- (d) Detailed listing of any equipment and components to be supplied;
- (e) Detailed design and drawings of work to be performed, to the extent those are to be supplied by the procuring organisation under the contracting arrangement in question;

- (f) Description of the works in terms of design details and/or performance characteristics, including specific technical descriptions and standards as to items such as plumbing, and electrical installations;
- (g) Environmental impact and safety standards to be met;
- (h) Description of performance and quality guarantees required;
- (i) Inspection and testing to be conducted at various stages of works;
- (j) Completion tests;
- (k) Technical documentation. drawings, operating manuals to be provided by contractors;
- (l) Type and quantity of training and supervision to be provided by contractors;
- (m) Inspection and performance tests to be passed for acceptance;
- (n) Schedule for starting and completion of works time.

5. Technical specifications for procurement of services other than consultants' services

Technical specifications for procurement of services other than consultants' services shall contain the following elements and descriptions of requirements:

- (a) General description of the scope and purpose of the service;
- (b) Description of the service to be supplied and the tasks to be performed by the supplier, as much as possible as performance requirements;
- (c) Conditions under which the service is to be performed;
- (d) Descriptive literature or samples to be provided with the bid;
- (e) Inspection and quality testing to be conducted;
- (f) Criteria and methods by which the procuring organisation intends to judge the performed services;
- (g) Description of performance and quality guarantees required;
- (h) Type and quantity of training and supervision to be provided by supplier.

