



PUBLIC PROCUREMENT PROCEDURES HANDBOOK

VOLUME I

STANDARDISED PROCUREMENT PROCEDURES

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ABBREVIATIONS AND ACRONYMS

BOQ	Bill of Quantities
BZD	Belize Dollar
CARICOM	Caribbean Community
CFR	Cost and Freight
CG	Contractor-General (Office)
CIF	Cost, Insurance and Freight
CIP	Cost and Insurance Paid
CQS	Consultant's Qualifications Selection
DRB	Dispute Review Board
DRE	Dispute Review Expert
EOI	Expression of Interest
EPA	Economic Partnership Agreement
EXW	Ex-Works
FA	Framework Agreement
FARA	Financial and Audit (Reform) Act of 2005
FBS	Fixed-Budget Selection
FIDIC	International Federation of Consulting Engineers
FO	Financial Orders of 1965
GCC	General Conditions of Contract
GOB	Government of Belize
ICB	International Competitive Bidding
ISO	International Standards Organisation
ITB	Instructions to Bidders
ITC	Information to Consultants
ITT	Invitation to Tender
LC	Letter of Credit
LCS	Least Cost-Based Selection
LOI	Letter of Invitation
MOF	Ministry of Finance and Economic Development
MSMEs	Micro, Small and Medium Enterprises
NCB	National Competitive Bidding
PE	Procuring Entity
QBS	Quality-Based Selection
QCBS	Quality and Cost-Based Selection
RFQ	Request for Quotations
RFP	Request for Proposals
SBDs	Standard Bidding Documents
SCC	Special Conditions of Contract
SO	Stores Orders of 1968
SSS	Single Source Selection
ToR	Terms of Reference

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Glossary of Terms

Whenever used in this Handbook, each of the following terms shall have the indicated meaning, unless the context within which such a term appears clearly intends another meaning.

Accounting Officer: Administrative Head of a Government Ministry or Department who is accountable for all procuring activities of the Procuring Entity (formerly Permanent Secretary).

Advertising: Statutory requirement to advertise a tender in newspapers, websites, international tender sites, the Government Gazette, etc.

Advance Payment: Payment to a supplier in the case of a major infrastructure or an industrial project or a long-term arrangement.

Aggregation: Process by which procurement requirements for same or similar goods or services are aggregated together to gain economies of scale and obtain the most advantageous conditions

Arbitration: Method of settling a dispute between the parties involved in a contract by referring it to one or more neutral persons, selected by the parties, for a decision.

Asset Disposal: Formal process of disposal of public assets which are no longer of use to a Procuring Entity by any classified means, including sale, rental, lease, licenses, tenancies, franchises, auction or any combination thereof.

Award: Process of awarding a contract to a bidder after selecting the tender/offer that is determined to be substantially responsive to the tender documents and is the most advantageous.

Best Practices: Generally accepted international or regional standards applied to the public procurement function.

Best Value: Optimum combination of whole-life costs including price, delivery time, quality, and/or implementation costs, ongoing operating costs, and end-of-life disposal depending on the nature of the procurement, as well as environmental sustainability and socio economic matters.

Bid (or Tender): An offer submitted in response to an invitation for bids, or invitation to tender, under a competitive bidding process. In this Handbook, the words Bid or Tender are interchangeably used.

Bidder (or Tenderer): Natural or legal person, or group of such persons submitting a bid to a Procuring Entity with a view to concluding a contract for goods, works or services. In this Handbook, the words Bidder or Tenderer are interchangeably used.

Bidding Documents: Standard documents elaborated by the Procuring Entity for the purpose of procuring goods, works, services or consulting services. These

documents are standardised and must be utilised by Procuring entities. They are composed of, but not limited to, an Invitation to Bid, Instructions to Bidders, Bid Data Sheet, General Conditions of Contract, Specific Conditions of Contract, Technical Specifications, Schedule of Requirements, etc.(also called Tender Documents)

Bid Evaluation: Analysis of bids/offers received by the Procuring Entity to appraise and assess the most advantageous and competitive offer. In this Handbook, the words Bid or Tender Evaluation are interchangeably used.

Bid Opening: In procurement through competitive bidding, the opening and reading of tenders/offers conducted at the time and place specified in the bidding documents, and in the presence of anyone who wishes to attend. In this Handbook, the words Bid or Tender Opening are interchangeably used.

Bill of Quantities: Description and quantitative estimate of all materials and/or other supplies which will be required for a proposed construction project or production of equipment (usually custom designed).

Breach of Contract: Failure of the supplier or purchaser, without a legally excuse, to carry out his part of the duties and obligations as implied by the terms and conditions of a contract.

Conflict of Interest: Situation where personal or business interests of a party could affect the outcome of a transaction through the non-declaration of that interest.

Consultant: Natural or legal person who is an expert in a specialised field and using their professional skills to study, design and/or organise specific projects, advice, conduct training and transfer knowledge.

Consulting Services: Intellectual or advisory services provided by a Consultant under a service contract.

Contract/Government Contract: Written or oral agreement for the procurement or sale by the Government of goods or services, or a combination of both, setting out conditions, specifications or description of the goods or services.

Conditions of Contract: General Conditions of Contract are fixed and never altered. Any alterations are normally included in the Special Conditions of Contract.

Direct Procurement Method: Method of procurement that does not require the use of the competitive bidding (Single source procurement).

Eligibility: Legal and objectives criteria set up for bidders/tenderers. If not met, tenderers will not be allowed to tender or their tenders/offers already submitted will be rejected.

Expression of Interest: Statement received from a bidder/tenderer, usually in response to a public advertisement, invitation to tender or prequalification, for the supply of specific goods, works or services, confirming the interest of the tenderer in making an offer to supply the goods, works or services.

Framework Contract: Contractual arrangement which allows the Procuring Entity to procure works, services or supplies that are needed continuously or repeatedly, at an agreed price, over a period of time.

Goods: Raw materials, products, equipment, and commodities in solid, liquid or gaseous form, including perishables, or software and electricity, and also services (excluding Consulting Services) such as transportation, maintenance, and warehousing.

International Competitive Bidding: Procurement procedure where tendering is open to all local or international legal entities interested to submit a tender.

Invitation to Bid: Initiates the process of competitive bidding, in which bidders are invited to submit sealed offers for clearly defined procurements. The invitation may be either open to all interested bidders or restricted.

Limited Tendering Procedure: Tendering procedure of procurement or sale whereby no tender is called by the Government or suppliers are invited individually to submit a bid for a contract.

Market Analysis: Information required to make an assessment of market conditions such as demand and supply conditions, prices, discounts, etc. to enable a purchaser to make the right purchase decision.

Offer: Positive answer issued by a bidder in response to a tender invitation, or an announcement to deliver goods, carry out works and/or services to a purchaser without a specific request or invitation to tender.

Open Tendering Procedure: Procurement or disposal method, open to competition and participation by all providers, through advertisement.

Performance Bond/Guarantee: Contract of guarantee executed subsequent to award by a successful supplier to protect the purchaser from loss due to the supplier's inability to complete the contract as agreed.

Prequalification: Screening of potential suppliers with reference to predetermined criteria, such as technical and financial capability, reputation, reliability, etc., in order to develop a list of suppliers qualified to bid/offer to whom alone the bidding documents may be sent.

Procurement: Acquisition of goods and services, contracting of works, purchasing, and buying, renting or leasing, and the management thereof, in accordance with specific methods and procedures, by the Government. The term procurement and public or government procurement in this handbook shall have the same meaning and vice versa.

Procurement Process: Successive stages in the procurement cycle including planning, choice of procedure, measures to solicit offers from bidders, examination and evaluation of such offers, award of contract and contract management.

Procuring Entities: Contracting public authorities including central and local authorities, at District and Town/City level, and bodies governed by public law and authorised to make use of public funds.

Purchaser: Tenderer/bidder whose bid/offer has been selected for a sale contract under Disposal of Asset process.

Request for Quotation: Solicitation used by Procuring Entities for low-value procurement, usually not advertised, and inviting suppliers to bid on specific goods or services whose price falls under a specific threshold

Services: General (maintenance) or consulting (intellectual or advisory) activities carried out by a supplier or consultant to achieve contractually fixed results. Mixtures of supplies and services are usually put in the category to which more than 50% by value belongs.

Standards: Established norms or requirements; usually a formal document that establishes uniform engineering or technical criteria, methods, processes and practices.

Sub-Contractor: Person or firm who enters into an agreement with a prime (main) contractor and undertakes to perform a part of the prime contractor's obligations with reference to the main contract.

Supplier: Tenderer/bidder whose bid/offer has been selected for a procurement contract.

Technical Specifications: Technical requirements defining the characteristics of works, material, product, supply or service, and enabling a piece of work, a material, a product, a supply or a service to be objectively described.

Tender Documents: Set of documents issued by the Procuring Entity which establish the object of procurement (the technical specifications and/or the terms of reference), specify proposed contract conditions and the procurement procedure to be followed.

Terms of Reference: Standardised scope of work issued by the Procuring Entity for a service contract, equivalent to the specification of goods in a contract for the purchase of goods, and giving the definition of requirements and/or objectives of the consulting services, including, where applicable, the methods and means to be used and/or results to be achieved.

Threshold: Represents the highest nominal amount for applying a procurement method, irrespective of any other considerations.

Two-Envelope System: Tendering option for the selection of the most advantageous bid, in two separate envelopes, both of them sealed and clearly marked. The first envelope contains the technical proposal, the second one the price proposal.

Works: Activities associated with civil engineering, such as construction, demolition, repair, or renovation of a building, road, or structure. Works may include materials, installation of equipment, and services incidental to Works, provided that the value of those services does not exceed the value of the Works themselves.

PART I

GUIDELINES ON GOVERNMENT PROCUREMENT PROCEDURES FOR THE PUBLIC SECTOR

CHAPTER 1. THE HANDBOOK ON PUBLIC PROCUREMENT PROCEDURES

The introduction of this Handbook marks a significant step forward in public procurement in Belize. It is a major element in the implementation of the reform process to improve and modernise budget and financial management along with the procurement system in Belize.

Section 1 Purpose

1.1 The Public Procurement Procedures Handbook has been compiled to provide guidance to public officials responsible for public procurement, auditors and other financial management specialists in their everyday business relating to public procurement. It is intended as a reference tool for guiding the practice of public procurement, ensuring compliance with the current legislation of Belize and application of procurement international best practices. It also serves to facilitate the standardisation of procurement practice across all Procuring Entities in Belize with a view to ensure an efficient and transparent public procurement system that is central to good financial management and offers equal opportunities for eligible competitors.

1.2 The Handbook is also aimed at the private sector contractors to better understand the public procurement systems and processes, facilitate their participation in contracts, and ensure application of legal and best procurement practices.

1.3 The Handbook gives procedural guidance and instructions on the many aspects of procurement and contracting, including standard and model documentation provided in Annexes. Where funding is provided by international donor partners, there may be a requirement to use the donor's own procurement procedures; guidance on this is given in the Handbook.

Section 2 Scope

2.1 This Handbook is applicable to all Government of Belize (GOB) procurement of goods, works and services, including sale contracts and disposition of public assets, carried out by all Procuring Entities, whether in or outside Belize, for and on behalf of the GOB, using public funds, at Ministry, District, local government and Statutory body level, unless specifically excluded.

Section 3 Usage

3.1 The Handbook is designed so that it allows the user to easily find practical information and guidance through the sequential stages of the procurement process, from planning to bidding. It also contains step by step guide for developing the tender documentation for the procurement of goods, works or services.

3.2 The Handbook itself is comprised of two volumes. Volume I describes procurement processes and procedures, and includes two Parts; Part I being designed for public officials and Part II more specifically geared toward the private sector. The body text is divided into Chapters, each of which is broken down into Sections. Volume II consists of standard procurement documentation: Standard bidding documents (SBDs) with their guidance notes, and standard forms and templates.

3.3 This Procedures Handbook is issued by the Ministry of Finance and Economic Development and has been developed in close cooperation with other government entities and under the oversight of the Contractor-General. It is anticipated to require further review and amendment after being in use for a period of time, and as the procurement context evolves in Belize and within the framework of international and regional organisations, particularly the CARICOM Community and the Economic Partnership Agreement (EPA) with the European Union.

CHAPTER 2. THE PUBLIC PROCUREMENT FRAMEWORK

This Chapter provides an overview of the public procurement legal and institutional framework in Belize, and deals with the roles and responsibilities of public entities, officials and committees with regard to the procurement process.

Section 4 Legal Framework

4.1 Public Procurement in Belize is governed primarily by the following legal instruments:

- The Financial Orders (FO) of 1965;
- The Stores Orders (SO) of 1968, and the Circular No. 8 of 1992 Amendment to Stores Orders #13;
- The Financial and Audit (Reform) Act of 2005 (No.12 of 2005), and the Financial and Audit (Reform) (Amendment) Act, 2010.

4.2 Other relevant legislation, regulations, and standards include:

- Belize Constitution Act, Chapter 4, Revised Edition 2000
- Contractor-General Act, Chapter 6, Revised Edition 2000
- Ombudsman Act, Chapter 5, Revised Edition 2000
- Standards Act, Chapter 295, Revised Edition 2000

- Prevention of Corruption Act, Chapter 105, Revised Edition 2000
- Prevention of Corruption in Public Life Act, Chapter 12, Revised Edition 2000
- Freedom of Information Act, Chapter 12, Revised Edition 2000
- Electronic Transactions Act, Chapter 290:01, Revised Edition 2003
- Electronic Evidence Act, Chapter 95:01, Revised Edition 2003
- Fiscal Transparency and Responsibility Regulations (FTRR), Statutory Instrument No. 95 of 2010
- Control of Public Expenditure handbook, 1966
- Arbitration Act, Chapter 125, Revised Edition 2000.

4.3 The legal and regulatory framework relevant to public procurement provides a basis for the Government of Belize to deliver on the main objectives of sound public finance management, namely transparent and efficient delivery of services. In order that actual procurement practice contribute to the achievement of these objectives it is crucial that Procuring Entities adhere to the requirements of the legal framework by complying with its procedures and provisions.

Section 5 Procurement Institutional Framework and Responsibilities

Organisational Framework

5.1 Belize operates a decentralised public procurement system where responsibility and accountability for public procurement rest with each Procuring Entity managing their own purchasing and acquisition processes, with different authority and control levels throughout the process. This process is outlined in a very general form in Section 19(3) of the FARA (Act).

5.2 Public officials and personnel directly or indirectly connected with the procurement of goods, services or works, should carry out their duties with due diligence and in the proper manner. To achieve this objective and mitigate opportunities for unethical practices, wherever possible, functional responsibilities such as transactions authorisations, transactions recording, assets custody, and reconciliations, should be performed by different work units or persons in the same unit. If this level of segregation of duties cannot be achieved, for instance in smaller Procuring Entities, the minimum requirement must be to separate responsibilities for the administrative and the financial management functions.

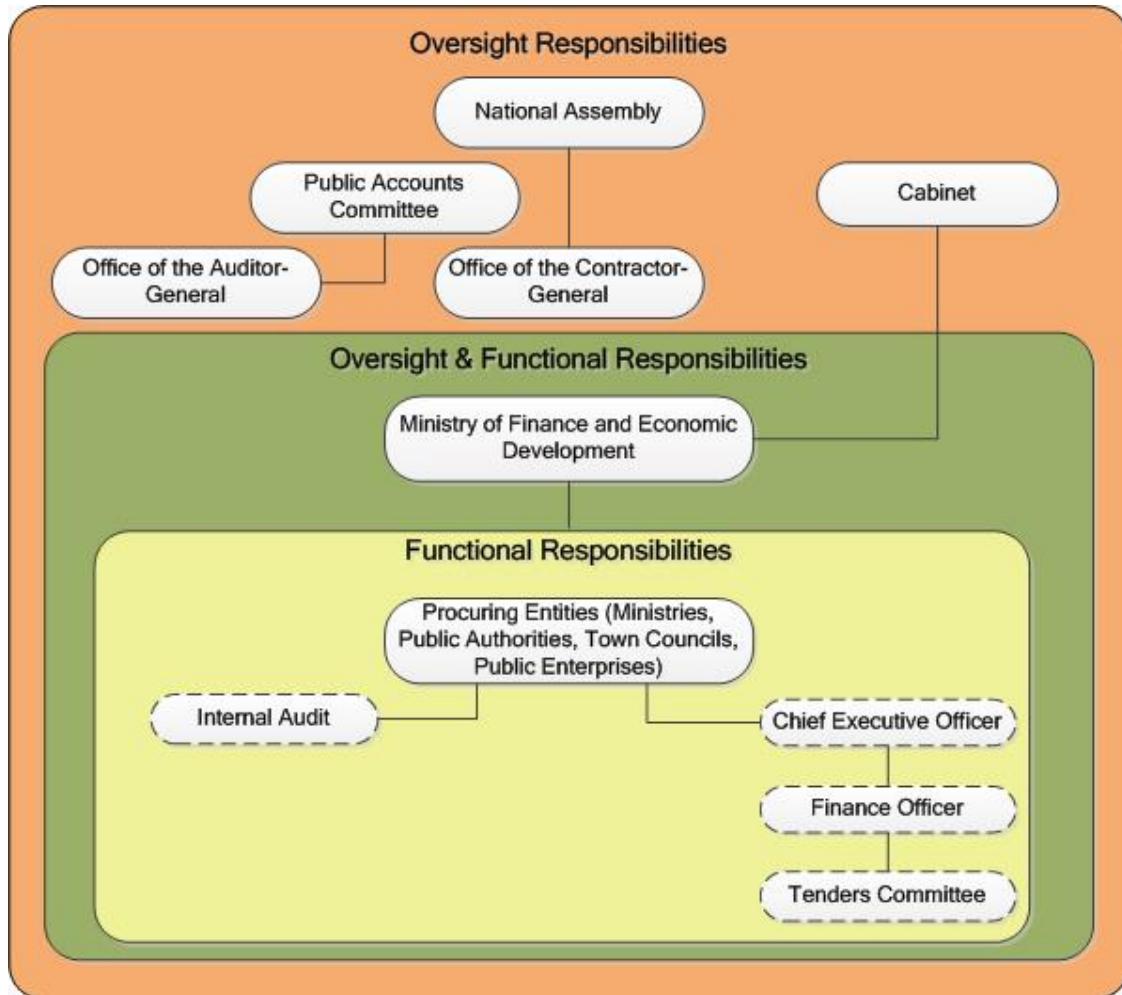
Oversight and Functional Responsibilities

5.3 The main oversight and functional responsibilities in public procurement which govern its performance are outlined in the following paragraphs, with a summary of the role of each key entity (see Figure 1 below).

