

## **PART IV - ORGANIZATION OF PROCUREMENT**

### **APPROVING AUTHORITY**

- 15.** Subject to the monetary and prior review thresholds for procurements in this Law as may from time to time be determined by the Bureau, the following shall be the approving authority for the conduct of public procurement:
- (a) in the case of,
    - (i) a government agency, parastatal, or corporation, a Parastatal Tenders Board; and
    - (ii) a ministry or extra-ministerial entity, the Ministerial Tenders Board.

### **PROCUREMENT IMPLEMENTATION**

- 16.** Subject to regulations set by the Board a procuring entity shall, in implementing a procurement plan.
- (a) advertise and solicit for bids in adherence to this Law and guidelines as may be issued by the Bureau from time to time;
  - (b) receive, evaluate and make a selection of the bids received in adherence to this Law and guidelines as may be issued by the Bureau from time to time;
  - (c) obtain approval of the approving authority before making an award;
  - (d) debrief the bid losers on request;
  - (e) Resolve complaints and disputes if any;
  - (f) obtain and confirm the validity of any performance guarantee;
  - (g) Execute all Contract Agreements; and
  - (h) Announce and publicize the award in the format stipulated by this Law and guidelines as may be issued by the Bureau from time to time

### **ACCOUNTING OFFICER**

- 17.** (1) The accounting officer of a procuring entity shall be the person charged with line supervision of the conduct of all procurement processes; in the case of ministries, the Permanent Secretary and in the case of extra - ministerial departments and corporations the Director-General or officer of coordinate responsibility.
- (2) The accounting officer of a procuring entity shall have responsibility for the

planning, organization, evaluation and execution of tenders of all procurements and in particular shall be responsible for:

- (a) ensuring compliance with the provisions of this Law and is liable for the contravention of this Law or any regulation made hereunder whether or not the act or omission was carried out by him or his subordinates;
- (b) constituting the Procurement Committee and approving its decisions;
- (c) ensuring that adequate appropriation is provided specifically for the procurement in the State budget;
- (d) integrating his entity's procurement expenditure into the yearly budget;
- (e) ensuring that no reduction of values or splitting of procurement is carried out such as to evade the use of the appropriate procurement method;
- (f) constituting the Evaluation Committee;
- (g) liaising with the Bureau to ensure the implementation of its regulations.

#### **PROCUREMENT PLANING COMMITTEE**

- 18.** (1) For each financial year each procuring entity shall establish a Procurement Planning Committee.
- (2) The Procurement Planning Committee shall consist of:
- (a) the accounting officer of the procuring entity or his representative who shall chair the Committee;
  - (b) a representative of:
    - (i) the procurement unit of the procuring entity who shall be the Secretary,
    - (ii) the unit directly in need of the procurement;
    - (iii) the financial unit of the procuring entity;
    - (iv) the planning, research and statistics unit of the procuring entity,
    - (v) the legal unit of the procuring entity or legal officer of the department of government responsible for the legal affairs of that entity, if the entity has no legal unit.

## **TENDERS BOARD**

- 19.** (1) There is hereby established by this Law in each procuring entity a tenders board (in this Law referred to as the Tenders Board”).
- (2) Subject to the approval of the Board, the Bureau shall, from time to time, prescribe guidelines for the membership of the Tenders Board.
- (3) The Tenders Board shall be responsible for the award of procurement of goods, works and services within the threshold set in the regulations.
- (4) In all cases where there is a need for pre-qualification, the Chairman of the Tenders Board shall constitute a technical evaluation subcommittee of the Tenders Board charged with the responsibility for the evaluation of bids which shall be made up of professional staff of the procuring entity and the secretary of the Tenders Board who shall also be the Chairman of the Evaluation Subcommittee.
- (5) The decision of the Tenders Board shall be communicated to the Commissioner or the senior officer responsible for implementation.

## **PREQUALIFICATION OF BIDDERS**

- 20.** (1) Where a procuring entity has made a decision with respect to the minimum qualification of suppliers, contractors or service providers by requesting interested persons to submit applications, to pre-qualify, it shall set out precise criteria upon which it seeks to give consideration to the applications and in reaching a decision as to which supplier, contractor or a service provider qualifies, shall apply only the criteria set out in the pre-qualification documents and no more.
- (2) Procuring entities shall supply a set of pre-qualification documents to each supplier, contractor or consultant that request them, and the price that a procuring entity may charge for the pre-qualification documents shall reflect only the cost of printing and provision to suppliers or contractors and consultants.
- (3) The pre-qualification document shall include:
- (a) Instructions to prepare and submit pre-qualification application;
  - (b) a summary of the main terms and conditions required for the procurement contract to be entered into as a result of the procurement proceedings;
  - (c) any documentary evidence or other information that must be submitted by suppliers, contractors or consultants to demonstrate their qualifications

and competence on the job;

- (d) the manner and place for the submission of applications to prequalify and the deadline for the submission, expressed as a specific date and time which allows sufficient time for suppliers, contractors or consultants to prepare and submit their applications! taking into account the reasonable need of the procuring entity; and
  - (e) any other requirement that may be established by the procuring entity in conformity with this Law and procurement regulations relating to the preparation and submission of applications to prequalify and to the pre-qualification proceedings.
- (4) The procurement entity shall respond to any request by a supplier, contractor or consultant for clarification of the prequalification documents if the request is made at least ten days before the deadline for the submission of applications to pre-qualify.
  - (5) The response to the procuring entity shall be given within a reasonable time and in any event within a period of at most seven working days so as to enable the supplier, contractor or consultant to make a timely submission of its application to pre-qualify.
  - (6) The response to any request that might reasonably be expected to be of interest to other suppliers, contractors or consultants shall, without identifying the source of the request, be communicated to other suppliers or contractors or consultants provided with the pre-qualification documents by the procuring entity.
  - (7) A procuring entity shall promptly notify each supplier, contractor or consultant which submitted an application to pre-qualification of whether or not it has been pre-qualified and shall make available to any member of the general public upon request, the names of the suppliers, contractors or consultants who have been pre-qualified.
  - (8) Suppliers, contractors or consultants who have been pre-qualified may participate further in the procurement proceedings.
  - (9) The procuring entity shall upon request communicate to suppliers, contractors or consultants who have not been pre-qualified, the grounds for disqualification.
  - (10) The procuring entity may require a supplier, contractor or service provider who has been pre-qualified to demonstrate its qualifications again in accordance with the same criteria used to pre-qualify the supplier, contractor or consultant.
  - (11) The procuring entity shall promptly notify each supplier, contractor or service provider requested to demonstrate its qualification again whether or not the

supplier, contractor or consultant has done so to the satisfaction of the procuring entity.

- (12) The procuring entity shall disqualify any supplier, contractor or service provider who fails to demonstrate its qualification again if requested to do so.