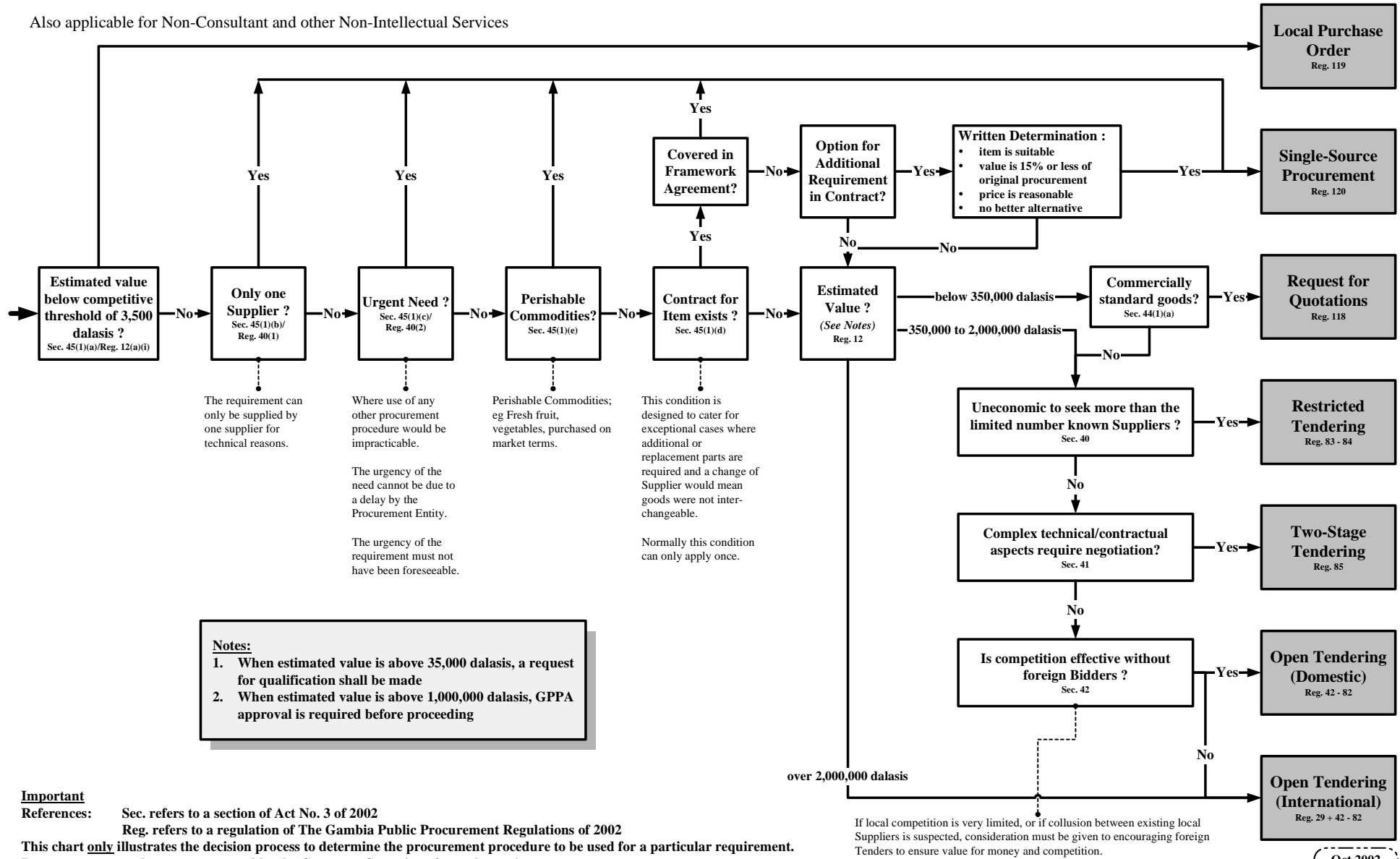
PART VI. BIDDER QUALIFICATIONS

Reserved.