National Assembly

5.4 The National Assembly is the ultimate oversight authority with responsibilities, in accordance with Sections 19(5) and 22(1) of the FARA (Act), including the approval of procurement or disposal of public assets above certain thresholds. The House of Representative's Public Accounts Committee is also responsible for reviewing the Auditor General's reports and has the power to summon anyone to questioning on the accounts.

Figure 1 - Institutional Framework for Public Sector Procurement in Belize



Office of the Auditor-General

5.5 The Auditor-General in accordance with Section 120 of the Belize Constitution and Section 11 of the FARA (Act), has the responsibility of auditing and certifying public accounts, and reports to the National Assembly. In carrying out his functions, the Auditor-General has the power of investigation.

Cabinet

5.6 The Cabinet, in accordance with Section 44(2) in Chapter 4 of the Belize Constitution, is the principal executive instrument of policy with general direction and control of the Government.

Ministry of Finance and Economic Development

5.7 The Ministry of Finance and Economic Development has the overall responsibility for the public sector procurement, which includes direct responsibilities for developing and implementing public procurement policies and procedures, with regard to public expenditure. In accordance with Section 23(1) of the FARA Amendment 2010, the Ministry of Finance may make regulations to give better effect to the provisions of the

Act. Oversight responsibilities include the approval of purchase for certain items (IT equipment, ACs or cars), or above certain thresholds and for works contracts.

Office of the Contractor-General

5.8 The Contractor-General (CG) has monitoring and supervisory authority over the award and implementation of public contracts. The CG must receive information on all going contracts and give comments on procurement above BZ\$100,000 before approval by the Procuring Entity's authority. Duties and functions of the CG, which are detailed in Section 18 of the FARA and Section 14(1) of the Contractor-General Act, also include: investigate any fraud or mismanagement, develop policy guidelines, and evaluate programme performance.

Chief Executive Officer (Accounting Officer)

5.9 Chief Executive Officers (formerly Permanent Secretaries) of individual ministries are appointed as Accounting Officer or Administrative Head of a ministry (Section 48 of Belize Constitution). They are responsible for supervising financial management in government Departments and ensuring compliance with the FARA (Act), the Financial Orders, the Store Orders and the Control of Public Expenditure handbook. They also directly control the procurement process and are responsible for arranging internal audit or control according to Paragraph 115 of the Control of Public Expenditure handbook.

Finance Officer

5.10 Finance officers of line ministries and Departments are required to follow through the administrative instructions of the MoF and provide technical guidance to subordinate units and departments in the preparation, execution, control and monitoring of the budget, in accordance with the Control of Public Expenditure handbook. Amendment #13 to SO 1968 requires all purchases under certain thresholds to be also approved by the relevant Finance officer.

Tenders Committee

5.11 Each Procuring Entity should establish its own Tenders Committee which should examine tenders received, in accordance with Section 703 of FO 1965, and shall comprise the Chief Executive Officer, a Head of Department and the Finance Officer. The functions of the Committee are to review tender documents and forward its decision as a recommendation to the PE for final decision.

CHAPTER 3. PUBLIC PROCUREMENT GUIDING PRINCIPLES AND OBJECTIVES

Procurement principles should be used to guide decisions pertaining to procurement practice. This chapter introduces the basic procurement principles to be applied in order to achieve sound procurement practice and preserve public trust and public interest. Procuring Entities shall ensure that such practices and principles are adhered to and implemented.

Section 6 Fundamental Principles

6.1 Basic general principles shall govern the administration of government procurement. Procuring Entities and their staff shall be responsible and accountable for complying with these principles in the practice of procurement and in the application of discretion and judgments made in the decisions pertaining to procurement proceedings if the objectives of sound procurement practice are to be achieved. These principles, however, are not intended to replace standards supported by other disciplines in which procurement officials participate.

Value for Money

6.2 The ultimate objective of the public procurement activity is to achieve best value for money in order to maximize economy and efficiency of public spending. This key operating principle relate to a number of factors which include not only the price of the goods, works or services, but also the suitability and satisfactory quality of those (SO 1968, Section 13). Other influential factors may include total life cycle costs, maintenance/servicing costs, delivery/construction period, transportation or storage costs, as well as benefits of broader elements whether environmental, social and/or economic.

Fairness and Equal Treatment

6.3 Good procurement is impartial and consistent, and should offer all interested suppliers, purchasers and consultants an equal opportunity to compete. Procuring Entities must adopt practices that promote fair competition and allow adequate time in the tendering procedure for participating, as well as must avoid unnecessarily burden or constrain on the (FARA, Section 19(1)). Also, the principle of equal treatment prohibits discrimination against any bidder regarding conditions of participation with regard to financial, technical or commercial qualifications and capacity.

Transparency

6.4 The procurement process and the implementation of procurement and sale contracts must be transparent. The promotion of transparency in procurement complements procedure control and serves as an effective tool against corruption. It also ensures undistorted competitive conditions between the suppliers or contractors in the market, and allows them to monitor compliance with the procurement rules.

6.5 Procuring entities shall to the extent possible carry out all procurement proceedings in a transparent way with an emphasis on the following elements:

- (a) Advertising of Opportunities. Procurement notices shall be publicised as early as possible in newspapers of wide circulation and on the government (procurement) website. These notices should contain all the necessary information to enable the participation of pertinent bidders.
- (b) Public Accessibility of Procurement Documents. Legislation, regulations, manuals and bidding documents should be made public, through the government (procurement) website, to enhance the knowledge of the

business community and be acquainted with government procurement procedures.

- (c) **Publication of Contract Awards**. Notices of contracts awarded by Procuring Entities shall be published on the government (procurement) website, indicating the name of the winning bidder, the date, and procurement method employed.
- (d) **Record of Procurement Proceedings**. Procuring Entities shall maintain appropriate recording of procurement procedures, with an individual file for each procurement requirement marked with the relevant reference number. Procurement records shall be kept for a minimum period of 5 to 7 years as required by Section 655 of FO 1965.
- (e) **Debriefing of Bidders and Consultants**. Debriefing participating bidders on the outcome of the results of their bids and why they were not successful is a generally accepted good practice for Procuring Entities.
- (f) **Participation of Civil Society**. Procuring Entities are encouraged to invite Civil Society organizations to attend key procurement cycle activities, such as bid openings and contract signing proceedings.

Integrity and Ethical Behaviour

Code of Conduct

6.6 In order to achieve value for money and to effectively contribute to efficient service delivery, public procurement practice must adopt a strong ethical stand. All public officials and other personnel connected with the procurement of goods, services or works, are responsible for carrying out their duties with due diligence and in the proper manner, whatever their role in the public procurement process, directly or indirectly, whether it be planning, requisitioning, ordering, producing documents, making approvals, maintaining documents and records, or monitoring payments.

6.7 The Principles of the Code of Conduct governing all public officials are stated in Article 121 of the Constitution, which require public servants not to:

- Place themselves in positions in which they have or could have a conflict of interest;
- Compromise the fair exercise of their public or official functions or duties;
- Use their office for private gain;
- Allow their integrity to be called into question;
- Demean their office or position;
- Endanger or diminish respect of, or confidence in, integrity of the Government.

6.8 All personnel handling government procurement and participating in any phase of the procurement process are expected to observe the code of conduct for government officials and public servants as established in Article 121 of the Constitution, and complemented by the Public Service Regulations and Part IV of the Prevention of Corruption in Public Life Act, which prescribe essential standards of ethical conduct.

Unethical Conduct

6.9 Instances of unethical behaviour prohibited by the Code of Conduct and applicable in procurement are presented in this paragraph to serve as a guideline and shall be applied to all Procuring Entities staff:

- (a) *Private Gain.* No individual shall, directly or indirectly, use his office for private gain. Personal gain includes accepting or requesting anything of material value from bidders, prospective bidders or suppliers for the individual, his or her spouse, parents, children or other close relatives, or for other persons from whom the individual might gain direct or indirect benefit.
- (b) *Gifts or Benefices in Kind.* No individual shall ask for or accept any property or benefits of any kind for himself or any other person on account of anything done or omitted to be done by him in the discharge of his duties (except unsolicited gift of a nominal value, like a souvenir and less than BZ\$250.00 retail value).
- (c) *Use of public funds.* No individual shall be a party to or shall undertake any project or activity involving the use of public funds in disregard of the financial orders or other rules and regulations applicable to such funds.
- (d) *Bribery.* No individual shall offer any person any property, gift or benefit of any kind as an inducement or bribe for the granting of any favour or the discharge in his favour of such person's duties.
- (e) *Restrictions on Companies.* No individual shall acquire, or become a partner or shareholder in, or a director or manager of, a firm or company which has or had a contract with the government or with the public body of which such person is or was a member or employee, during the tenure of his office.

6.10 Other examples of internationally recognised unethical practices relevant to public procurement include:

- Revealing confidential or “inside information”, directly or indirectly, to any (prospective) bidder, supplier or purchaser;
- Discussing a procurement with any party outside the official rules and procedures during the procurement cycle;
- Favouring or discriminating against any (prospective) bidder or supplier in the drafting of technical specifications or standards, or in the evaluation of tenders;
- Destroying, damaging, hiding, removing, or improperly changing any official procurement document;
- Discussing or accepting future employment with a (prospective) bidder, supplier or purchaser;
- Ignoring evidence that the Code of Conduct has been violated by a member of a Tenders Committee, public servant or other personnel of the Procuring Entity;

- Ignoring illegal or unethical activity relevant to procurement proceedings, including any offer of personal inducements or rewards.

6.11 The Prevention of Corruption in Public Life Act gives the Integrity Commission power to sanction for breach of the Code of Conduct. The sanction may take the form of a reprimand, a fine not exceeding BZ\$10,000, seizure and forfeiture of any property acquired in abuse or corruption of office, or a recommendation to the appropriate authority for the removal from office of the individual.

6.12 In accordance with the Prevention of Corruption Act, any party involved in a public procurement process, whether from the public or private sector, may be liable to sanctions of up to 2 years in prison, a fine not exceeding BZ\$2,500, and up to 7 years ineligibility for public office, if found guilty of misdemeanour or corruption.

6.13 Any supplier, purchaser or consultant who attempts to influence a procurement process, or the administration of a contract by any unfair method, shall also be subject to sanctions. This may include blacklisting of the company or the individual from government contracts for a certain period (usually from three to five years), in addition to other legal remedies.

Conflict of Interest

6.14 It is the responsibility of all public officers involved in government procurement to ensure the integrity and impartiality of the procurement process, and stay alert to situations which may lead to actual, potential or perceived conflict of interest. Conflict of interest situations may arise in cases where there may be a personal, social, financial or technical interest, and/or when:

- A public officer exercises his authority, influences decisions and actions or gains access to valuable information, not necessarily restricted or confidential;
- A public officer has personal relationships with a bidder, supplier, contractor or consultant, defined as consanguinity or affinity.

6.15 Any public officer shall declare any personal interest that may affect or might reasonably be deemed by others to affect impartiality in any matter relevant to their duties pertinent to the procurement process. This person shall not take any part in either the decision making process or the implementation of any procurement contract where such a situation exists.

6.16 Conflict of interest may also arise from participation by consulting firms, suppliers, purchasers or contractors in government procurement. Procuring entities must be alert to potential conflicts of interest which may arise from the different roles or assignments bids participants may take up in same or related projects, whether past, current or new. The General Conditions of the Contract should outline the possible conflict of interests that may be encountered in the provision of consultancy services.

Declaration of Ethical Conduct

6.17 Members of Tenders Committees involved in tenders evaluation shall be required to sign and attach a Declaration on Ethical Conduct and Fraud and Corruption to

each evaluation report in which they participate. **Appendix 1a** to this Procedures Handbook contains a standard form to be completed and signed by relevant parties.

6.18 The private sector shall not be exempt from responsibility to act ethically in procurement proceedings with the Government of Belize. Bidders, whether private firms or individuals, shall also be required to sign a formal declaration on ethical conduct. **Appendix 1b** to this Procedures Handbook contains a standard form to be completed and signed by relevant parties.

Section 7 Other Guiding Principles and Objectives

Competition

7.1 Procuring Entities must adopt practices that promote fair competition in all public procurements, discourage the use of fake competition, and use methods of aggregation where appropriate in order to take advantage of economies of scale. They shall also treat all bidders and suppliers with fairness and impartiality, and avoid any business arrangement that might prevent the effective operation of fair competition.

Efficiency

7.2 Public procurement should be carried out as cost-effectively as possible to ensure economic efficiency and make optimum use of available public funds.

Confidentiality and Accuracy of Information

7.3 Public officers shall respect the confidentiality of information received in the course of their duties and shall never use such information for personal gain or unfair benefit of any bidder or supplier. Also any information given should be true and fair and never designed to mislead participants or colleagues, in any part of the procurement process.

Environmental Sustainability

7.4 Procuring entities when procuring goods, services or works should consider long-term economic viability, minimising any adverse environmental impact arising from procurement performance, as well as improve social conditions and stimulate the market to further innovate sustainable production.

7.5 Environmental performance criteria in purchasing decisions may relate to maximum energy efficiency, minimum use of toxic chemicals and other pollutants, maximum use of products based on recycled materials and/or minimum use of unnecessary packaging and other superfluous material.

CHAPTER 4. THE TENDERS COMMITTEE

Ideally, key tasks in the tendering process should be done by different people. This chapter describes the role and responsibilities of the main Tenders Committee to be

established in each Procuring Entity, as well as the mechanism of the functional tender groups that should assist the Tenders Committee in the opening and evaluation of bids.

Section 8 Formation and Duties of the Tenders Committee

Formation of the Tenders Committee

8.1 Each Procuring Entity should establish its own Tenders Committee constituted to advise the Head of the Procuring Entity on the acceptance of tenders for works, services and stores.

8.2 The Procuring Entity's Tenders Committee shall comprise the Chief Executive Officer, a Head of Department and the Financial Officer. The Chairman of the PE's Tenders Committee shall not be anyone who by reason of their functional responsibilities within the Entity, would approve or sign-off on procurements or sales. The Committee is empowered to call upon any Departmental officers to assist with expert advice. The Committee should forward its decision as a recommendation to their Minister for final decision.

8.3 The Secretary to the Tenders Committee shall be responsible for giving publicity to notices inviting tenders by advertisement as approved by the Chairman in the Gazette and in the local newspapers. The Secretary shall also be responsible for minutes taking and record keeping.

Duties of the Tenders Committee

8.4 The duties of the Tenders Committee are to:

- Review recommendations for award within the thresholds;
- Ensure compliance with relevant policies, guidelines and procedures;
- Prepare a procurement plan for each fiscal year, and prepare quarterly updates for approval;
- Monitor the overall procurement planning, review and approval of contracts and the implementation of procurement activities;
- Review evaluations done by Evaluation Committees;
- Facilitate response to contractors inquiries;
- Maintain proper record of Committee meetings, including records of the procurement; and
- Ensure compliance with reporting obligations.

Section 9 Functions of Ad-HocTender Committees

9.1 Tender Committees are a variety of appointed ad-hoc committees that are tasked with oversight of certain activities of the tender preparation and process. The Committees are temporary in nature and may be the following:

- Pre-Tender Committee (Preparations of Specifications/TOR/Drawings)
- Bid Opening Committee (Technical).
- Bid Opening Committee (Financial).
- Bid Evaluation Committee (Technical)
- Bid Evaluation Committee (Financial)
- Samples Evaluation Committee
- Post-Tender Negotiation Committee (Clarification of issues).

Pre-Tender Committee

9.2 A Pre-Tender Committee is necessary when the project is technically complex and where considerable work needs to be undertaken, before the tender process can begin. It will normally involve the preparation of Specifications / TOR / BOM / Plans / Drawings / Obtaining Licenses / Changes to the Law / Obtaining planning permission and such other types of pre-tender activities.

Bid Opening Committee

9.3 A Bid Opening Committee will be composed of procurement personnel and a rotating membership from other Departments within the organisation, and/or member. The Bid Opening Committee will be comprised of no less than three (3) members.

Tender Evaluation Committee

9.4 The Tender Evaluation Committee shall be composed of members with the necessary skills, knowledge and experience, relevant to procurement requirements. Where appropriate, the members of the Evaluation Committee shall be on the basis of their knowledge and expertise in the supplies, works or services, as well as procurement procedures and the law. Tender Evaluation Committees will be composed of up to five (5) members, with the required technical expertise suitable for the evaluation of specific tenders. Subject matter experts may also be used. The Committee membership should be an *odd* number in total and include members who have skills in the following areas:

- Relevant technical expertise and knowledge;
- End user representation;
- Procurement and contracting skills;
- Financial management or analysis skills;
- Legal expertise (where possible).

9.5 Evaluation of low value / routine procurement activities, where no Tender Evaluation Committee is necessary, shall normally be undertaken by the Procuring Entity staff, with the evaluation records / quotations securely kept for audit purposes by the Contractor General or the Government Auditors.

Statement of Ethics and Declaration Regarding Fraud and Corruption

9.6 To promote the practice of ethical standards throughout Belize, procurement operations and the Government's policy on fraud, corruption, coercion and collusion, each member of a Tenders Committee or ad-hoc Committee shall be required to sign a copy of the Declaration shown in **Appendix 1a** to this Handbook. This Declaration shall be attached to each evaluation report and signed by each member of the Tenders Committee or ad-hoc Committee.

Proceedings of Tender Evaluation Committees

9.7 Recommendations for award of contracts shall be made solely on the basis of information and evaluation criteria provided in the tender documents, and without reference to any other information any person may provide, or influence by personal or political preferences.

9.8 In the event that a member of the Tender Evaluation Committee should find they have a conflict of interest in the tender evaluation, he/she shall declare his/her interest in the tender, leave the meeting and shall not participate further in the deliberations, or decision-making process, of the Committee, in relation to the said submission.