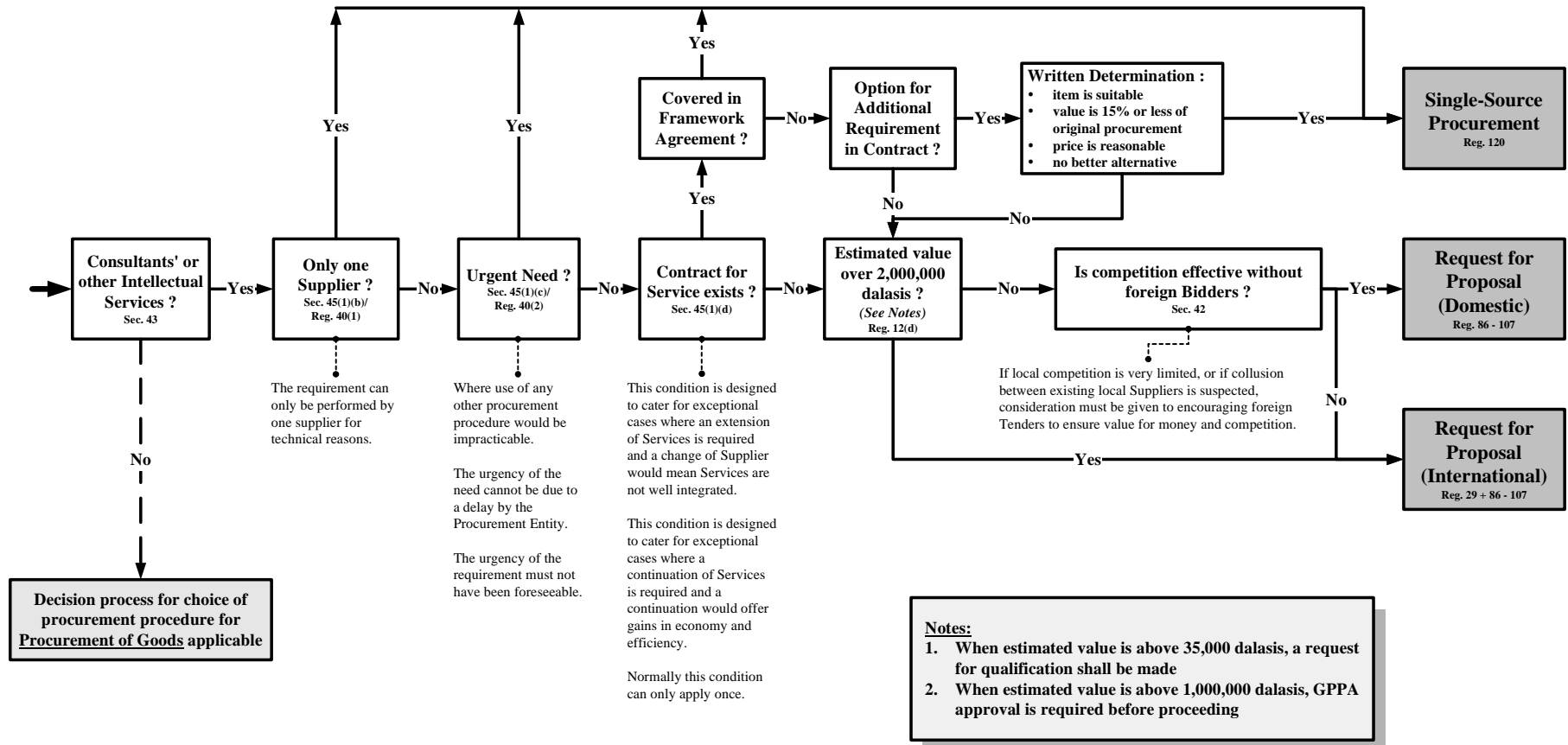
PART VII. PROCUREMENT METHODS

INSTRUCTION VII.1: DECISION PROCESS FOR THE CHOICE OF PROCUREMENT METHOD FOR THE PROCUREMENT OF GOODS

Also applicable for Non-Consultant and other Non-Intellectual Services



INSTRUCTION VII.2: DECISION PROCESS FOR THE CHOICE OF PROCUREMENT METHOD FOR THE PROCUREMENT OF SERVICES



Important

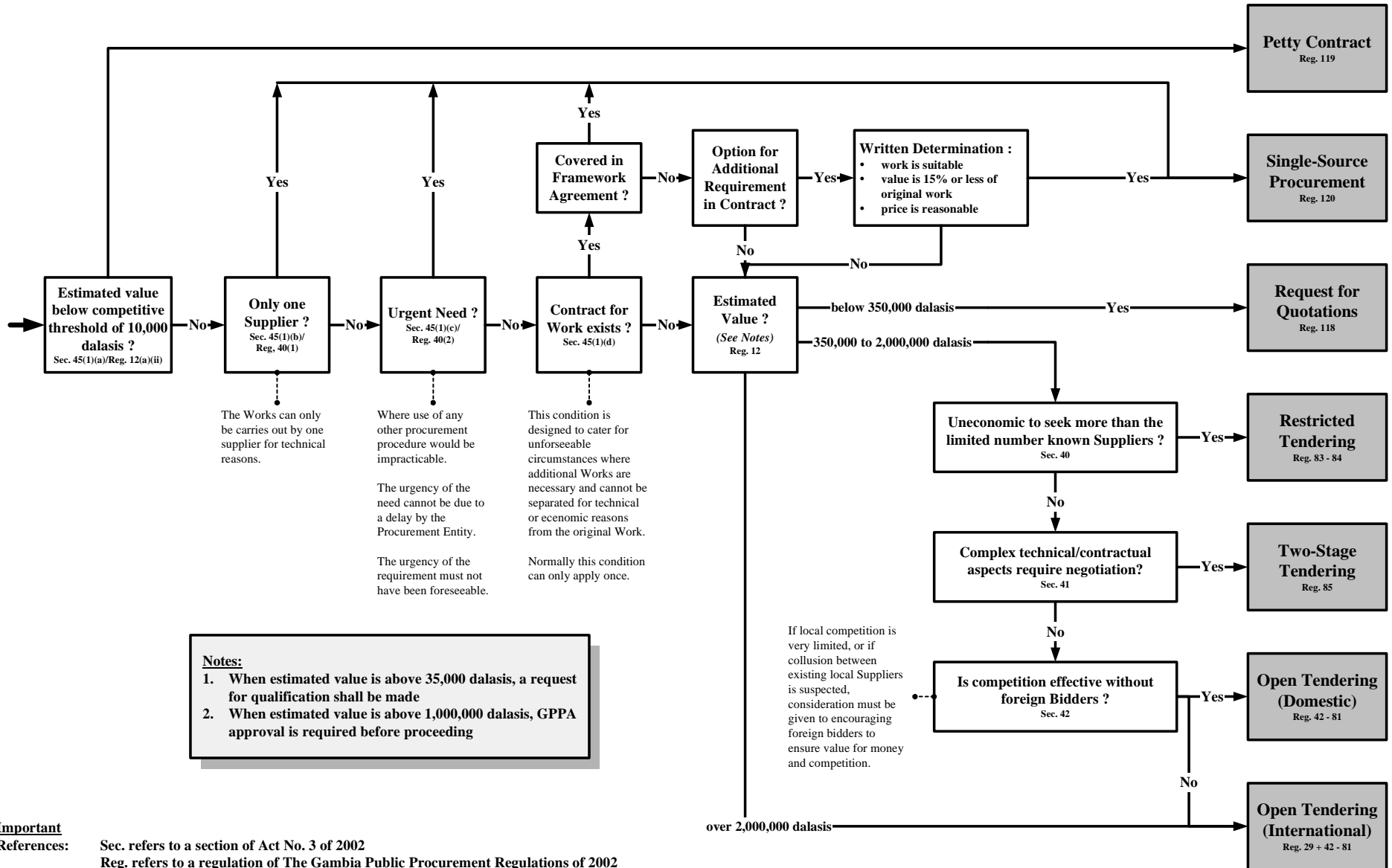
References: Sec. refers to a section of Act No. 3 of 2002