9.9 An evaluation plan shall be drawn up by the Secretary of the Tenders Committee under the supervision of the Chairperson, prior the evaluation team meeting. The evaluation plan shall describe to the members details of the evaluation process. Team members are not allowed to conduct the evaluation outside of the designated room, nor are any of the documents allowed to be removed from the room. The evaluation team members shall sign a Declaration of confidentiality.

9.10 The evaluation shall be conducted on the basis of predetermined and publicly published evaluation criteria.

9.11 The points recorded on the evaluation forms by each panel member should be kept secret and hidden from the other Committee members. Discussion about the merits, or otherwise, of the bids are strictly not allowed. The Committee should work in silence apart from scheduled breaks. Cross-talking, or asking opinions of the other panel members, is not allowed.

9.12 The Secretary to the Tenders Committee shall act as an Adjudicator / Invigilator, and shall organise and advise the Evaluation Committee during its deliberations. If the evaluation is to be seen as fairly appraised, it will be expected that the points awarded to each criteria should be reasonably close to one another. Where some points clearly diverge from the points of other assessors, the Adjudicator will ask for an explanation. The member may have misunderstood the criteria, or the proposal. Without any pressure, the Adjudicator will explain any misconception and request the member to re-examine that particular section of the tender submission, once again. The member may, or may not, revise their points.

Section 10 Organisation and Responsibilities of the Tenders Committee

Agenda of the Tenders Committee

10.1 The Secretary to the Tenders Committee shall prepare the Agenda for every meeting to ease the work of the Committee. The purpose of Agenda is to ensure that

the Tenders Committee is given all necessary and accurate information for making informed decisions. The Agenda shall have the following format:

- Title
- Purchase items
- Background information
- Invitation of bids
- Submission and opening of bids
- Evaluation of bids
- Secretariat comments
- Request to the committee.

10.2 The Secretary must ensure that the agenda is brief, comprehensive accurate and informative to facilitate speedy execution of the business of the Tenders Committee.

10.3 The recommendations of the Tender Evaluation Committee shall normally be unanimous, but any divergent views shall be recorded in the evaluation report to be submitted to the Tenders Committee.

10.4 The individually scored points shall be summed together to arrive at an aggregate score, the basis on which a recommendation report for the contract award shall be made. The Secretary to the Tenders Committee will prepare a formal evaluation report for each evaluation conducted and the report shall be signed by all participating members of the Evaluation Committee. The evaluation report and the written justification of the recommendations, is sent to the Tenders Committee for decision on the contract award.

10.5 The Secretary to the Tenders Committee shall record the minutes of the Evaluation Committee meetings, which will include:

- A register of attendance of members;
- A list of all submissions considered and the recommendations made;
- Any conflicts of interest declared by members; and
- Any dissenting opinions among the Tender Evaluation Committee members on any submission.

10.6 The Procuring Entity's Tenders Committee meetings should be convened pursuant to the needs of the entity. Proper minutes must be recorded and maintained for each meeting. The Chairman and one other member form a quorum and no meeting shall be properly convened in the absence of this quorum.

10.7 The Secretary to the Tenders Committee will be responsible for the recording of all minutes and obtaining the signature of all members of the Committee on the agreed version of the minutes. The minutes will be distributed to all members of the Committee within five working days of the meeting.

10.8 The Tenders Committee shall meet at a date and hour to be fixed by the Chairman and notified to members by the Secretary.

10.9 The Tenders Committee is empowered to call upon any Department's officers to assist with expert advice or experts in the items being procured from other agencies

or consultants. None of these parties are considered members of the Committee and will advise solely on the basis of their own areas of expertise.

10.10 The Secretary to the Tenders Committee shall be responsible for giving publicity to notices inviting tenders by advertisement as approved by the Chairman, in the Gazette, local newspapers and on the website of the Ministry and/or Government.

Contract and Evaluation Summaries, and Publication of Contract Awards

10.11 To help ensure increased transparency, all Tenders Committees are required to compile the following two reports: Summary of Evaluation and Contracts Register. Templates of these reports can be found in **Appendices 2a and 2b** to the Handbook.

10.12 All Summary of Evaluation purchase orders and contract information shall be posted on the Government's Procurement Portal and/or Procuring Entities' websites, and in a prominent public place within each PE, with a copy being sent to the Contractor-General's Office. The summary of evaluation shall include all firms or individuals who submitted bids and related information.

10.13 In addition to compiling and publishing the results of each evaluation, each PE shall also compile a Register of Contracts, i.e. a list of all contracts for the budget year. The format and information shall be in accordance with the example and template shown in the above-mentioned Appendix 2b.

10.14 The Register shall be updated each time a contract is placed and an up-to-date Register shall be posted on the Government's Procurement Portal and/or PEs' websites at the end of each month with copy to the Contractor-General's Office. The Register shall contain the following particulars:

- Name of contractor
- Tax Number
- Business Size (MSME)
- Nature of contract
- Value of contact
- Particulars of payment
- Remarks

10.15 At the end of each quarter, each Procuring Entity's Tenders Committee shall issue a notice to the general public on the PE's website and published in a newspaper of national circulation. The notice shall invite any interested party to review and inspect all Summaries of Evaluation and Register of Contracts published by the Entity. The wording of the notice shall use the following example:

"The _____ [*insert name of PE*] invites any interested member of the general public to inspect the Contracts Register for contracts placed by _____ [*insert name*]. Members of the public may also inspect Summaries of Evaluation for all contracts placed by the Procuring Entity. Anyone wishing for a hard copy of the Contracts Register may request one in person by written request. Summaries of Evaluation will also be provided in hard copy either by request in person or through a written request identifying which specific Evaluation Summary is required.

The location where the Contracts Register and Summaries of Evaluation may be inspected and the address for written requests is:

[insert name address, with contact name and contact number]"

The Role of the Contractor-General's Office

10.16 In accordance with the Contractor-General's Act, the Contractor-General shall monitor and, as necessary, investigate, at its own discretion, the award and implementation of any government contract, in order to ensure that such contract is awarded impartially and on the basis of merit, that the circumstances under which it is awarded or terminated do not involve impropriety or irregularity, and that the contract is implemented in conformity with its terms and conditions.

The Role of the Solicitor-General

10.17 Any contract arising out of consideration of tenders shall be prepared by the Tenders Committee concerned and referred to the Solicitor-General who shall initial it to show that, from the legal point of view, the document is in order. Any contract not arising out of consideration of tenders shall be prepared by the Tenders Committee concerned and shall, if not in a form already approved by the Solicitor-General, be referred to the Solicitor-General who shall initial it to show that, from the legal point of view, the document is in order.

10.18 Copies (both hardcopy and e-copy) of all contracts shall be sent by the Tenders Committee to the Accountant-General, the Auditor-General and the Contractor-General.

Internal and Independent Monitoring

10.19 Each Procuring Entity shall ensure that regular internal monitoring of procurement activity is undertaken in accordance with the principles and provisions of this Handbook, to ensure the overall effectiveness of procurement. Regular monitoring of procurement in a Procuring Entity will be conducted by the Contractor-General's Office. The Auditor-General will assess annual issues of professional efficiency and effectiveness in procurement, may call for detailed assessments or explanations on individual procurements, and will issue reports of findings.

Documentation/Records Management

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

10.21 Efficient records management is essential to ensure effective storage, retrieval and use with due regard to security, integrity and confidentiality. All officers shall ensure they obtain, retain and maintain appropriate documentation supporting the activities for which they are responsible. Senior officers involved in approval or authorisation shall ensure that any transactions they approve or authorise are backed by appropriate supporting documentation.

Filing/Record Management System

10.22 The Procuring Entity has a general responsibility for maintaining Procurement Dossiers and Contracts Registers.

10.23 Each Procuring Entity must ensure that complete documentation is maintained in respect of all procurement activities, and for contracts and agreements entered into.

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

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

10.25 All documents regarding a particular procurement shall be kept for future reference and monitoring and control purposes. The recommended filing structure for a record of procurement shall include the following documentation:

- Original Request from Originating Officer
- Correspondence with Originating Officer
- Correspondence with Suppliers, Contractors and Consultants/ (pre-order only)
- Internal Correspondence within Procurement
- Requests for Expressions of Interest
- Shortlist or Advertisement
- Tender documents and Specifications/Terms of Reference
- Correspondence with suppliers relating to Tender
- Tenders, Quotations or Pro-forma invoices received
- Tender opening records
- Record of Tender Securities and release
- Evaluation Report with Declaration on Ethical Conduct and Fraud and Corruption
- Submission to the relevant authority & Minutes of proceeding
- Obtain Contractor-General's letter of ratification
- Notice of Contract Award and publication
- Contract/Purchase Order & Acknowledgement of receipt
- Delivery/Executions Documentation
- Inspection and Acceptance Reports
- After sales warranty and performance claims
- Copy of Record of Commitment of Funds
- Copy of Invoices or Certificates
- Copy of Payment Vouchers
- Record of Retentions and release
- Performance Security and release
- Notification to the Contractor-General of the procurement transaction completion.

CHAPTER 5. PROCUREMENT PLANNING & BUDGETING

An annual Procurement Plan is a forward plan summarising purchases expected to be undertaken in the year ahead. The plan is an essential part of the annual budget preparation process. It also helps businesses in their market research and planning activities, and is a useful tool for managers in planning their resources over the coming year.

Section 11 Budget Preparation and Procurement Planning

11.1 Each Procuring Entity is responsible for managing funds allocated for its use by planning and executing procurement and asset disposal activities. The Head of a Procuring Entity and any other Official to whom such responsibility is delegated shall be responsible and accountable for all procurement actions taken.

11.2 Procurement planning starts with the developing of annual plans, budgets and time schedules to execute an operational or capital activity. These plans are required to address, in detail, all required resources including those to be affected by procurement or asset disposal. The Procuring Entity should be involved in the procurement planning function as the budget is being set, and certainly before budgetary approval by the National Assembly. To ensure that Procurement planning is institutionalised, the annual budget preparation guidelines issued by the Ministry of Finance should involve procurement planning at that earliest stage.

Section 12 Procurement Planning Process

Effective Procurement Plan

12.1 Procurement planning is a crucial task for any public entity's annual planning requirements as it is necessary to calculate the expected procurement costs likely to be incurred. The plan will include both recurring and non-recurring costs (revenue and capital expenditure). In order to avoid delivery delays, the planning of procurement activities should be carried out in advance of budget approvals.

12.2 For consistency, procurement plans shall be presented to a feasible extent in the format provided in **Appendix 3** to this Handbook. However, Procuring Entities are free to include any additional elements they consider necessary.

12.3 Procuring Entity staff involved must be cognisant of the financial rules and approved procurement methods during the preparation of any procurement plan to identify each step in the procurement process that can be identified in advance. Information will also be gathered from Warehouse/Stores units (to reduce the risk of stock outs, overstocks and emergency procurements).

12.4 The duration of time required to properly carry out the following activities should be estimated and used to develop a plan so that the Procuring Entity has realistic expectations on which any necessary recruitment and financing plans may be

predicated:

- Research;
- Design;
- Development of Tender Documentation;
- Advertising;
- Prequalification;
- Procurement Method;
- Tendering;
- Evaluation;
- Approval;
- Acceptance;
- Implementation; and
- Completion.

12.5 Planning for procurement eliminates the necessity of emergency orders, or waivers, and the resultant complaints from the contracting community. Planned procurement results in lower purchase costs, as well as improved service delivery.

12.6 Effective planning also allows requirements to be aggregated into larger purchases at lower unit costs, rather than frequent sourcing of quotations for identical items and issuing many individual Local Purchase Orders.

12.7 Each Procuring Entity will insure the procurement planning process is fully integrated with applicable budget processes to develop annual procurement plan which will be submitted to the Ministry of Finance along with the annual budget and copy must be submitted to the Contractor General.

Level of Planning

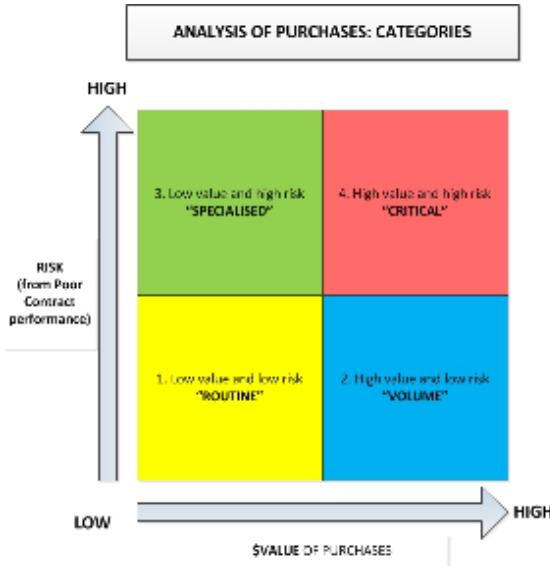
12.8 The level of effort expended on planning should be commensurate with the complexity of the procurement object. Using the vertical axis to measure “risk” (from poor Contract performance) and the horizontal axis to measure the “\$ value of project”; the diagram below (See Figure 2) classifies the procurement object in four categories: Routine, Volume, Specialised and Critical.

12.9 While the process of planning for the four categories of procurement is similar, the amount of time, effort and documentation will vary amongst them - in some cases significantly. Procurement in categories 2, 3 and 4 are considered Significant Procurement, since they:

- Represent the majority of the Government of Belize expenditure;
- Are generally challenging to specify and source;
- Can have a significant impact on Government operations.

12.10 For the categories comprising Significant procurement, planning must start at the budgeting stage. Routine procurement requires less planning and are to be handled by less complex systems that reduce the transaction costs. These systems are outlined in sections that follow.

Figure 2 - Procurement Categories



Procurement Options

12.11 During the planning phase, attention should be given to examining options to acquire procurements. Options to be explored are outlined below. A template for procurement planning should be developed as included in **Appendix 3** to this Handbook. In addition, this template could be used for periodic reporting on the actual progress of the Procurement vs. the Plan.

Figure 3 - Procurement Options



Consolidation of Procurement

12.12 Volume procurement (category 2), can be considered for consolidated procurement. As part of Procurement planning, the Procuring Entity should conduct a spend analysis to identify the volume and value of these procurements and to develop an approach to reduce total costs, including the costs of processing a large number of low value transactions. Consolidated procurements increase buying leverage.

12.13 Procurement of Common User items may also be aggregated for more than one Procuring Entity into Framework (Call-off) Contracts for six months or a year, to permit further economies of bulk purchasing, saving of time wasted by separate procurements, and a reduction of the need to maintain high stock levels.

Bulking of Orders

12.14 Within each category, needs should be examined to see whether it is possible and sensible to combine similar or related items in a single package. Although, on the surface, this sounds as if it would be desirable to do, several questions need to be considered before coming to this conclusion:

- Are the goods needed at more or less the same time, or will there be long gaps between the desirable delivery times?
- Are the goods intended for ownership and use by the same party or will there be multiple owners and users, making it simpler to let each party contract for its own goods?

12.15 In the past, conventional wisdom held that substantial savings could be achieved through bulking of orders for like goods by getting economies of scale. With present order processing and shipping methods, significant price differences occur only with very large differences in quantities.

Procurement Plan Monitoring and Updating

12.16 During the financial year, the Procuring Entity should regularly monitor and update the Procurement Plan. The essence is to see how actual performance compares with the planned activities and to make changes in the plan if necessary.

12.17 If slippage occurs in the award or execution of one major contract, it may require rescheduling of other related contract awards and deliveries. The purpose of monitoring is to complete the details of what has actually been executed, to note whether there are major discrepancies with what was anticipated, and make adjustments in the plans so as to give a complete picture of procurement performance.

12.18 A full revision and update of the Procurement Plan must be submitted to the Ministry of Finance for review and approval, and the Contractor General, on a quarterly basis throughout each Financial Year.

Procurement Plan and Private Sector Capacity

Market Analysis

12.19 After the Budget approval, Market Analysis is required to determine the private sector's capability to meet the needs of the contract. Market Analysis should address issues in the following order:

1. **Understanding requirements.** This means reviewing requirements of the contract in terms of scale and components, in identifying questions such as "Can this contract be combined with other contracts to attract a high number of contractors?"; or "Can the contract be broken into smaller components, to achieve a higher level of competition without compromising management of the contract?"
2. **Determining likely tenderers,** their capabilities and willingness to tender, asking questions such as "What is the range of likely contractors who may be interested in this contract" and "What can I do to attract more appropriate contractors to tender for this contract?"
3. **Determining appropriate levels of competition.** Once items 1 and 2 are determined, the appropriate scale and nature of the contract which will attract an appropriate and manageable level of competition should complete the market analysis process.

Local Supply Capabilities and Foreign Interest

12.20 The ability of local suppliers of goods and services to meet government needs and the likely interests of foreign bidders to participate, are some of the factors to be considered when making contract packaging decisions. If there are well established local civil works contracting and goods supply capabilities, the scope and sizes of contract packages should be set in such a way that permits local firms to compete effectively. If foreign interest in bidding for contracts is low, for example, because they are not established in the country or because of the known competitiveness of local firms, package sizes can generally be set to match those local capabilities. However, if there are reasons of economy or efficiency in choosing larger contract packages or if it is known or believed that foreign bidders will be interested in bidding, these should be the determining factors in contract packaging and sizing.

12.21 If there are local and foreign interests and capabilities to supply procurement needs, it may be possible to meet both of these by appropriate sizing and timing of contract awards. Works contracts for roads, drainage canals, etc., may be divided into individual packages that can be handled by local bidders and then calling for bids for 5 or 10 of these packages at the same time ("slicing and packaging"). A small local contractor can bid for one or however many slices it can handle, and a large foreign bidder can bid for all slices in the entire package, offering a discount if all or a specified number are awarded to it. A similar approach and results can be achieved in goods contracts by making the basic bid "lots" conform to local bidding capacities and then awarding contracts for a number of lots in the same bidding process, thereby allowing larger suppliers to offer discounts in the case of multiple contract lot awards.

Informing the Private Sector

12.22 Publication on the Government's Procurement Portal (and/or the different Procuring Entities' websites) of realistic annual Procurement Plans allows the private sector to respond more effectively to the requirements and specifications of Government, through investment in staff and equipment, manufacture and importing of goods, and financial planning.