Reg. refers to a regulation of The Gambia Public Procurement Regulations of 2002

This chart only illustrates the decision process to determine the procurement procedure to be used for a particular requirement. Procurement procedures are approved by the Contracts Committee for each requirement.

Oct 2002

INSTRUCTION VII.3: DECISION PROCESS FOR THE CHOICE OF PROCUREMENT METHOD FOR THE PROCUREMENT OF WORKS



Important

References: Sec. refers to a section of Act No. 3 of 2002
 Reg. refers to a regulation of The Gambia Public Procurement Regulations of 2002

This chart only illustrates the decision process to determine the procurement procedure to be used for a particular requirement. Procurement procedures are approved by the Contracts Committee for each requirement.

Oct 2002

INSTRUCTION VII.4: RECEIPT OF TENDERS

Ref.: Regulation 54(2)

1. Reception and security of tenders

- (1) In accordance with Regulation 54(1), the procuring organisation shall ensure that all tenders, and any samples required thereunder, that it receives are kept in a secure manner that does not permit the tenders to be opened or viewed. To that end, tenders shall be kept in a locked tender box, or in a safe.
- (2) The intention of the Government of The Gambia is to employ a tender box system for all Government and Donor funded tenders. If a tender box is not available, alternative arrangements need to be made to adhere to the principles described in this Instruction.
- (3) The advantage of the tender box system is that it is the bidder's responsibility to place the tenders into the tender box, while the procuring organisation is responsible only for ensuring that the tender box is continuously available at the location detailed in the bidding documents and for closing and locking the tender box at the appointed time. This releases the procuring organisation from the responsibility of continuously manning a location to receive and provide receipts to bidders on delivery to the procuring organisation.
- (4) The following tender box construction is suggested: All plywood rectangular construction, all edges to be filed flush and smooth, all joints to be squared and flush. Outside dimensions 65 cm wide by 65 cm deep by 100 cm high, wood thickness 2 cm minimum, all joints to be glued and screwed with 4 cm screws. The box will be complete with opening 35 cm long by 10 cm wide centred onto the top of the box. The front face of the box should be hinged at the base of the box and close flush with the top of the box where it shall be secured by two large padlock clasps. The box shall be mounted so that the top of the box is 140 cm above floor level. The mount should be secure with necessary cross members. The base should be securely fitted at all four corners with heavy duty coasters/small swivel wheels enabling easy movement of the tender box. The vertical sides of the box shall be painted red and have stencilled in black the wording:

Government of The Gambia Ministry of _____ Tender Box No: _____

- (5) The tender box should be made to a specified construction, and be sequentially numbered. The tender box(es) should be located in a secure location but available to any visitor to the building. The box shall have three different locks, the Committee Chairman shall retain one key thereof, the Committee Secretary shall keep a key to the second lock and one of the other Committee members nominated by the Committee shall keep the key to the third lock.

- (6) The procuring organisation must place a special mobile/portable notice board at the entrance of the address given in the bidding documents, in accordance with the Regulations, detailing the location of the tender boxes within the building. A procuring organisation may need more than one tender box and in such cases each tender box shall be sequentially numbered. The portable notice board will indicate the precise building location of the tender box(es) and the number of the tender box for the appropriate tender.
- (7) When samples are required to accompany tenders, it is preferable that these are not delivered to the tender box. Bidding documents should stipulate separately the delivery location and deadline of packaged samples in the same fashion as the sealed tenders' documentation. The packaged samples should be clearly marked with the name of the bidder and tender to which they relate. The notice board at the entrance to the procuring organisation should indicate the room to which packages of samples should be delivered. In such a case the nominated room must be continuously manned during working hours so that packages can be received and receipts issued.
- (8) Prior to opening of tenders, disclosure of the number of the tenders and their identity shall only be done in accordance with Regulation 148(2).
- (9) Late tenders will be rejected in accordance with Regulation 55.

INSTRUCTION VII.5: TENDER OPENING

Ref.: Regulation 61(1)

1. General procedure

The opening of the tenders shall be done in accordance with Regulation 61 and the Instructions below.

2. Tender submission deadline discipline

Precisely at the time tender submission is scheduled to close, two representatives of the Contracts Committee shall be present to close the tender box (by securing two padlocks to the top opening of the box) and witness the movement of the box to the Public Opening room. Opening officials should be available at the location at least thirty minutes prior to the deadline to resolve any unforeseen events.

3. Personnel required at opening

Procuring organisations will resource each Public Opening with the following personnel:

- (a) Official 1: A Chairman who must be a Contracts Committee member. His/her duty will be to chair the public opening, witness and manage the closure of the tender box, ensure that Regulations and Instructions are complied with and also to sign / initial selected documents of the tenders to verify their receipt as part of the tender.
- (b) Official 2: A Secretary who should be a member of the specialised procurement unit. His/her duty will be to witness and manage the closure of the tender box and to record and verify details read out from tenders opened.
- (c) Official 3: A reader appointed by the Contracts Committee. His/her duty will be to examine the opened tenders and read out the details required, stamping of agreed documents/pages of the tenders for presentation to the Chairman for signature.
- (d) Optional, subject to the number of Tenders, Official 4: A person appointed by the Contracts Committee. His/her duty will be to physically manage the sealed tenders, physically open and present the tenders to the reader and later to organise and manage the tenders at the end of the opening process.
- (e) Optional, subject to the number of Tenders, Official 5: One additional person who can be from the Contracts Committee Secretariat or the user department or project who initiated the Tender requirement. His/her duty will to assist with any unforeseen events and monitor the signing of the register of attendees at the opening.

4. Planning prior to public opening

Planning prior to the Public Opening must include two areas relating to the resources necessary for the opening:

- (a) The details/data that the officials will announce at the opening; and
- (b) A suitable room for the opening and a seating plan for the room.

4.1 Details to be read out

The Chairman of the Public Opening should discuss and agree the details of the tender and determine the information to be read out. A checklist should be produced for use in the Public Opening and GPPA-Form 013: Record of Tender Opening, and GPPA-Form 015: Record of Receipt of Tender Security, should be used as a basis for the official Record of the Public Opening.