CHAPTER 6. PROCUREMENT OF GOODS, WORKS, AND GENERAL SERVICES, METHODS AND STRATEGIES

This chapter addresses the procurement of goods, works and general services, and the disposal of assets. It aims at guiding on how to select and apply the appropriate procurement or sale method, from the tendering stage to the contract award, and includes key topics as contract selection, pre-qualification of bidders, bids opening and evaluation. It also details the preparation of the Standard Bidding Documents and specifications that officially specify the procurement requirements and proceedings in a legally binding manner, and the essential contract provisions.

Section 13 Competitive Tendering

13.1 Good procurement of goods, works and general services is sometimes described as the five rights of:

- Quality
- Quantity
- Time
- Source
- Price

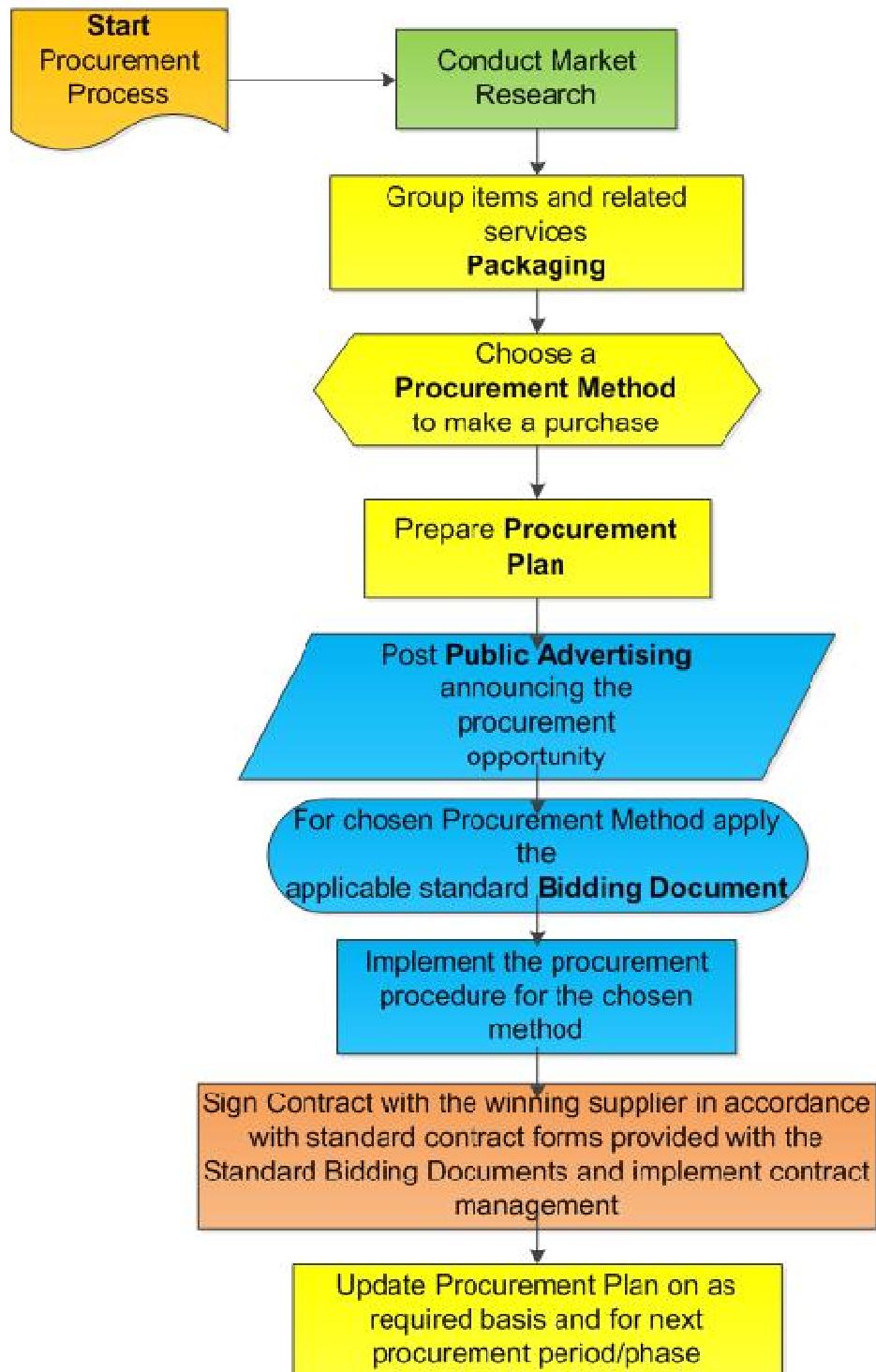
13.2 Competition is an essential ingredient in achieving this and promotes effectiveness in procurement, discourages monopoly situations and avoids favouritism.

13.3 A balance needs to be achieved when deciding on how many suppliers should be asked to participate in the tendering process. If there are too many, the process becomes time-consuming for both the Procuring Entity and the suppliers; if there are too few then competition suffers.

13.4 Suppliers incur costs in preparing and submitting their bids: An unnecessarily large tender list will result in much wasted effort by suppliers, which could be criticised. Generally the higher the value and importance of the requirement, the more suppliers should be invited to bid.

Figure 4 - Overall Procurement Process for Goods & Works

Goods and Works Overall Procurement Process



Small Business, and Socially and Economically Disadvantaged Business

13.5 It is essential for all Procuring Entities to identify contracting opportunities for products and services of which Belize Micro, Small and Medium Enterprises (MSMEs) may participate, and establish an appropriate purchasing percentage and product categories there from. The statistics should be reported to the Contractor-General and the Ministry of Finance and Economic Development annually.

Contractor Registration

13.6 There is no requirement on the part of the Government of Belize for firms (suppliers, purchasers, contractors or consultants) to be registered with any entity other than for the purpose of legal incorporation in firms' country of origin. No other requirement to be registered with any other entity either inside or outside of Belize will be used as eligibility criteria.

13.7 It should be noted that in the event a Procuring Entity insists on registration, any requirement for registration must form part of the contract awarding procedure, not eligibility, evaluation or post qualification. Any firm required to register as part of the awarding process must be allowed sufficient time and all reasonable assistance to complete the registration process. The period for contract signature and the provision of any securities shall be extended to allow for any registration process.

Advertising and Pre-Qualification

13.8 Under the Finance and Audit (Reform) Act, 2005, Part IV:

“ 19. (1) *(a)* any conditions for participation in the tendering procedure for the procurement or sale in question are published in adequate time to enable any interested supplier or purchaser, as the case may be, to initiate and, to the extent that it is compatible with the efficient operation of the procurement or sale process, complete the applicable qualification procedure”;

“19. (1) *(e)* the process of, and the time required for, the qualification of suppliers or purchasers is or are not used to keep any applicable supplier or purchaser from being considered for the purposes of the procurement”;

“19.1 *(h)* if the Government maintains a permanent list of qualified suppliers or purchaser’s, an applicable supplier or purchaser may apply at any time to be include in that list, and is so included within a reasonable time after he has successfully completed the applicable qualification procedure”.

13.9 Best practice calls for the invitation to tender or invitation to pre-qualify to be published on the Government’s Procurement Portal, and/or the Procuring Entity’s website, and in at least a one newspaper of wide circulation, or at least one journal of wide international circulation dedicated to publishing international tendering wherever foreign tenderers are expected to be interested in the contract. Contracts in which

only national tenderers are expected to be interested may be advertised only nationally.

13.10 Advertisements and invitations for pre-qualification should conform to the provisions of the Finance and Audit (Reform) Act and have the following information:

- a) a brief description of the goods and works to be procured;
- b) contract conditions;
- c) eligibility requirements for potential applicants; and
- d) the time and place where prequalification documents can be obtained.

13.11 In public procurement, the contract should be awarded only to a bidder who has the necessary “qualifications” to perform the contract satisfactorily in respect of quality, quantity and time.

13.12 Part IV, Section 19.2 of the FARA outlines the mandatory principles in establishing the qualifications of suppliers and contractors. Those that are considered appropriate include:

- a) technical competence, financial resources, facilities, reliability, experience and reputation of product and personnel to perform the contract;
- b) legal capacity;
- c) solvency;
- d) fulfillment of tax and social security obligations;
- e) absence of criminal record;
- f) satisfactory past performance.

13.13 The objective of pre-qualification is to ensure that bidders for a contract will be only those contractors, purchasers or suppliers who have the experience and technical/ financial resources necessary to fulfill the contract requirements.

Tax Compliance Requirement for Foreign Contractors

13.14 Where the contract will require the performance of any part of the works or service in Belize, the foreign contractor will be required to obtain a valid Tax Compliance Certificate before the signing of the contract and present this to the Tenders Committee to be eligible for award.

Cost of Bidding Documents

13.15 Bidding documents are normally sold to prospective bidders to offset the costs of production. Request for Proposals are issued to the shortlisted firms at no cost. The cost of the documents should be a reflection of the actual cost of production. The following is to be used only as a guide:

- For shopping, no charge;
- For NCB, 20 cents per page plus \$15 per document covering binding, advertising and distribution;
- For ICB, 20 cents per page plus \$50 to cover binding, advertising and international courier costs.

13.16 Therefore a 100-page document would be sold at \$35 (NCB) and \$70 (ICB). The Procuring Entity may waive the fee for the bidding documents and make it available free of charge to all who request it.

13.17 If there are special printing requirements, such as civil works drawings, that cost more than 20 cents per page to reproduce, the cost of reproduction should also be added to the overall cost of the bidding documents.

13.18 It is important that any who wish to review the documents before purchasing them, are allowed to do so. There are two reasons for this:

- Potential Bidders should not be forced into purchasing documents before reviewing them - if once they purchase them they find out that the products are outside of their manufacturing or supply capabilities, they will be reluctant to purchase documents in the future, perhaps depriving the Procuring Entity of a competitive source;
- Members of the general public should be actively encouraged to take an interest in the procurement process as a means of promoting greater transparency and providing a useful check helping to ensure that the Government's procurement legal framework is being followed.

13.19 Every time a document is sold, the following data must be recorded:

- The name and address of the company;
- The telephone and facsimile numbers, and email address (plus website if applicable);
- The name of the representative purchasing the document;
- The name and address of the sales contact within the supplier's organization responsible for preparing the bid;
- The date that the document was dispatched to the supplier;
- The receipt number issued to the supplier.

13.20 This information must be collected, firstly, as the inwards remittance for the sale of the document must be recorded, and secondly, it may be necessary to issue bid clarifications or amendments after the document has been sold. It is also useful as it can be used by the Procuring Entity to build a supplier database.

13.21 Funds collected from the sale of bidding documents to the bidders shall be deposited at the Government Treasury or in a Procuring Entity's bank account.

Single vs. Two-Stage Tendering

13.22 The PE can use the Two-Stage tendering when it is not feasible to formulate detailed specifications due to the complex nature of the contract in order to obtain the best performing solution. Pre-qualification as per Section 14 may be done in such cases.

13.23 In the first stage, bidders shall submit proposals based on the conceptual design or performance-based specifications provided by the PE.

13.24 In the second stage, bidders submit final technical proposals with prices on the basis of documents revised following the first stage.

13.25 In a two-stage process, the PE prepares a first stage bidding document with functional performance specifications, rather than detailed technical specifications. In response, bidders offer un-priced technical proposals (i.e., no financial proposal is submitted at this time). The PE then:

- Assesses the suppliers' qualifications if prequalification has not been done;
- Evaluates the technical proposals;
- Indicates to the suppliers precisely what must be done to make their bid technically responsive.

13.26 Following the first stage evaluation, the PE prepares the memoranda of changes for each bidder and may prepare addenda to the bidding documents, including revisions to the technical requirements made in the light of the first stage technical evaluation, and initiates the second stage bidding process. During the second stage bidding process, bidders offer amended bids containing their final technical and a financial proposal. The PE then evaluates the proposals (both technical and financial) according to the criteria & method specified in the bidding documents.

13.27 The advantages of the two-stage process include the ability of the PE, during the first stage, to interact extensively on technical matters with bidders than is permissible in a one-stage process. In this way, the PE can learn from the market and adapt its requirements. In addition, a two-stage process allows the PE, in the first stage, to state its requirements in more general functional or conceptual terms than the detailed functional and technical requirements necessary to carry out a one-stage process. By knowing the bidders and their technologies prior to the second stage, this reduces the burden of preparing too comprehensive detailed functional and technical requirements.

13.28 One or single stage process is most appropriate for relatively straight-forward procurement of fairly standard technologies and ancillary services. In contrast, the additional capacity to review technical proposals, revise technical requirements and interact directly with the suppliers during the first stage make the two-stage process much more suitable for the procurement of industrial plant, complex information systems and procurements which involve extensive technical services.

Debarement, Suspension and Ineligibility

13.29 A supplier, purchaser or contractor may be disqualified and/or stricken from a qualified list of approved suppliers or purchasers, without liability to Government of Belize, if it is found, at any time, that the information submitted concerning the qualifications of the contractor was deliberately false. The Procuring Entity should promptly report any such findings, along with any evidence and the reason(s) for its findings of falsification, to the Contractor-General and the Ministry of Finance and Economic Development.

13.30 A supplier, purchaser or contractor may be disqualified, suspended or stricken from a qualified list of approved suppliers or purchasers, without liability to Government of Belize, for reasons of poor performance, pursuant to the contract documents. The Ministry or PE shall promptly report any such findings, along with any evidence and the reason(s) for its findings to the Contractor-General and the Ministry of Finance and Economic Development.

Community Participation

13.31 Community participation in planning, designing and implementing development projects is increasingly more sustainable and has yielded higher returns when they involve those they are intended to help. The Procuring Entity shall ensure to use community participation in procurement for all small and widely dispersed civil works. To the extent possible, the PE should purchase the construction materials such as cement, steel, stone aggregate, sand and tools in bulk through open tender procedures, preferably from local suppliers.

13.32 In case the PE cannot identify adequate skilled labourers within the community, the work can be let out by inviting quotations from three local contractors. To the extent possible, members of the local community should be employed by the contractors as labourers. The contract should be simple in form and adequately addressing the main issues such as scope of work, date of start, completion period, payment terms, progress and quality review, responsibilities of the contractor, including review, inspection, payment procedures and contract termination.

Misprocurement

13.33 Misprocurement refers to a situation where a procurement activity is not carried out according to statutory rules and regulations.

13.34 The Control of Public Expenditure handbook (parag.115) places the overall responsibility in the hands of the Accounting Officer, or Chief Executive Officer (CEO), of each Procuring Entity for matters concerning finance, accounts and stores, which shall include procurement activities and thus misprocurement. It is the responsibility of the Accounting Officer, or Chief Executive Officer (CEO) to ensure that procurement activities are conducted by knowledgeable and qualified staff, i.e. procurement professionals and finance officers who will efficiently manage and coordinate the procurement activities.

13.35 It is the responsibility of the Procuring Entity to inform the Ministry of Finance and Economic Development and the Contractor General in writing, within 7 working days, of any allegations or breach of the agreed procurement procedures for corrupt or fraudulent practices.

Section 14 Pre-Qualification of Bidders

Pre-Qualification Documents

14.1 Prequalification documents should enlarge on the information provided in the notification advertisement and contain a description of:

- the scope and description of the proposed procurement;

- the estimated value of the contract and major quantities of work;
- location of the work;
- eligibility requirements including, eligibility requirements for domestic preference (if applicable);
- procurement scheduling of goods or works to be procured;
- abbreviated specifications and conditions of contract;
- main quantities to be procured;
- delivery or implementation schedules;
- requirements for bid and performance securities;
- the source of financing of the procurement;
- the contract conditions, and at least the following if full contract conditions are not yet developed:
 - payment terms;
 - price adjustment provisions;
 - language and governing law of the contract;
 - other information in sufficient detail to enable bidders, suppliers or contractors to assess their interest and respond appropriately; and
 - name and address of the Procuring Entity and of the Procuring Entity's official in charge of the procurement with statement of their roles.

Criteria for Prequalification

14.2 The prequalification should be based entirely upon the technical, managerial and financial capabilities of prospective bidders to perform the particular contract satisfactorily. Where the prime contractor proposes to use the services of major specialist subcontractors, their names and experience should also be solicited.

Evaluation of Prequalification Applications

14.3 The evaluation of prequalification applications should be based on compliance with quantifiable clearly identified minimum thresholds, which establish the capability of an applicant to carry out the contract satisfactorily. Applicants are prequalified if they meet all the required criteria on a pass/fail basis.

Notification to Applicants

14.4 Section 19.1(i) of the FARA, specifies that the PE shall promptly notify each supplier or purchaser who participated, whether or not it has been prequalified and shall make available to any member of the general public, upon request, the names of all who have been prequalified. Promptly after the notification of the results of the prequalification, the PE shall invite bids from all the applicants that have been prequalified.

14.5 Bid documents should be issued only to prequalified applicants. Verification of the information provided in the prequalification application shall be confirmed at the time of award of contract, and award may be denied to a bidder that is judged to no longer have the capability or resources to successfully perform the contract.

Section 15 Defining the Contract & SBDs

15.1 The first important step of the procurement procedure is for the Procuring Entity to respectively determine the:

- Subject of the contract;
- Total value; and
- Duration of the contract

15.2 These characteristics will determine the type of procedure to be used, and the various legal obligations in terms of publicity.

Subject of the Contract

15.3 The Procuring Entity should provide a full and accurate description of the goods, services or works required.

15.4 The technical specifications should be clear and easily understood, and should be based on the function of the requirements. Brand names should be avoided.

Estimating the Value of the Contract

15.5 The estimated value of a contract should not be calculated in such a way as to circumvent the rules on the procedures to be used.

15.6 A contract may not be split for the purpose of avoiding competitive tendering or circumventing threshold limits.

15.7 The value of a contract must not be increased to exceed the threshold value of the specific procedure followed.

15.8 The suppliers or purchasers total price should include all applicable taxes, duties and other charges.

Long-Term Contracts

15.9 For long-term contracts, estimating the value should take into account the following:

- The contract values must cover the total estimated cost for the intended duration of the contract.
- In contracts for goods for 1 year (twelve months), the total value should include the residual value.
- Where contracts are to be awarded regularly, or are to be renewed within a specified period of time, the contract value is established on the basis of the actual aggregate cost of similar contracts or service awarded over the previous twelve months or financial year, adjusted where possible for anticipated changes in value or quantity.