4.2 Room allocation and seating plan

Finally the Chairman will discuss and agree the seating plan arrangements for the Public Opening. This will become standard for procuring organisations however this may need to be modified for large value, complex Tenders or international Tenders. It is important to comply with four basic rules:

- (a) The process of the Public Opening should be carried out in full view of all suppliers' representatives that choose to attend.
- (b) Suppliers' representatives should only be permitted to approach the area/table the opening is being conducted at, to confirm that their envelope(s) is intact and sealed if they choose to do so. This should be done one at a time, and in full view of all other suppliers' representatives at the opening and the officials conducting the Public Opening. No additions, deletions or modifications to the contents or the sealed envelopes can be permitted. Generally suppliers' representatives must not be allowed, or encouraged, to approach the opening area for any reason whatsoever. Suppliers' representatives may only witness the opening only and not participate.
- (c) The area for the suppliers' representatives at the Public Opening should be apart and separate from the area that the envelopes are to be opened at. There should be a clear and distinct space between the envelope area and the area for the suppliers' representatives, a minimum of eight feet. Avoid wherever possible, suppliers' representatives from being seated too close to the opening officials. If the tender box is not opened at the Public Opening, then a list of tenders received should be compiled, and witnessed and signed by the Chairman when the tender box is opened.
- (d) The seating arrangement for the Public Opening officials should be arranged to facilitate the opening and reading and recording as well as the physical opening and end stacking duties as a continuous process. All possible equipment or stationery items that may be required should be at the opening (marker pens for numbering

envelopes or envelope contents, date/time stamps, ink refills, scissors, staplers, adhesive tape, etc).

5. Public Opening content

5.1 Agenda

The precise agenda should be decided in advance of the opening and should include the following:

- (a) Welcome by the Chairman.
- (b) Introduction by the Chairman of the officials who are assisting with the opening.
- (c) Statement of the tender that is to be opened (title and reference, confirm closing time and date).
- (d) Confirmation by the Chairman that the tender box was closed precisely on time and witnessed by the Chairman and an official of the procuring organisation.
- (e) Statement of how the opening will be conducted (i.e. the details of the information that will be read out).
- (f) Reminder that the attendees at the opening must sign the register at the door (await confirmation that all have signed the register).
- (g) Reminder that suppliers may not approach the opening area unless specifically invited.
- (h) Commencement of the opening process.
- (i) Completion of the opening process.
- (j) Opportunity for questions from suppliers' representatives.
- (k) Statement by the Chairman that the opening has been concluded.

5.2 Public Opening content disclosure

The detail of the tenders opened will depend solely on that stated in the bidding documents however it is normal good practice to limit this to:

- (a) Name of the bidder;
- (b) Country of the bidder;
- (c) Tender modifications or withdrawals;
- (d) Tender currency (if applicable);

- (e) Tender price;
- (f) The presence or absence of the tender security (if applicable); and
- (g) Any other information stated in the bidding documents or agreed in advance by the Chairman and the Contracts Committee Secretariat (i.e. origin of goods, delivery period quoted)

5.3 End-of-session questions

A brief time should be allowed after the tenders have been opened for questions from the audience/attendees of the Public Opening. However, questions regarding the specific details of any tender should not be answered. Specific discussions should not be entered into with any of the suppliers' representatives concerning any of the tenders. Any question to which the answer is given in the bidding documents should be answered only with the simple statement: "Please refer to the bidding documents".

5.4 Closure of the Public Tender Opening

- (1) When the details of the last tender have been announced, and a brief amount of time has been allowed for questions, the Chairman and the Secretary should sign and countersign the record of details read out and photocopies immediately obtained for distribution to those suppliers' representatives who wish to receive them. The public tender opening will be completed.
- (2) The attendees / suppliers' representatives should be encouraged to leave the room as quickly as possible. The opened tenders, which are highly confidential, should be taken from the room and kept secure until the evaluation begins.

INSTRUCTION VII.6: EVALUATION OF TECHNICAL PROPOSALS

Ref.: Regulation 95(a), 104

1. Criteria for evaluation of quality

- (1) Each technical proposal shall be evaluated using the following criteria:
- (a) The bidder's relevant experience for the assignment;
 - (b) The quality of the methodology proposed;
 - (c) The qualifications of the key staff proposed;
 - (d) Transfer of knowledge, and
 - (e) The extent of participation by nationals among key staff in the performance of the assignment.
- (2) Each criterion shall be marked on a scale of 1 to 100. Then the marks shall be weighted to become scores. The following weights are indicative, and may be adjusted for specific circumstances. The weights to be used shall be disclosed in the request for proposals, and shall be formulated taking into account the following general guidelines:

Consultant's specific experience:	10 to 20 percent of score
Methodology:	20 percent of score
Key personnel:	30 to 60 percent of score
Transfer of knowledge:	0 to 10 percent of score
Participation by nationals:	0 to 10 percent of score
Total:	100 percent of score

- (3) Use of subcriteria of the above general criteria should be limited to what is essential to conduct the evaluation.

2. Relative weighting of criteria

- (1) The weight given to experience can be relatively modest, since this criterion has already been taken into account when short-listing the bidder.
- (2) More weight shall be given to the methodology in the case of more complex assignments (for example, multidisciplinary feasibility or management studies).
- (3) More weight shall be assigned to the qualifications and experience of key personnel if the proposed assignment is complex.

- (4) When the assignment depends critically on the performance of key staff, such as a project manager in a large team of specified individuals, it may be desirable to conduct interviews.

3. Subcriteria for evaluation of key personnel

The key personnel of the bidders shall be rated according to the following subcriteria, as relevant to the task:

- (a) General qualifications: general education and training, length of experience, positions held, time with the consulting firm as staff, experience in developing countries, and so forth;
- (b) Adequacy for the assignment: education, training, and experience in the specific sector, field, subject, and so forth, relevant to the particular assignment; and
- (c) Experience in the region: knowledge of the local language, culture, administrative system, government organisation, and so forth.

4. Technical and quality rating of proposals

After conducting the technical and quality evaluation of the proposals in accordance with the criteria other than price and their relative weight as set out in the request for proposals, the procuring organisation shall rate each proposal and identify those proposals that meet or surpass the minimum quality and technical threshold set forth in the request for proposals, normally no lower than 65%.

PART VIII. CONTRACT ADMINISTRATION

INSTRUCTION VIII.1: ESTABLISHMENT OF CONTRACT ADMINISTRATION

Ref.: Regulation 121(1)

The main elements of contract administration shall include:

- (a) Holding post-award conferences with the successful bidder, and devising a specific contract administration plan;
- (b) Where appropriate, composing a contract administration team;
- (c) Development of contract implementation work plan and schedule;
- (d) Monitoring progress in implementation of the procurement contract, including determination of extent of performance accomplished periodically according to the work plan, and inspection and testing of quality aspects;
- (e) Management of variation orders, contract suspension and termination, price revisions, application of contract remedies, and dispute settlement procedures;
- (f) Management of financial aspects of contract implementation, including payments to suppliers, budgetary and cost accounting aspects; and
- (g) Organisation and management of documentation files related to contract implementation, preparing periodic reports on the implementation of contracts.

INSTRUCTION VIII.2: PRICE ADJUSTMENT

Ref.: Regulation 136(2)

- (1) Unless otherwise provided in the procurement contract, the price of a procurement contract is considered to be a fixed price when the price may not be modified in response to changes in economic or commercial conditions.
- (2) The procurement contract may provide for the possibility of price adjustment to take into account changes in economic circumstances. Price adjustment may only be made if provided for in the procurement contract.
- (3) If the contract provides the possibility of price adjustment, the following price adjustment formula shall be used to reflect changes in the cost of labour and material components:

$$P_1 = P_o \left(a + b \frac{L_1}{L_o} + c \frac{M_1}{M_o} \right) - P_o$$

In which:

- P_1 = Adjustment amount payable to the Supplier.
 P_o = Contract Price (base price)
 a = Fixed element representing profits and overheads included in the contract price and generally in the range of five to fifteen percent.
 b = Estimated percentage of labour component in the Contract Price.
 c = Estimated percentage of material component in the Contract Price.
 L_o, L_1 = Labour indices applicable to the contract on the base date and date for adjustment.
 M_o, M_1 = Material indices for the major raw material as applicable to the contract on the base date and date for adjustment, respectively.

The coefficients a , b , and c shall be specified by the procuring organisation in the bidding documents unless otherwise determined by the procuring organisation. The sum of the three coefficients should be one (1) in every application of the formula. The bidder shall indicate the source of the indices and the base date indices in its bid. Base date = thirty days prior to the deadline for submission of the bids. Date of adjustment = weeks prior to the date of shipment (representing the mid-point of the period of manufacture).