- In the case of fixed-term service contracts which do not specify a total price, or supply contracts for leasing, rental or hire, purchase of products, less than twelve months in the case of services, or twelve months or less in the case of supplies, the basis for calculating the estimated value is the total contract value for their duration.
- In the case of works contracts, the estimated contract value should include:
 - the value of the works;
 - the estimated total value of any supplies needed to carry out the works; and
 - any associated services, if made available to the contractor by the Procuring Entity.

Lots and Options

15.10 In the case of contracts with lots or options, the following should apply:

- Where a contract provides for OPTIONS, the basis of the calculation must be the amount authorised, including options.
- In the case of contracts made up of a set of products or services serving a similar purpose, and where the combined value is such that few suppliers or contractors would be able to provide them all, the contract should be divided into LOTS.
- Any competent supplier or purchaser can tender for one or more lots.
- The value of certain contracts must include:
 - Insurance premiums;
 - Financial services or banking; fees, interest and other types of remuneration.

Duration of the Contract

15.11 All contracts must be for a limited period; this also applies to contracts covering operations of a repetitive nature, or for which the tendering procedure must be repeated at regular intervals.

15.12 In the case of one-off operations, the contract should be self-evident from the full, clear and detailed technical subject of the contract.

15.13 The duration of framework contracts may not exceed four (4) years, unless in exceptional cases this is justified by the particular subject of the contract, and authorised by the Ministry of Finance and Economic Development.

Types of Contract(s)

15.14 There are three main types of contracts that an entity can choose from when contracting with a potential supplier. The choice of the type of contract depends on the category and nature of the item or service that needs to be provided.

15.15 The types of contracts are as follows:

1. **Supplies Contract**: Refers to the physical products, articles or equipment as described in the contract, that are to be supplied to the Procuring Entity. It involves delivery of the items and transfer of ownership from the supplier to the Procuring Entity. In some cases, it may involve the items being installed and connected to utility services (water, gas, electricity) of the PE, or being tested and issued with a test certificate.
2. **Service Contract**: Refers to the provision of services to the Procuring Entity that facilitates, or creates change. It may be the provision of services (security guards, cleaning, pest control, etc.) or the provision of professional services or advice (consultancy services, creative/artistic services) to the Procuring Entity, through the provision of skills or knowledge based services. Some consultancy, professional, advisory, or artistic services may be difficult to measure in real quantifiable terms, as they can often be intangible or creative services.
3. **Works Contract**: Involves the physical construction, e.g. a new school, or road, or hospital extension; or the demolition of a physical structure such as a dangerous building. Alternatively, it may be the refurbishment/rehabilitation of a building such as old offices or school premises.

Threshold Values

15.16 The Procedures apply to all contracts with the following current threshold values for the procurement of Goods, Works and Services:

- Open tendering: above BZ\$20,000;
- Limited/Selective tendering (Shopping) with advertising: above BZ\$10,000 and below BZ\$20,000;
- Limited/Selective tendering (Shopping) without advertising: above BZ\$1,000 and below BZ\$10,000;
- Micro Procurement: below BZ\$1,000.

Selecting the Right Bidding Documents

15.17 For the purposes of this section the term Bidding Documents also includes documents for consulting services (RFPs). The task of determining what the PE is actually setting out to procure, i.e. is it goods, works or services, is also essential as each have their own specific bidding documents. This is normally, but not always, a very simple task - for example, when does the procurement of goods with an element of installation services cease to be procurement of goods and become procurement of works? Or could the procurement of general services including the acquisition of equipment become procurement of goods?

15.18 There is no hard and fast answer. However, the simplest way to answer the question will usually be for the PE to ask itself “Whom do I expect to bid? Suppliers, contractors or consultants?” in view of the main activity to be carried out. Depending on the answer given, the PE will have identified the procurement of either goods, works or services.

15.19 The Ministry of Finance and Economic Development has developed a complete set of harmonised national bidding documents. These documents form the **Annexes I to VI** contained in the **Volume II** of this Handbook and their use is mandatory. As these are the first edition of these documents, users are encouraged to comment on their use and on areas that they feel the documents require strengthening. Any comments will be accepted with thanks and should be addressed to the Ministry of Finance and Economic Development.

Section 16 Tendering Methods

16.1 Contract packaging and scheduling are interlinked with the choice of procurement methods. In most cases, arriving at the procurement plan requires iterative adjustments in all three of these aspects. It is impossible, for example, to think about what contract packaging would be appropriate, without having in mind how this affects the choice of the procurement method and the time that will be needed to carry it out.

16.2 The choice of procurement method depends on:

- The nature of the goods, services or works to be procured;
- The value of the procurement;
- The likelihood of interest by foreign bidders, which is function of the local availability, capacity and costs;
- The utilization of Belize Micro, Small and Medium Enterprises (MSMEs);
- Critical dates for delivery; and
- Transparency of procedures proposed.

Open Tendering Procedure

16.3 Open tendering is the preferred method by the Government of Belize to be used by all Procuring Entities, and means that the procurement or sale of goods, works or services is open to any interested local or foreign contractor. Contractors shall show proof of fulfillment of tax and social security obligations prior to contract award. Procurement offered through open tender must be advertised on the Government Procurement Portal or website of the Government of Belize and at least in a national, daily circulated newspaper.

Selective Tending Procedure

16.4 Selective tender means procurement or sale of goods, works or services, or a combination of goods and services is opened to only suppliers invited to do so by the Procuring Entity. Where no supplier, purchaser or contractor is registered, Procuring Entities may seek bids/proposals from unregistered contractors. Procurement offered through selective tender must be advertised on the Government Procurement Portal or Government of Belize’s website and at least in a national, daily circulated newspaper.

Limited Procedure

16.5 Limited Tendering means procurement or sale of goods, works or services, or a combination of goods and services, where a specific number of contractors, suppliers or purchasers are invited to bid. Criteria for selecting contractors, suppliers or purchasers should include:

- Nature of the goods/services/works required;
- Relevant experience;
- Past performance record on similar contracts;
- Current commercial and financial resources;
- Capabilities with respect to personnel, equipment, and/or construction or manufacturing facilities;
- Required licensing and professional registrations.

16.6 The prepared lists of contractors, suppliers or purchasers with written justification shall be submitted to the Tenders Committee for approval prior to any contractor/supplier/purchaser being invited to tender.

16.7 Procurement offered through limited tender is not advertised. Procuring entities may award their contracts by limited tendering procedure, in the following cases but not limited to:

- Where the open tendering procedure or selective tendering procedure was used but no tender was received;
- Where, in the view of the Government, the process was not in compliance with any condition specified in the invitation to tender;
- Where, for reasons of extreme urgency brought about by events unforeseeable by the Government, or in the public interest, the goods or services cannot be procured in time using the other procedures; or should be promptly disposed of by sale;
- Where the goods or services to be procured are required by the Government as a parts replacement for, or addition to, existing goods or installations; or are an extension of an existing service;
- Where due to national security, or national emergency, reasons are justified in writing to use the limited tendering procedure;
- Where the Government decides to purchase goods and services for the day-to-day operations of the Government.

Single Source or Direct Contracting

16.8 Single Source or Direct Contracting relates to a situation where goods, works or services are available from only one source. The request to use this method of procurement must be accompanied by a convincing justification, and where appropriate, the cost benefits, and must be approved by the Procuring Entity's

Tenders Committee, and when applicable by the Contractor-General and Ministry of Finance and Economic Development.

16.9 Single Source or Direct Contracting may be used where one supplier is selected without competition such as where:

1. The procurement of item(s) is of proprietary nature;
2. There is only one supplier for the supplies, works or services;
3. Extension of existing supplies, works or services contract is deemed the most economical procedure;
4. Where an emergency situation exists, and there is insufficient time for any other procurement methods;
5. Additional quantities are required for continuity, or to be compatible with existing supplies, works or services, and the prices for the additional quantities are deemed reasonable.
6. There is justification against the use of any other procurement method.

16.10 The use of the direct procurement method (Single Source or Direct Contracting) shall require prior written approval by the PE's Tenders Committee and when applicable by the Contractor General and Ministry of Finance and Economic Development.

Micro Procurement

16.11 This method is used for procurement which does not exceed \$1,000. The Procuring Entity is responsible to request not less than three (3) firms to submit a written quotation (on their letterhead) and the lowest price is selected for award. The supplier, purchaser or contractor can be called by telephone or contacted by fax and invited to submit a price quotation. The Procuring Entity must obtain the relevant documents denoting the supplies procured and a priced invoice. Such procurement shall be reported to the Tenders Committee within thirty (30) days.

16.12 There is no specific requirement imposed by the rules on how to choose the companies to be invited. However, compliance with the principles common to all public contracts, namely transparency, proportionality, equal treatment and non-discrimination, is required. In practice, the procedure may be conducted as in an open procedure.

16.13 Under this procedure, only the award criteria of lowest price can be used.

Procedures for the Disposal of Assets

Introduction

16.14 Procuring Entities are responsible for the disposal of surplus goods and equipment and other assets, in an efficient, consistent, equitable and accountable manner.

16.15 Assets in this Handbook are meant as those obtained as the result of the expenditure of public funds in the acquisition of goods, works and services, or those supplied through Donor assistance, and do not cover national Land. Where assets (stores, plant, equipment or other) become unserviceable due to fair wear and tear, or due to changing circumstances, become obsolete, or surplus, the Procuring Entity shall instigate, in conjunction with the different technical Departments, a technical report which states the condition of the item, the justification for disposal and suggested method of disposal to be sent to the Ministry of Finance and Economic Development.

Restriction on Disposal to Public Officials

16.16 A Procuring Entity should not dispose of unserviceable, obsolete or surplus stores, assets and equipment to an employee of the Procuring Entity, or any employee of the Government of Belize, unless approved by the Board of Condemnation in conjunction with the Contractor-General's Office.

16.17 The restriction extends to the relatives of the person. For greater clarity, "relative" is defined as the spouse or children.

Disposal Organisation and Planning

16.18 Procuring Entities should prepare a disposal plan for each fiscal year. Annual disposal planning should be integrated with applicable budget processes and based on indicative or approved budgets, as appropriate, for any disposal linked to replacement. The Disposal Planning shall be done at the same time as the Procurement Planning and shall be approved by a Board of Condemnation with copy to the Ministry of Finance and Economic Development and the Contractor-General.

16.19 The annual disposal plan for each Procuring Entity should include:

- A detailed breakdown of the stores, assets and equipment to be disposed of;
- A schedule of the disposal;
- An indication of the justification for disposal;
- An estimate of the value of each store, asset or equipment;
- A reference to the asset register or records of the stores;
- An indication of the method of disposal envisaged for each disposal requirement, including any need for pre-qualification, and the anticipated time for the complete disposal cycle, taking into account the applicable approval requirements;
- An indication of whether the disposal of the stores, assets or equipment will be managed by the Procuring Entity or any special entity designated or hired;

- An indication of the resources available for managing the disposal workload.

16.20 Prior to the actual disposal of assets, the assets must be written-off from the asset inventory. Only then may the procedure of physical disposal commence. Disposal is as the following process:

- 1) Inspection team assesses condition of the asset(s);
- 2) Prepare report on the condition of the asset(s);
- 3) Request approval to dispose and recommends the method of disposal;
- 4) Obtain approval to write-off asset(s);
- 5) Arrange write-off of the assets(s) from the asset inventory;
- 6) Adjust the stock balances of the stores/stock records (where applicable);
- 7) Physically remove from stock (where applicable);
- 8) Set reserve value(s);
- 9) Commence the disposal procedures.

16.21 Assets should be grouped into lots, or contracts, in a way that will attract the maximum possible competition, and they may also pool assets for purposes of common disposal. Where the public auction method is used for the disposal of assets, a Procuring Entity shall maximise the number of assets to be disposed of at any one time in order to reduce the administration and transaction costs.

Initiation of Disposal Requirements and Approval for Disposal

16.22 The Procuring Entity will initiate the disposal process by categorising the assets and prepare a report of the all item(s) for presentation to the Ministry of Finance and Economic Development for its consideration to convene a Board of Condemnation which will give the authority for the disposal of the assets.

16.23 The Government shall, before disposing of any public assets of or above the value of two million dollars, seek the written comments of the Contractor-General, before submission to and approval by the National Assembly, to be signified by a resolution made in that behalf and published in the *Gazette*.

Sale by Open Tender

16.24 Procuring Entities should ensure that the disposal method is properly approved by the Board of Condemnation. A Procuring Entity that conducts disposal using sale by open tender shall conduct the process as in the case of procurement by open tender.

Bidding/Disposal Documents

16.25 The Procuring Entity shall draft the bidding/disposal documents using the appropriate standard forms from the Standardised Bidding Packages templates, which should then be submitted to the Board of Condemnation, for vetting and approval. The Bidding document shall include among others:

- 1) A description of the assets to be disposed of;
- 2) The location of assets;
- 3) The deadline, location and submission method;

- 4) Qualification requirements to be met by bidders;
- 5) Evaluation method and basis for award;
- 6) Details of any reservation scheme in place;
- 7) Conditions of sale if any;
- 8) The requirements for payment of the sale, before the handover of the assets;
- 9) Any notices or bidding documents must include the statement that all items are sold on “as is” and “where is” basis, proffer no warranty, implied, intended or otherwise and shall disclaim all further liability after the sale.

Advertisement

16.26 The Procuring Entity shall publish a public invitation notice in at least one newspaper of wide circulation and on the Government’s Procurement Portal or Government of Belize’s website for a minimum period for advertising of twenty (20) days.

Inspection of Assets

16.27 Information on the arrangements for inspection, i.e. date, time, venue, etc., shall be included in the invitation notice and the bidding documents.

Submission, Withdrawal, Closing of Bids and Bid Opening Processes

16.28 Bid submission, withdrawal, closing and opening procedures are similar to those of Procurement.

Bid Evaluation

16.29 Bid evaluation is normally based on price only, but can also be based on price and other factors where there is need to attach certain conditions to the sale. These should be clearly set forth in the bidding documents.

16.30 The Procuring Entity shall produce and submit the evaluation report to the Board of Condemnation, for approval, before contract award.

Award of Contract

16.31 For all other methods of disposal, an award of contract shall be by a decision of the Board of Condemnation, in which case a contract placement shall be through the issue of a contract document to the successful bidder.

16.32 Once a contract is awarded, the award decision should be advertised through the publication of a notice on the Government’s Procurement Portal or Government of Belize’s website.

Unsuccessful Proceedings

16.33 Where no responsive bids are received or disposal proceedings are otherwise unsuccessful, the disposal team should investigate the failed disposal proceedings and prepare a report for the Board of Condemnation and the Tenders Committee. The report should include the reasons why the disposal was unsuccessful and recommendations on how any new disposal proceedings should be managed to avoid such failings.

Framework Agreements (FAs)

16.34 The *Framework Agreement (FA) is not a contract*. This procurement method is used in cases to provide the Procuring Entity a supply of goods and related services "as and when" required and on a pricing basis and under terms and conditions stated in the FA, where the exact date of the start of the procurement need is uncertain. It is therefore the call-up, which forms the contract.

16.35 This method is mostly used for emergencies in infrastructures, i.e. a water pipeline breaks or a hospital needs urgently blood reserves. Here the contract is generally concluded with several contractors or suppliers for a period up to three years with prolongations and price adjustments.

16.36 The Procuring Entity does not necessarily intend to immediately or ever enter into a contract. Rather, the intention is merely to establish the best source of a future supply, based upon firm prices and predetermined conditions over a specified validity period.

16.37 The start of the contract implementation is on a 24-hour call basis. By a phone call, the contractor is informed, for example, where to repair the broken pipeline or the road, or the supplier is called to deliver a definite amount of health equipment maintenance.

The Lease or Purchase Decision

16.38 Procuring Entities should address this issue on a case-by-case basis by evaluating the nature of the procurement and other relevant factors. At a minimum, the Procuring Entity should consider the following elements:

- Estimated period of time for usage of the procurement and the extent of use within that period;
- Financial and operating advantages of alternative procurement;
- Cumulative rental or lease payments for the estimated period;
- Net purchase price;
- Opportunities for re-deployment of the procurement after completion of use;
- Transportation and installation cost;
- Maintenance and other service costs;
- Potential obsolescence due e.g. to planned technological change(s);
- Total life cost of procurement;
- Cumulative rental or lease payments for the estimated period.

16.39 The lease option is warranted where it is to the government net advantage under the circumstances of the particular procurement. The lease option may also serve as an interim measure when the circumstances require either immediate use of

the procurement to meet objectives, or do not currently support an outright buy. Generally, an outright buy is warranted if the procurement will be used beyond the point when cumulative leasing costs exceed the costs of an outright buy.

External Funding Agencies

16.40 Procurements funded by Multilateral Development Banks and similar external agencies such as the Caribbean Development Bank, the European Union, are governed by the procurement rules of the funding agency agreed to by the GoB. In essence, their procurement policies are the same and these policies are reflected in this Handbook's procurement principles and best practices.

16.41 All these organizations are committed to promoting open competition as the most efficient basis for public procurement. The way they implement this policy is through the advertising of procurement opportunities and the inclusion of all eligible bids for the provision of goods and works in the evaluation process. In the case of services, all eligible consultants are invited to express their interest as a result of the specific advertisement for Expressions of Interest (EOI) and a shortlist is drawn up from those that expressed interest. All external agencies are committed to harmonising their policies and national procurement system processes.

Procurement for General Services

16.42 It is important for the Procuring Entity to distinguish between Consulting Services and other types of services in which the physical component of the activity is crucial. These other types of services often involve equipment-intensive activities using established technologies and methodologies that have measurable physical outputs – for example, field investigations and surveys such as cartography, aerial surveys, satellite mapping, drilling, computer services and installation of information systems, or plant operation and maintenance. These services are procured following procedures for procurement of goods and works.