- (4) Either party may invoke the above price adjustment formula subject to the following further conditions:
 - (a) Price adjustment will be applied only if the resulting increase or decrease is more than two percent of the contract price.
 - (b) No price adjustment shall be allowed beyond the original delivery dates unless specifically stated in the extension letter. As a rule, no price adjustment shall be allowed for periods of delay for which the supplier is entirely responsible. The

purchaser will however be entitled to any decrease in the prices of the goods and services subject to adjustment.

- (c) The total adjustment under this clause shall be subject to a ceiling of plus or minus ten percent of the contract price.
 - (d) If the currency in which the contract price P_0 is expressed is different from the currency of the origin of the labour and material indices, a correction factor will be applied to avoid incorrect adjustments of the contract price. The correction factor shall correspond to the ratio of exchange rates between the two currencies on the base date and the date for adjustment as defined above.
 - (e) No price adjustment shall be payable on the portion of the contract price paid the supplier as advanced payment.
- (5) If the procurement contract provides for the possibility of price adjustment, it shall stipulate the conditions, such as increases or decreases in the cost of materials, labour, and energy, in which price adjustment would be permitted, the formulas and indices to be referred to in order to determine whether economic conditions have altered to a significant enough degree to justify a price adjustment and to identify the amount of increase or decrease, the frequency with which price adjustments may be implemented, and the procedures to be followed.

**PART IX. STANDARDS OF CONDUCT AND CONFLICTS OF
INTEREST**

Reserved.

PART X. CONTROL OF PUBLIC PROCUREMENT

INSTRUCTION X.1: ESTABLISHMENT OF NUMBERING SEQUENCE FOR PROCURING TRANSACTIONS

Ref.: Regulation 156(2)

- (1) All procurement records shall use the numbering sequence for procurement transactions as described in this Instruction.
- (2) The purpose of the system of numbering is to ensure that each and every requirement is consecutively and uniquely numbered to identify precisely the originator and file and therefore provide an audit mechanism to trace and maintain files. This number shall be known as the procurement number and shall be assigned at the requisition stage of the procurement.
- (3) The numbering system is controlled by the secretariat and monitored by the Contract Committees. If numbers are allocated to user departments they shall be periodically inspected by the Contracts Committee/Secretariat and departments held accountable for their accuracy.
- (4) Procurement numbers should not be re-used, even if the original procurement is cancelled.
- (5) The secretariat will need to maintain a database to record the status of each procurement and monitor the number of tender and contract numbers resulting each requisition. As one requisition can result in more than one tender and one tender can result in more than one contract additional fields will be required after the procurement number.
- (6) The procurement number will be composed as follows:
 - (a) The first letters shall be the commonly used abbreviation of the Procuring Organisation, e.g. DOSFEA for the Department of State for Finance and Economic Affairs;
 - (b) The Fiscal Year number in question shall follow the abbreviation, e.g. FY01/02;
 - (c) This will be followed by a dash then followed by a five-digit number, e.g. 00001 and continuous throughout the year in sequence.
- (7) The procurement number shall appear on all related procurement matters and correspondence.
- (8) The Contracts Committee may assign a block of numbers to those user units to which it delegates authority to procure.

- (9) The said procurement number shall appear at the top of all GPPA-Forms where it is designated "Procurement Number" with the following elements:

Procuring Organisation	Department	Fiscal Year	Sequence Number	Tender/RFQ/RFP Number	Contract/Purchase Order Number

Example:

DOSFEA = Department of State for Finance and Economic Affairs.

FIN&A = Finance & Administration Department.

01 = Procurement process began in Fiscal Year 2001/2002.

00056 = Sequence Number 56.

IT/RFQ/RFP 02 = Invitation to Tender (IT), Request For Quotation (RFQ) or Request For Proposal (RFP) No. 2 [from procurement 56].

PO/CO 03 = Contract (CO) or Purchase Order (PO) No. 3 [from Tender No.2 of Procurement 56].

PART XI. SUPPLY MANAGEMENT

Reserved.