16.43 Depending on the objectives and characteristics of the assignment, the Procuring Entity (PE) should determine the Consultant's selection methods and procedures. Below are examples of activities in each services category:

1) General Services - (*The provision of general services, which may be with, or without, the provision of accompanying management services*):

- Gardening
- Pest Control
- Security Guards, Patrols
- Waste Collection
- Removals
- Catering
- Cleaning, Window Cleaning
- Collection and Delivery

2) Consulting Services - (*Generally classified as the provision of intellectual skills, or of an advisory and/or an artistic nature*):

- Advisory (policies, tourism, health)

- Studies (environmental impact, population, health, education, market prices)
- Design (paintings, sculptures, architecture, advertising)
- Institutional services (procurement, taxation, budgets, police, pensions, customs)
- Training (music, sports, educational)
- Other services of intellectual and professional nature.

Section 17 Bid Opening

Public Bid Opening

17.1 International best practice calls for all tenders to be publicly opened by the appropriate Tenders Committee depending upon the value of the procurement.

17.2 This is a very important aspect of the whole procurement process. It is through public opening that the public, whose money is funding the procurement, can see that the Procuring Entity is following its obligation to ensure the maximum of free and fair competition in procurement. Public Bid Openings should always be exactly that, i.e. public, with anyone who wishes to attend allowed to do so (even if they may just be sheltering from a rain shower). Procuring Entities are also encouraged to invite Civil Society Organizations for key procurement cycle activities, such as attending Bid Openings and Contract Signing proceedings.

17.3 Public bid openings are also important in that they help to reassure bidders and consultants that the procurement process is being undertaken fairly and that all who submit an offer have an equal chance of securing a contract. This encourages participants to compete and results in a higher number of more competitive bids.

17.4 The time set for the bid opening should, without exception, be that is set as the deadline for submission, with no gap between the two.

17.5 Bid opening should never be on a Monday or a day immediately preceding a public holiday, as many foreign bidders will chose to submit their bids through an international courier company. These companies will collect documents over the weekend or holiday period but they will not deliver them until the next working day. Therefore time should be allowed for the courier company to make the delivery.

Bid Opening Committee

17.6 The Bid Opening Committee should be chaired by the Chair of the Tenders Committee assisted by the Secretary and Finance Officer. The Chair is responsible for reading out the relevant details of each bid or proposal. The Secretary physically opens the bids, passes them to the Chair, and records details in the minutes (if there are a large number of bids, another person can be tasked with taking down the minutes). The Finance Officer will be responsible for checking the presence, amount and form of any securities that are required.

Bid Opening Preparation

17.7 The venue should be checked on the day before the bid opening to ensure that everything is in order for the following day. The top table where the bids will be

opened should be arranged so that it is facing the attendees. The nearest chairs for attendees should be at least three meters away from the top table - so that they cannot read confidential details of their competitors' bids.

17.8 The venue should have adequate lighting and ventilation, and if a PA system is available it should work properly. It is not possible to know in advance how many people will turn up to a public bid opening; it depends on the amount of commercial and public interest the procurement has generated. As a common rule, three chairs for each bidding document sold should be provided.

17.9 Signs describing the bid opening with directions to the room should be shown on all the entrances to the building and compound where the opening is taking place. Also, any security personnel controlling access to the location should be instructed to admit anyone who wishes to attend - for this reason, sensitive locations should not be chosen for bid openings as access must not be restricted.

17.10 On the day of the bid opening, the tender box shall be closed at the hour set and the tender box should be transferred still locked and sealed to the venue for bid opening. The PE should make sure that someone stays at the box's original location up to the deadline for submission, so that any bidder or consultant delivering by hand can be directed to the tender box at the bid opening venue.

17.11 The PE should also ensure that at the entrance to the room where the bid opening is being held, there is a table and chair, and a register has been prepared in advance showing details like the name, title, address, e-mail and facsimile number, for each attendee to fill out. Details should be recorded so that attendees could be sent copies of the bid opening minutes.

Bid Opening Steps

17.12 At exactly the time scheduled for the deadline for submission of bids, the Chairman of the Bid Opening Committee should declare the expiry of the deadline for submission of bids and that no further bids will be accepted or considered. From this moment on, no new bids can be accepted for any reason whatsoever. ***Late bids will not be accepted but will be returned to the bidder.***

17.13 Attendees should be invited to inspect the tender box to ensure that its seals remained intact, but they should not be allowed to touch the box. Once this review is completed and the attendees are seated, the Chairman should announce the start of Bid Opening and break the seals on the tender box, unlocking it.

17.14 The Chairman should remove each package/envelope from the tender box carefully examining the seals of the packages to make sure that they have not been tampered with, holding up each package so that attendees can see that it remained unopened. Each unopened package will then be placed on the top table until the tender box is empty. Packages shall receive consecutive numbers and shall be authenticated by the initials of the Chairman and Committee members present. Any corrections, deletions or additions in a tender shall be initialled by the Chairman.

17.15 Any attendee who wants to take a closer look at any of the envelopes submitted may do so. However, attendees should never be allowed to touch any of

the bids or enter into a conversation with any member of the Opening Committee that cannot be clearly heard by all and recorded in the bid opening minutes.

17.16 The outer packaging and envelope of each bid will then be removed, making sure that no documents are discarded that should be retained - like courier dockets or outer envelopes - as evidence of how a bid was marked and sealed. The unopened original and copy bid envelopes of each bidder will be placed in a pile together with the original on top and copies underneath.

17.17 The Secretary to the Committee will identify any envelopes marked either "WITHDRAWAL" or "MODIFICATION", removing the outer packing and envelope in the same way as the main bids, discarding nothing that should be retained - like courier dockets or outer envelopes - as evidence of how a bid was marked and sealed, and place the unopened inner envelope with the corresponding Bid.

17.18 The Secretary to the Committee will then open in turn each envelope (if any) marked "WITHDRAWAL". Any bid with what appears to be a valid withdrawal notice will not be opened and the original and all copies of the bid will be returned unopened to the bidder. If there is a representative of the bidder present, he/she should be asked to confirm that the bid is to be withdrawn.

17.19 The Secretary to the Committee will then open each original bid, in turn passing it the Chair who will announce the following details in the presence of all those who are present:

- Name of the bidder or consultant;
- Country of the bidder or consultant;
- Which lot(s) are offered;
- Details of any modifications or withdrawals;
- Total bid price (for goods and works only);
- Discounts offered, if any;
- The presence or absence of the bid securing declaration or bid security (as applicable).

17.20 The Chair will then pass the bid to the Finance Officer who will announce the type and amount of the bid security, if applicable.

17.21 Except for the late Bids, no bid is to be rejected at a bid opening, even if it appears to contain a major deviation such as the absence of a bid securing declaration or bid security. Any apparent major deviation that is noted during the bid opening should be announced and minuted. Late bids, received after the stipulated deadline for bid submission, shall be rejected and returned unopened to the bidder.

Consultants' Proposals

17.22 Users should take note that only the technical envelopes of Consultants' proposals should be opened at the first opening. The financial envelopes, still sealed, must be placed with a reputable third party, such as a public auditor. Only when the technical evaluation is completed, will the envelopes be requested from the third party with whom they were placed, and all Consultants who submitted a proposal invited to attend a public opening of the financial envelopes.

17.23 When inviting Consultants to the public opening of financial proposals, they should be informed of their technical points score based on the evaluation criteria in the RFP and whether or not their financial proposal will be opened. For QCBS, least cost selection and selection under a fixed budget, all financial proposals achieving the minimum points score required will be opened. In the case of QBS, only the highest ranked technical proposal will have its financial proposal opened, but the financial proposals of other Consultants are retained until a contract is satisfactorily agreed with the winner.

Bid Pages to be initialled

17.24 Once a bid or proposal has been opened and its contents announced, the original document should be initialled by the Chair, Secretary to the Committee and Finance Officer, and any other members of the Bid Opening Committee as follows:

a) Goods and Works:

- The Bid Form
- The Price Schedule.
- The Covering Letter
- Any other pages that are deemed necessary

b) Services, Technical Proposals:

- Covering Letter
- Each page of the Workplan
- The first page of each CV submitted
- Any other pages that are deemed necessary

c) Services, Financial Proposal:

- Financial Proposal Submission Form
- Breakdown of costs by activity
- Any other pages that are deemed necessary.

17.25 The reading should be from the original version of each bid and proposal, and the actual amounts and other key details read-out should be circled for later verification.

17.26 **The Bid Security must never be marked in any way.** Certain types of financial documents become invalid if they are marked, annotated or amended in any way from their original state.

Questions from Attendees

17.27 Representatives will sometimes ask for the details to be re-announced. This shall be complied with within reason. The Opening Committee team should be aware that representatives may take notes, and that it is therefore essential that information should be conveyed and recorded clearly.

17.28 A brief time shall be allowed after the envelopes have been opened for questions from the audience/attendees of the public bid opening.

17.29 However, questions regarding the specific details of any bid shall not be answered unless it is simply a request to repeat an earlier announcement. Specific discussions should not be entered into with any of the representatives concerning

any of the bids or proposals. It is acceptable, if asked, to provide a general timeframe of how long the evaluation may take.

17.30 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".

The End of the Opening Session and Minutes of Bid/Proposal Opening

17.31 Before the session is declared closed and representatives asked to leave, the Secretary to the Committee should carefully check all discarded packaging, envelopes, boxes, etc., to ensure that no documents have been overlooked. In the event that an important document, modification, etc., or entire bid has been overlooked, it cannot be subsequently included in the evaluation unless it was identified and the appropriate announcements made during the bid opening.

17.32 When the details of the last bid and proposals have been read, and all questions answered, the Chair should declare the Opening session complete.

17.33 Before the conclusion of the bid opening proceedings, the Secretary to the Committee must prepare minutes documenting all the information announced and any questions asked and responses given, in accordance with the provisions of the above paragraphs. The minutes shall be signed in original by all those present at the bid opening. At the end of the bid opening session, copies of the minutes shall be provided to the bidders and community representatives present at the bid opening.

17.34 In addition to the above, within 24 hours of the bid opening, a copy of the minutes shall be: (i) Sent to all bidders or Consultants that did not attend the opening but either purchased or were issued Bid documents (even if they did not submit a bid or proposal); (ii) Submitted to the CG and MOF counterparts; and (iii) posted on a notice board at a conspicuous place accessible to the general public outside the PE's office. The minutes must remain on display until the Summary of Evaluation is posted.

17.35 The attendees should be encouraged to leave the room as quickly as possible and members of the Opening Committee should not engage in any formal or informal discussions with them. As soon as the evaluation process is underway, there should be no contact whatsoever with bidders or Consultants other than written requests for clarification and responses to these requests.

17.36 The opened bids, which are highly confidential, should now be transferred to the safe lock up and placed under lock and key until the evaluation process starts.

Formulation of the Evaluation Plan

17.37 The Secretary for the Tenders Committee will prepare the Evaluation Plan. The purpose of this Evaluation Plan is to provide guidance to Procuring Entity's officers and advisers involved in the evaluation of tenders submitted in response to a Pre-qualification or Call for Tender.

17.38 The members of the Evaluation Committee and other officers and advisers involved in the evaluation must be fully prepared for the evaluation process.

17.39 In order to ensure a confident and well prepared approach to the evaluation, the Tenders Committee and other officers and advisers involved in the evaluation must, as a minimum:

- Read and understand the tender document;
- Understand the relationship between the tender evaluation criteria and the tender requirements in the tender document; and
- Understand (as relevant to them) the evaluation processes outlined in the Evaluation Plan.

17.40 In addition, the Evaluation Committee, all other officers and advisers involved in the evaluation process, must be fully aware of, and comply with, all requirements of the following:

- Financial Audit Reform Act - 2005
- Financial Orders
- Public Procurement Procedures Handbook (Volume I, Part I)
- Standard Bidding Documents (Volume II, Annexes I to VI).

The Pre-Tender Evaluation Meeting

17.41 Prior to the formal sitting of the Evaluation Committee, the appointed Committee members are expected to have read and understood the evaluation plan, including:

1. The aims and objective(s) of the tender;
2. Specifications / BOM / TOR / SOW and other instructions;
3. The methodology by which the scale of the points is to be assessed and awarded (how the criteria are to be evaluated).

17.42 Accordingly, all the bids/proposals/documents are to be assembled in a lockable room, for study by the members and explanation by the Secretary to the Committee (acting as the Adjudicator/Invigilator). No documents are allowed to be removed from the room.

Evaluators

17.43 To ensure broad and balanced perspectives on offers, especially for complex and Significant Procurements, usual Evaluators would be a member of the Procuring Entity and the End User community. A report must be prepared for all evaluations (using the appropriate standard evaluation format (Annexes VIII in Volume II), which becomes the basis of the approval process for Contract award. Evaluation reports must be retained on the Contract file.

Section 18 Bids Evaluation

General

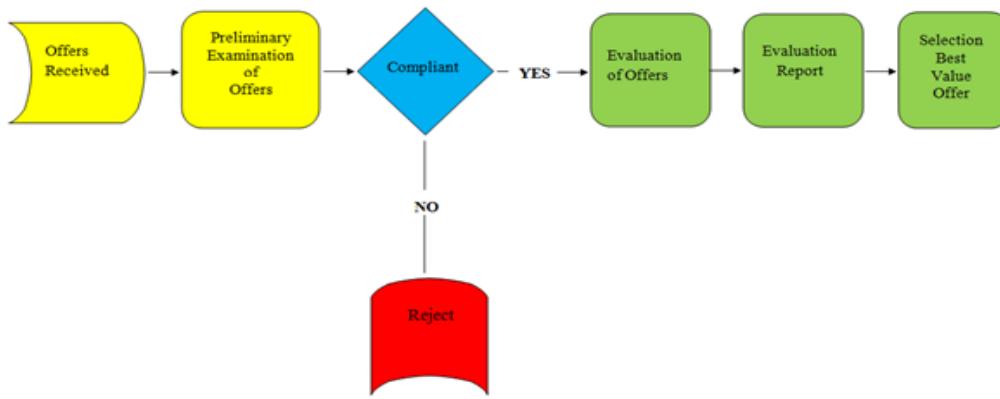
18.1 Bid Evaluation is a critical step in the procurement cycle. Bid evaluation is the step that is most easily manipulated if one wants to favor a particular bidder. Thus, all

Procuring Entities' Bid Evaluation Committees are advised to strictly adhere to the procedures provided in this Handbook.

18.2 The basic sequence for bid evaluation is the same for all general services, goods and works, and consists of the following steps, as also shown in Figure 5 below:

- Preliminary examination;
- Determination of bid responsiveness;
- Correction of arithmetic errors;
- Quantification of omissions and deviations;
- Application of evaluation criteria;
- Comparison of bids; and
- Preparation of evaluation report.

Figure 5 - Overall Evaluation Process



Preliminary Examination (Goods and Works)

18.3 The bid examination phase begins during the public bid opening with a preliminary examination of the bids. After the bid opening has been completed, as its first step in the evaluation, the Evaluation Committee should make a thorough examination of all responsive bids received.

18.4 The purpose of the preliminary examination is to identify and reject bids and proposals that are incomplete, invalid or substantially non-responsive to the documents and therefore are not to be considered further. To this end, the evaluators shall ascertain whether the bids and proposals received are fulfilling the requirements described below.

Tender Validity

18.5 The following checks relating to verification, eligibility, bid security, and completeness of tender should be applied to assess the validity of the tender.

18.6 Verification. Attention should be directed toward deficiencies that, if accepted, would provide unfair advantages to the Tenderer, such as missing items in the Bill of Quantities or quoting an inferior product. Sound judgment must be used: for example, simple omissions or mistakes which have occurred by simple human error should not be grounds for rejection of the Tender. Rarely is a Tender perfect in all respects. However, the validity of the Tender itself, for example, its signatures, must not be in question. If the Tenderer is a joint venture, the joint venture agreement must be submitted; in addition to any documentation required of the contractor or manufacturer itself. All copies of the Tender should be compared with the original and corrected accordingly, if necessary. Thereafter, the original tender should be kept in a safe location in the Procuring Entities' offices, and only copies should be used for the evaluation.

18.7 Eligibility. This confirms the conditions considered essential for the contractor's to fulfill the contract. The tenderer (including all members of a joint venture and sub-contractors) may be disqualified if affiliated with a firm that has provided related consulting services on the project, or lacking legal and financial autonomy. (Refer to the Bidding Documents for specific details.)

18.8 Bid Security. The bidding document may require submission of a tender/bid security. If so, the bid security must conform to the requirements of the Bidding Documents, and it must accompany the tender. If the bid security is issued as a bank guarantee, it must be consistent with the wording of the bid security form provided in the Bidding Documents. Furthermore, securities for an amount smaller or for a period shorter than the one specified in the Bidding Documents are not acceptable. The security for a tender submitted by a joint venture should be in the name of all of the partners of the joint venture.

18.9 Completeness of Tender. Unless the Bidding Documents have specifically allowed partial tenders – permitting Tenderers to quote for only select items or for only partial quantities of a particular item – tenders not offering all of the required items should ordinarily be considered non-responsive. However, under works contracts, missing prices for occasional work items are considered to be included in prices for closely related items elsewhere. If any erasures, interlineations, additions, or other changes have been made, they should be initialed by the Tenderer. They may be acceptable if they are corrective, editorial, or explanatory. Missing pages in the original copy of the tender may be cause for rejection of the tender.

Qualification Requirements

18.10 All tender evaluations shall consider the following factors:

- Capacity: Adequate and available resources to undertake the contract.
- Experience: Relevant experience to implement the contract.
- Integrity: Is the company correctly registered, was the Tender correctly signed and is there a conflict of interest?
- Past performance: Has the Tenderer got a good history?

- Financial status: What is the financial standing of the company and does it have the funds to undertake such a contract?
- Plus other such matters considered relevant.

Substantial Responsiveness

18.11 Major deviations to the commercial requirements and technical specifications are a basis for the rejection of Tenders. As a general rule, major deviations are those that, if accepted, would not fulfill the purposes for which the tender is requested, or would prevent a fair comparison with tenders that are properly compliant with the bidding documents. Examples of major deviations include:

- Stipulating price adjustment when fixed price tenders were required;
- Failing to respond to specifications by offering instead a different design or product that does not offer substantial equivalence in critical performance parameters or in other requirements;
- Phasing of contract start-up, delivery, installation, or construction not conforming to required critical dates or progress markers;
- Sub-contracting in a substantially different amount or manner than that permitted;
- Refusing to bear important responsibilities and liabilities allocated in the bidding documents, such as performance guarantees and insurance coverage;
- Taking exception to critical provisions such as applicable law, taxes and duties, and dispute resolution procedures;
- Those deviations that are specified in the Bidding Documents as requiring rejection of the tender (such as, in the case of works, participating in the submission of another's tender other than as a subcontractor).

18.12 Tenders that offer deviations may be considered substantially responsive – at least as to the issue of fairness – if the deviations can be assigned a monetary value that would be added as a penalty during the detailed evaluation process and if such deviations would be acceptable in the eventual contract.

18.13 The results of preliminary examination should be summarised in the Evaluation Report conducted by the Committee.

Correction of Arithmetic Errors

18.14 Bids should be checked carefully by the Bid Evaluation Committee's Finance Officer for arithmetic errors in the bid form to ensure that stated quantities and prices are consistent. The quantities should be the same as stated in the bidding documents. The total bid price for each item should be the product of the quantity and the quoted unit price. If there is a discrepancy, the quoted unit price shall govern in the recalculation. Prices spelled out in words shall take precedence over numeric

quotations in case of differences. The Bid Evaluation Committee should correct all arithmetic errors and notify each bidder of the detailed changes. The Bidder must accept such arithmetic corrections or its bid will be rejected.

Detailed Examination of Tenders

18.15 Only those tenders surviving preliminary examination need to be examined in this phase. Evaluation will now include the following process, with the possible exception of item 4:

1. **Corrections for Errors.** The methodology for correction of computational errors should be described in the Bidding Documents. The read-out tender prices and their corrections should be noted in the Evaluation Report. The corrections may be considered binding on the tenderer. Unusual or large corrections that could affect the comparative ranking of Tenders should be explained in footnotes. If necessary, the Tenderer may be asked to clarify these corrections.
2. **Corrections for Provisional Sums.** Tenders may contain provisional sums set by the Procuring Entity for contingencies or for nominated subcontractors, etc. As these sums are the same for all Tenders, they should be subtracted from the read-out prices.
2. **Modifications and Discounts.** In accordance with the Bidding Documents, tenderers should be allowed to submit, prior to tender opening, modifications to their original Tender. The impact of modifications should be fully reflected in the examination and evaluation of the tenders. These modifications may include either increases or discounts to the tender amounts that reflect last-minute business decisions. Accordingly, the original tender prices should be modified at this point in the evaluation. Discounts offered in accordance with the Bidding Documents that are conditional on the simultaneous award of other contracts or lots of the contract package (cross-discounts) shall not be incorporated until the completion of all other evaluation steps. Any discount expressed in percent must be applied to the appropriate base specified in the tender.
4. **Omissions** to the tender should be compensated for by adding the estimated costs for remedying the deficiency. Where items missing in some tenders are present in others, an average of quoted prices could be used to compare competitors' Tenders. Alternatively, external sources, such as published price lists, freight tariff schedules, etc., may be appropriate.

Post-Qualification

18.16 The Evaluation Committee should conduct a post-qualification of the lowest evaluated responsive Tenderer, to determine the Tenderer's physical capability to perform the contract. Using the criteria specified in the Bidding Documents, this review should include an assessment of the Tenderer's technical, financial and physical resources available to undertake the contract, including his current workload.

18.17 If pre-qualification was conducted, the lowest evaluated responsive Tender should be recommended for the award of contract, unless the Tenderer's qualifications have since materially deteriorated, or if the Tenderer has since received additional work that reduces the available capacity.

18.18 Where pre-qualification has not taken place, the lowest evaluated responsive Tender should be subjected to post-qualification, according to the procedures described in the Bidding Documents.

18.19 If the lowest evaluated responsive Tenderer fails post-qualification, his Tender should be rejected, and the next ranked Tenderer should then be subjected to post-qualification examination. If successful, this Tenderer should receive the award. If not, the process continues for the other Tenderers.

18.20 The rejection of a Tender for reasons of qualification requires substantial justification, which should be clearly documented in the attachments to the Evaluation Report.

18.21 A history of poor performance may be considered a justification for failing post-qualification if the Tenderer is unable to demonstrate that steps have been taken to resolve previous problems.

Section 19 Contract Award

Determination of Award

19.1 The Evaluation Committee will make its final comparison of tenders for works and for goods, with the corrected tender prices, together with adjustments for omissions, deviations, and specified evaluation factors. The Tenderer which meets the requirements of the Bidding Documents and has the lowest evaluated responsive bid or combination of bids should be recommended as the preferred tenderer.

Disagreement among Evaluation Committee Members

19.2 If one or more of the Evaluation Committee members has provided an evaluation which is significantly different to the other members, then the Evaluation Committee Chairman must convene all Committee members to address the issue. The dissenting member must justify the evaluation. If the dissenting member subsequently changes the evaluation, the change must be noted in the Evaluation Report. However, if the dissenting member does not wish to change the evaluation, then this must also be noted in the report. In this case, the majority decision of the evaluation team must be adopted and recommended to the Tenders Committee.

Recommendation for Award and Evaluation Report

19.3 After the completion of the evaluation process, as soon as possible after tender opening, preferably no later than three (3) weeks prior to the expiration of the tender validity, the Bid Evaluation Committee presents to the Tenders Committee a bid evaluation report setting out the process by which the Evaluation Committee evaluated the bids received in response to the procurement process.

19.4 The evaluation report should be prepared using the standard format for the evaluation of Goods or Works, with relevant narrative and should include:

- A summary of the Tenders received and opened;
- The results of the preliminary examination;
- The results of the technical evaluation;
- Reasons why any Tenders were declared non-responsive. (Attach copies of selected pages from Tenders if necessary, to show examples of objectionable features);
- Details of any non-material deviations, which were accepted and the way in which they were quantified and taken into account in the financial evaluation;
- The evaluated price of each Tender, showing any corrections or adjustments to the tender price and any conversion to a common currency;

19.5 The evaluation report should also contain an explanation of:

- Any inconsistencies between prices and modifications to prices read out at Tender opening;
- Any substantial corrections for arithmetic errors which may affect the ranking of Tenderers;
- Any additions, adjustments, and priced deviations that may affect the ranking of Tenderers.
- Any cross-discounts not read out and recorded at the Tender opening;
- The ranking of the Tenders, according to their total evaluated price;
- A statement of the lowest evaluated substantially responsive tender, for each lot where applicable, clearly establishing the actual amount of the contract award;
- Confirmation that the total price quoted by the lowest evaluated responsive Tender is acceptable compared with the original estimated cost or the procurement;
- The results of any post-qualification examination; and
- A recommendation to award the contract or contracts to the lowest evaluated responsive Tenderer or combination of Tenderers, or other appropriate recommendation, such as the cancellation of the procurement process.

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

- None of the Tenders are found to be responsive;
- All of the Tenders are unreasonably high in price compared to the cost estimate;
- None of the Tenderers are qualified;
- There is deemed to be an absence of competition; (however lack of competition is not usually decided solely on the basis of the number of Tenderers).

19.7 The following are to be attached to the Evaluation Report:

- Copies of any correspondence with tenderers who raised objections to the Tender or evaluation process, together with detailed responses;
- Copies of any letters from tenderers requesting clarifications, and responses by the Procuring Entity, and Tender clarifications requested by the Evaluation Committee and Tenderer responses;
- Any separate evaluation report from a consultant, if one was engaged for this purpose;
- All required Tables and supporting documents;
- Declaration on Ethical Conduct and Fraud and Corruption.

19.8 The tender Evaluation Report should be double-checked, signed and complete before submitted for approval by the Tenders Committee. The Evaluation Report forms a part of the record of procurement proceedings.

Review and Approval of Evaluation Report

19.9 The appropriate review authority (Head of Procuring Entity, Tenders Committee, Contractor-General or Ministry of Finance) in accordance with the legal framework thresholds, will review the Evaluation Report and recommendations presented in the Evaluation Report.

19.10 The review authority, before giving approval, will ensure that any written complaints made by tenderers concerning the tender process have been addressed and responded to. If the complaint reveals a serious breach of procedures or ethics, the review authority may recommend rejection of the Evaluation Report and call for re-tendering.

Extension of Tender Validity

19.11 The duration of tender validity is specified in the Bids Documents and should be confirmed in the signed Tender Form submitted by each Tenderer.

- If circumstances occur in which award cannot be made within the original tender validity period, extensions in writing should be requested from Tenderers, in accordance with the Tender Documents;
- The evaluation and award of contract should be completed within the period set for the validity of tenders (usually 90 days). The date for expiry of tender validity must be monitored and attention drawn to this deadline not less than two weeks before the expiry date;
- If, due to unforeseen circumstances, the task cannot be completed within the set period, the Tenders Committee may contact tenderers to seek their agreement to an extension of the tender validity;
- Tenderers who refuse this request may withdraw their Tender without incurring any penalty, but tenderers who agree to an extension will also be required to extend their Tender Securities for an appropriate period;
- When an extension of tender validity period is requested, tenderers shall not normally be requested or be permitted to change the quoted price or other conditions of their tenders. However, the Tender Documents may provide for an appropriate price adjustment mechanism when requests for second or subsequent extensions are made, to reflect changes in the cost of inputs for the contract over the period of extension.

Negotiation, Goods and Works

19.12 In general terms, there are no grounds for negotiation in the procurement of goods and works. Price negotiations with bidders on a competitive bid are not allowed. When procurement is undertaken on the basis of direct contracting (DC), the Procuring Entity will determine the prevailing market rate for the goods or works based on evidence of the price previously paid by the PE; the price paid for similar goods or works; or the cost of the same goods or works supplied to a different purchaser. The PE will only hold negotiations on price under direct contracting when the evidence suggests that the price quoted is not in line with the prevailing market rate.

19.13 The PE's right to vary quantities prior to contract award is not a negotiable issue. Either it is exercised within the tolerances allowed in the bidding documents, or it is not. The PE's right to vary quantities and the percentage limit for increase or decrease in quantities must be specified in the Bidding Documents.

19.14 No change to the substance of the bidders' bids is ever sought or permitted - if the bid requires significant negotiations to render it acceptable it should have been rejected during the evaluation as non-responsive. Negotiations are not permitted that:

- Alter the scope, substance terms of conditions of the bid or bidding documents;
- Would make a non-responsive bid responsive;

- Alter unit prices in anyway;
- Alter the contract price beyond that allowed in the bidding documents for variation in quantities;
- Change the technical specifications offered in the bid;
- Alter the delivery schedule, unless the bidder agrees to accelerate delivery at no cost - however a bidder may refuse to do so;
- Significantly alters the project or delivery sites - minor changes such as a change of location within the same city or town is acceptable, delivery to a different city or town is not.

19.15 The limitations on negotiations do not mean that the contract can be awarded at unreasonably high prices. If the proposed contract price exceeds the pre-bid cost estimate by a substantial margin, the possible causes for the cost differential should be assessed by the PE and approval of the Tenders Committee and, where required of the Contractor General, should be obtained on the proposed next steps, which may include re-invitation of bids after revision of the bidding documents to address the identified causes.

19.16 Face-to-face negotiations can only be conducted by the Tenders Committee and minutes of negotiation must be taken and signed by both the PE and the bidder. Negotiations conducted through correspondence must pass through the Chair of the Tenders Committee and be signed by them.

19.17 The Evaluation Report must include details and scope of any proposed negotiations before negotiations can be conducted.

Award and Signing of the Contract

19.18 The Tenders Committee shall prepare the notification of award that will establish the intent to formally sign a contract between the Procuring Entity and the successful bidder (a copy of the award letter is kept in the procurement file). The notification of award must be received by the successful bidder prior to the expiry of the period of bid validity.

19.19 All contract awards will be to persons or firms deemed to be the preferred bidders according to criteria specified in the bidding documents, provided they demonstrate their qualification to perform the contract, if so awarded.

19.20 The award notification letter must contain:

- The date;
- The name of the winning bidder;
- The title of the Contract;
- The description of the goods, service or works to be provided;
- The tender reference number;
- The price that was announced at the bid opening, or the revised calculated or award price; and
- Must be signed by either the Tenders Committee Chairman, or the Head of the Procuring Entity (according to monetary threshold (responsibilities)).

19.21 The successful bidder is required within 10 days of the award notification to confirm acceptance (or otherwise) of the award in writing to the Procuring Entity of their intention to accepting or declining the award of the contract.

19.22 In the absence of any other conditions of contract effectiveness such as the opening of a letter of credit or advance payment, the date of the supplier or contractor's receipt of the notification/acceptance will be the effective date of the contract, i.e. the date from which both parties contractual obligations start such as delivery periods.

Preparation of the Contract

19.23 Any Contract arising out of consideration of tenders shall be prepared by the Accounting Officer concerned and referred to the Solicitor-General who shall initial it to show that, from the legal point of view, the document is in order.

19.24 Any contract not arising out of consideration of tenders shall be prepared by the Accounting Officer concerned and shall, if not in a form already approved by the Solicitor-General, be referred to the Solicitor-General who shall initial it to show that, from the legal point of view, the document is in order.

19.25 Any Contracts above \$100,000 shall also be sent to the Contractor-General for approval, who shall initial it.

19.26 Copies of all contracts shall be sent by the Accounting Officer to the Accountant-General, the Auditor-General and the Contractor-General.

19.27 The form included in the bidding documents is always the basis of the actual contract as it is the basis on which bidders prepared their bids.

19.28 The Tenders Committee will edit the Contract Form to include:

- The date;
- The name and address of the PE;
- The name and address of the Supplier or Contractor;
- A brief description of the goods, works or services to be contracted;
- The total contract price in words and figures;
- Any other specific information required paying particular attention to the special conditions of contract ensuring that contract specific information is inserted, such as the name of the PE's project manager, the recipient of notices on the part of a supplier or contractor, etc.

Signing of the Contract

19.29 Three copies of the contract should be prepared, and each contract should be signed by either the Tenders Committee Chairman, or the Head of the Procuring Entity. The contract, already signed, will accompany the notification of award. Suppliers, purchasers and contractors are required to sign and witness all three copies, retaining one original copy for their own records, and returning the other two to the PE. National suppliers, purchasers and contractors will be allowed one week to return the signed contract forms and international ones will be allowed three weeks.

In the event that the supplier, purchaser or contractor is an international person, the contract form shall be sent to them via a reputable international courier.

19.30 One original copy of the contract is to be filled, with other original contracts in a secure fire proof location at a separate site.

The Performance Security

19.31 Procurement of goods, works and general services requires suppliers and contractors to provide performance securities in the form and amount set out in the bidding documents.

19.32 The performance security is required to ensure that the supplier or contractor fulfills its obligations under the contract, and is intended to protect the PE against default on the part of the supplier or contractor.

19.33 The amount will be determined in the special conditions of contract and, as a general note, should be the maximum amount deductible for liquidated damages for delay.

19.34 The notification of award shall outline the requirements in respect of the performance security in terms of amount, form and validity. Depending on what has been stated in the bidding documents, the security will:

- Be in a fixed amount, expressed as a percentage of the contract value valid thirty (30) days beyond the expiry of any warranty or latent defects period;
- Be in a fixed amount, expressed as a percentage of the contract value valid for thirty (30) days beyond the delivery date or the works completion date, and then in a lesser amount valid for thirty (30) days beyond the expiry of any warranty or latent defects period, or
- Be in a fixed amount, expressed as a percentage of the contract value valid for thirty (30) days beyond the delivery date or the works completion date to be replaced with retention monies taken from stage payments made to the supplier or contractor.

19.35 Other forms of procurement for goods and works such as **shopping** do not require the supplier or contractor to provide a security, although shopping does require the bidder to provide a bid and performance securing declaration at the time of bidding.

19.36 The successful bidder should be required to provide the performance security within twenty one (21) days of receipt of the notification of award/letter of acceptance in the case of international suppliers/contractors. National suppliers/contractors will be allowed fourteen (14) days as there is no international transit time to take into account.

Failure of a Bidder to Sign the Contract or Provide the Performance Security (Bond)

19.37 Failure of the successful bidder to return the signed contract or provide a performance security when one is required constitutes sufficient grounds for the annulment of the award and forfeiture of the bid security or execution of the Bid.

19.38 In which event, the Tenders Committee may, after review of the Evaluation Report and obtaining the Contractor-General's no objection (if needed), recommend award of the contract to the next lowest evaluated and qualified bidder if the price is reasonable, or re-invitation of bids.

19.39 When the procurement has been undertaken on the basis of **NCB** or **Shopping** using the documents contained as Annexes to this Handbook, the bidder's failure to sign the contract will result in the execution of the bid and performance securing declaration, and the bidder being disbarred from all public procurement for a period of three years, or the bidder paying a penalty of 2% of the contract award value to compensate the PE. Once again, the Tenders Committee may, after review of the Evaluation Report and obtaining the Contractor-General's no objection (if needed), recommend award of the contract to the next lowest evaluated bidder if the price is reasonable, or re-invitation of bids.

Advance Payments

19.40 From time to time, the contract will allow for an advance payment to be made to a supplier or contractor. No advance payment must ever be made without first securing an advance payment guarantee (except in the case of individual consultants, who are not expected to provide an advance payment guarantee).

19.41 The advance payment amount will be stated in the bidding documents and should generally not be more than 15% of a contract's value and should be an accurate estimate of the supplier or contractor's mobilisation and start-up expenses. Advance payments are amortised, i.e. set-off in equal amounts, against following payments until fully off-set.

Notification of the Unsuccessful Bidders

19.42 Upon receipt of the signed contract forms and the successful bidder's performance security (when required), the PE will:

- Notify the unsuccessful bidders that their bids have been unsuccessful;
- Return the bid securities of the unsuccessful bidders.

Publishing the Award

19.43 Information on contract awards shall be published in accordance with Chapter 4, Section 10, Paragraph 10.11 of this Handbook.

19.44 All other information of the evaluation process should be held in the strictest confidence and not released to any third party, with the exception of the Contractor-General, oversight agencies and the Ministry of Finance and Economic Development.

Debriefing Unsuccessful Bidders

19.45 In the interest of transparency and openness, it is normal practice to debrief each participating bidder of the results of their bid. Debriefing is a mandatory requirement for every PE (see SBDs). The bidders/contractors will have incurred costs in preparing and developing their bid and therefore, at the very least, it is only good manners to inform them of the outcome of the results and why they were not successful. It demonstrates the PE's commitment to good practice and transparency, and also shows an appreciation of the efforts that a bidder/contractor has gone to, in preparing their bid.

19.46 The first element to consider in debriefing is the accuracy of the evaluation report, the range of the allocated points, and how those points were awarded. The PE should be fully confident in the results of the Evaluation Report, how it was evaluated, the spread of the points, the strengths and weaknesses of each bidder, and finally the conclusions to which the evaluators came to. Did the evaluators fully understand how the points were to be allocated and the standard of measurement? Could there be a challenge on the assessment of points? Did the points reflect the true ranking position? If there is a weakness in the Evaluation Report and its conclusion, it will be very difficult for the debriefing panel to support that conclusion.

19.47 After selection and award, a letter must be issued to all participants thanking them for their interest and indicating who was awarded the contract. The letter should include the ranking of the results of each bidder, stating each bidder's points, and the value of their bid offers. The letter should also include an offer to debrief the unsuccessful Bidders. The offer of a debriefing should set out the scope and likely format of the meeting, and should make it clear that the debriefing process will not be used to debate the merits of the award decision, or to change the selection decision, or to re-open the award procedure.

19.48 Debriefing of those bidders who submitted tenders takes place only after the contract is awarded, or the procurement is otherwise concluded, and after all parties have been informed of the results of the tender. After the award of contract, there is no reason to conceal comparative pricing information, as the bidders were probably present at the bid opening and already know the spread of prices. The meeting itself should take place at the earliest mutually convenient time.

19.49 The Bidders should be informed that it is only their own submissions that will be discussed and that an opportunity will be given for them to air their views. It is wise to include a clause saying that there will be no discussion about any commercially sensitivity information during the meeting, nor to discuss how the individual points were allocated to each particular bidder.

19.50 The debriefing panel should be a mixture of the Tenders Committee members, the originating PE's staff, members of the Evaluation Committee who are familiar with the evaluation, and an independent observer selected from within the PE. The Secretary to the Tenders Committee will instruct the panel members of what can, and cannot, be said and to be very careful with their comments, so as to not be taken out of context.

19.51 The meeting should not be overelaborate, but rather an opportunity to formally debrief the bidders; the goal being to inform and assist them in preparing improved bids next time. It helps Suppliers/Contractors/Purchasers to rethink their approach to the government style of tendering. It is also a good exercise in helping them to obtain

a better understanding of what differentiates the public sector procurement from the private/commercial sector. A formal record shall be kept of the meeting minutes, one intended for the procurement file and another sent to the Contractor-General's Office.

19.52 The meeting should have the following basic structure and discussion topics:

1. Welcome:

- a) The welcome and general introductory points of how the meeting will be conducted.
- b) Statement that, as indicated in the debriefing letter, the merits of the award decision are not for debate.

2. General details of the Tender Analysis summary:

- a) Explaining the background to the selection stage, and the recommendation made, without going into specific details, and not divulging any confidential information.
- b) Explain the overall standard and quality of the winner, and where appropriate, any other values which influenced how the winner was selected.

3. Recommendation made by the formal Evaluation Report:

- a) Outline of the evaluation process and, in broad terms, the methodology used, the criteria, and the role of adjudicators and evaluators.
- b) Description of the evaluation strategy (compliance issues, weighting, scoring).
- c) Outline of the size of the competition and the relative ranking of the bidders, without discussing particular competitors' bids.
- d) General strengths and/or weaknesses of all bidders, as indicated in the Evaluation Report.
- e) Recommendation made in the Evaluation Report.

4. Examination of the particular invitee's bid preparation:

- a) Discussion on the invited bidders' relative ranked position.
- b) Explaining how the invited bidder's bid submission was compared to the winner, showing how the bidder scored against the main criteria (strengths as well as weaknesses). By highlighting their strengths and weaknesses and where the bidder failed to make the grade, it helps the bidders understand, in which areas they failed to win the contract, in a constructive criticism, not negatively.
- c) At all stages the debriefing party must avoid revealing anything about

other bids, where the information may be commercially sensitive, or has been supplied in confidence.

- d) Where a bid is price competitive, this should be openly acknowledged, but it must be explained that this was outweighed by other technical factors in the selection/award decision.
- e) NOT becoming drawn into a discussion on the assessment of bidders points is critical, or why they disagree with the points allocated to them, or why they should have been allocated higher points. Quoting the original letter which said that the "... *debriefing process will not be used to change the selection decision, or to reopen the award procedure*".
- f) If there is still a disagreement with any invited bidder, they should be advised to follow the procedure for lodging complaints with the Procuring Entity.
- g) Where appropriate, for candidates not selected for the bid shortlist, discussion on the *Pre-qualification* summary details and explanation on why they were not selected.

19.53 General discussion topic tips:

- a) Seeking their views about the procedure or process;
- b) Were there any surprises in the feedback received?
- c) How could the procurement experience be improved?
- d) Was the feedback useful?

19.54 Closing statement from Bidders. Bidders should be invited to make any closing remarks.

19.55 Closing statement from the Debriefing Panel:

- a) Thanking the Bidder, both for attending the meeting and to show an appreciation of the effort they made in submitting the bid, and hoping that they are successful next time.
- b) Closing of the meeting.

Section 20 Standard Bidding Documents & Important Clauses

Preparing the Bidding Documents

20.1 The basic method for preparing Bidding Documents is the same irrespective of which document is selected. Each document has a number of sections that are to be used un-amended and also sections and data sheets where specific details need to be input.

20.2 The Bidding Document or Request for Proposals is the most important document in the procurement process. It translates requirements into specifications, terms of reference and contractual conditions. It should contain all the information necessary for a prospective bidder, purchaser or consultant to prepare its offer. The content, detail and complexity will vary with the size and nature of whatever is being procured and according to the procurement or sale method selected.

20.3 The qualities, numbers, competitiveness of bids and proposals received will all rely on how effectively the bidding documents or RFP communicate the requirements. If they are unclear, offers will vary significantly based on each bidder or consultant's unique interpretation, rendering it impossible to evaluate the offers received in an objective manner.

20.4 Where applicable, the bidding documents will define the tests, standards, and methods of inspection and assessment that will be employed to judge the conformity of equipment as delivered, or works as performed, with the specifications.

20.5 All drawings shall be consistent with the text of the specifications, and an order of precedence between the two shall be specified.

20.6 The bidding documents shall specify any factors, in addition to price, which will be taken into account in evaluating and comparing bids and proposals, and how such factors will be quantified or otherwise evaluated.

20.7 If bids based on alternative designs, materials, completion schedules, payment terms, etc., are permitted, conditions for their acceptability and the method of their evaluation shall be expressly stated.

20.8 All prospective bidders, purchasers and consultants shall be provided the same information, and shall be assured of equal opportunities to obtain additional information on a timely basis. The Procuring Entity shall provide reasonable access to project sites for visits by prospective bidders and consultants, and if necessary arrange for a pre-bid conference.

No Restrictions on Nationality or Location

20.9 Under **Section 19. 1 (f)** of the **Finance and Audit (Reform) Act**: "Any applicable supplier or purchaser who, in the qualification of suppliers, is able to show that he meets the conditions for participation in the tendering procedure is considered a qualified supplier or purchaser for the procurement or sale" process. This equal treatment of candidate suppliers and purchasers is also reiterated in **Section 19. 1 (c)**, where it is stated that conditions for participation in a tendering procedure shall not discriminate against any applicable supplier or purchaser. This notably means that whatever their location and nationality, all candidate suppliers or purchasers have the same right to participate in an open tender, unless otherwise specified and justified by circumstances.

Fraud and Corruption

20.10 To promote the practice of ethical standards throughout the Country of Belize procurement/sale operations and the Government's policy on fraud, corruption, coercion and collusion, each member of a Tenders Committee will be required to sign

a copy of the Declaration shown in **Appendix 1a** to this Handbook. This Declaration will be attached to each Evaluation Report and signed by each member of the Committee.

20.11 All bidders, purchasers and consultants are also required to adhere to the ethical standards and Government's policies on fraud, corruption, and collusion set out in this Handbook. In support of this, bidders and consultants are required to complete the declaration shown in **Appendix 1b** to this Handbook and submit it with their bid or proposal as may be the case.

Instructions to Tenders

20.12 The Instructions to Tenders are intended to provide the information needed by bidders to prepare responsive bids and proposals, in accordance with the requirements of the project, including information on submission, opening, evaluation and comparison, and award of contract. As a minimum, they should include the following information:

- A general description of the goods, equipment and services to be purchased.
- A description of the Government and the Procuring Entity's policies in respect to fraud, corruption, and collusion.
- The scope of bids and proposals, e.g. if bidding, evaluation or contracting, is to be on a per-item, per-lot or per-package basis.
- The procedures for submission.
- Dates, time and venues for submission and opening.
- The number of original and copies required.
- The validity periods.
- The procedures for contract formation.
- The method and criteria for evaluation.
- The venue, time and date of the pre-bid or proposal conference.
- Instructions for completing forms.
- Acceptable currencies and methods of conversion.
- Documentation required establishing eligibility of goods, works, consultants and suppliers.
- Procedures for clarifying and amending the bidding documents and request for proposals.
- Instructions for the sealing and marking of bids and proposals.
- Details of bid and proposal modification.
- Bid opening procedure.
- Right to vary quantities.
- Conditions for contract effectiveness.

General Conditions of Contract (GCC)

20.13 The GCC in the bidding documents establish an accepted basis for similar procurement or sale contracts. The GCC should not be changed by the PE in any contract. Item specific changes are to be included only in Special Conditions of Contract.

20.14 The GCC contain:

- a) **Operational Clauses.** These establish the relationship between the PE and the supplier/purchaser/contractor, and contain information regarding:
- i- Definitions;
 - ii- Rights and obligations of both parties;
 - iii- Procedures for shipment and documentation;
 - iv- Delivery and transfer of risk;
 - v- Terms and currencies of payment;
 - vi- Mode and form dispute settlement;
 - vii- Governing language; and applicable law.
- b) **Protective Clauses.** They establish protection against various risks and allocate them between the parties. They include instructions on:
- i- Performance security;
 - ii- Retention of payments;
 - iii- Insurance;
 - iv- Inspection and tests;
 - v- Warranty;
 - vi- Protection against third party infringement suits; and
 - vii- Force Majeure.
- c) **Variations.** Unforeseen or planned changes during the life of the contract are identified and provided for under these parts of the GCC. They cover the following:
- i- Quantity changes;
 - ii- Adverse physical conditions;
 - iii- Price adjustments; and
 - iv- Changes in delivery requirements.
- d) **Remedies.** These provisions deal with the breach of contract by one of the parties. They include provisions on:
- i- Forfeiture of performance security;
 - ii- Procedure for damages, penalties for delay;
 - iii- Procedure for suspension and termination; and
 - iv- Non-payment or failure to provide required approvals and information.

Special Conditions of Contract (SCC)

20.15 SBDs have a section on General Conditions of Contract that is standard for all bidding and one on Special Conditions of Contract which contains provisions that should be drafted specifically by the PE for each procurement. Unlike the other sections of SBDs, the Special Conditions of Contract are not mandatory and are meant to assist the PE in providing contract-specific information relating to corresponding clauses in the General Conditions of Contract. The provisions of the Special Conditions of Contract complement the General Conditions of Contract, specifying contractual requirements linked to the special circumstances of the sector

and the goods, works or services to be purchased, or sold. In preparing the Special Conditions of Contract, the PE should take into consideration the following aspects:

- a) Information that complements the provisions of the General Conditions of Contract must be incorporated; and
- b) Amendments and/or supplements to the provisions of the General Conditions of Contract, as necessitated by the specific circumstances of the procurement/sale, must also be incorporated.

20.16 Where there is a conflict between the provisions of the General Conditions of Contract and those of the Special Conditions of Contract, the provisions of the latter prevail.

Sub-Contracting

20.17 In the case of Goods Contracts:

- a. Sub-contracting does not pose problem in supply contracts. Generally the supplier shall notify the Procuring Entity in writing of all sub-contracts awarded under the Contract, if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any of its obligations, duties, responsibilities, or liability under the Contract.
- b. Similarly, neither the PE nor the supplier shall assign, in whole or in part, their obligations under this Contract, except with prior written consent of the other party.

20.18 In the case of Works Contracts:

- a. All bidders are expected to indicate clearly in the bid, if they proposed sub-contracting elements of the works amounting to more than 10 percent of the Bid Price. For each such proposal the qualification and the experience of the identified sub-contractor in the relevant field should be furnished along with the bid, to enable the PE to satisfy itself about their qualifications before agreeing for such sub-contracting and include it in the Contract.
- b. In view of the above, normally no additional sub-contracting should arise during the execution of the contract. Of course, the contractor shall not be required to obtain any consent from the PE for:
 - i- The sub-contracting of any part of the Works for which the Sub-contractor is named in the contract;
 - ii- The provision of labor; and
 - iii- The purchase of materials which are in accordance with the standards specified in the Contract.
- c. Beyond this, if the contractor proposes sub-contracting any part of the work during the execution of Works, because of some unforeseen circumstances to enable him to complete the work as per terms of the

contract, the principles to be followed by the Engineer before agreeing to that proposal is given below:

- i. The contractor shall not sub-contract the whole of the Works.
- ii. The contractor shall not sub-contract any part of the Work without prior consent of the Engineer. Any such consent shall not relieve the contractor from any liability or obligations under the contract and he shall be responsible for the acts, defaults and neglects of any sub-contractor, his agents or workmen as fully as if they were the acts, defaults or neglects of the contractor, his agents or workmen.
- d. The Engineer should satisfy (a) whether circumstances warrant such sub-contracting; and (b) that the sub-contractors so proposed for the work possess the necessary experience, qualifications and equipment for the job proposed to be entrusted to them in accordance with the quantum of work to be sub-contracted. If payments are proposed to be made directly to that sub-contractor, this should be agreed only subject to specific authorisation by the prime contractor so that this arrangement does not alter the contractor's obligation.
- e. Note:
 - i. Sub-contracting for certain specialised elements of works is acceptable for carrying out the Works more effectively; but vertical splitting of the works for sub-contracting is not acceptable.
 - ii. In any case, proposal for sub-contracting in addition to what was specified in the bid and stated in the contract agreement will not be generally acceptable if the value of such additional sub-contracting exceeds 25% of value of the work which was to be executed by the Contractor without sub-contracting.

Contract Securities

20.19 If the supplier/contractor/purchaser, whose tender has been accepted, fails to sign a written contract, if required to do so, or fails to provide any required security for the performance of the contract, the appropriate authority shall refer the matter to the Evaluation Committee to determine whether next lowest evaluated responsive bid can be accepted, or the tender will have to be re-invited.

20.20 Upon the entry into force of the Contract and if required by the tender documents, the provision by the supplier or contractor of a security or performance bond for the performance of the contract will apply.

20.21 Hence, bidding documents for Works shall require performance security in an amount sufficient to protect the PE in case of breach of contract by the Contractor. This security shall be provided in an appropriate form and amount, as specified by the PE in the bidding documents. The amount of the security may vary, depending on the type of security furnished and on the nature and magnitude of the works. A portion of

this security shall extend sufficiently beyond the date of completion of the works to cover the defects liability or maintenance period up to final acceptance by the PE. Alternatively, contracts may provide for a percentage of each periodic payment to be held as retention money until final acceptance. Contractors may be allowed to replace retention money with an equivalent security after provisional acceptance.

20.22 If advance payments are made, they should be secured by an advance payment security for an equal amount valid until the advance has been fully recovered from progress payments and/or final payment. Advance payment may also be paid against material and plant brought to site for incorporation in the works. They are in the form of a bank guarantee or irrevocable letter of credit for an amount equal to the advance payment and are normally callable on demand. Securities must be denominated in the currency of the bid or another freely convertible currency.

20.23 In contracts for the supply of goods, the need for performance security depends on the market conditions and commercial practice for the particular kind of goods. Suppliers or manufacturers may be required to provide a guarantee to protect against non-performance of the contract. Such security in an appropriate amount may also cover warranty obligations or, alternatively, a percentage of the payments may be held as retention money to cover warranty obligations, and any installation or commissioning requirements. The security or retention money shall be reasonable in amount.

20.24 The format of the performance security shall be in accordance with the standard bidding documents and shall be issued by a reputable bank or financial institution selected by the bidder.

Liquidated Damages and Bonus Clauses

20.25 Provisions for liquidated damages, or similar provisions in an appropriate amount, shall be included in the Conditions of Contract when delays in the delivery of goods, completion of works, or failure of the goods or works to meet performance requirements would result in extra cost or loss of revenue, or loss of other benefits to the Procuring Entity.

20.26 Provision may also be made for a bonus to be paid to suppliers or contractors for completion of works or delivery of goods ahead of the times specified in the contract when such earlier completion or delivery would be of benefit to the Employer.

20.27 Liquidated damages of not less than 0.1 % per day or 0.5% per week (for goods), and 0.05% per day (for civil works), of the value of the delayed goods, services, or works, subject to a maximum of 10% of the contract value, are normally specified for delays in completion of works or supply of goods. This would mean for delays up to 20 weeks in the case of goods and 200 days in the case of works, the supplier/contractor will pay compensation. Normally, termination for default will be attracted only after this limit is reached. Hence in cases where the PE does not desire to give this much leeway, the quantum of liquidated damages is to be increased suitably.

20.28 Where it is desired to make provision for the payment of a bonus for early completion of the whole Works, or partial bonuses for completion of key sections of

the Works, an additional Sub-Clause may be added. The amount to be paid for bonus (s) should reflect a substantial portion of the true net profit derived by the PE over the period by which completion was earlier than scheduled. The amount of daily bonus should normally be the same as the amount of daily-liquidated damages. A ceiling of total bonus (say, 10 percent of Contract Price, as or liquidated damages) may be inserted to discourage unrealistically rapid Contract implementation by the Contractor, which could adversely affect overall performance. Where bonuses for completion of Sections will apply, a table needs to be attached to the Appendix to Bid, showing the dates of completion and the amounts of liquidated damages and bonus for each Section.

20.29 Partial earlier completion may not always produce net benefits to the PE, for example where utilisation of the completed Works requires:

- (a) the fulfillment of all parts of the Contract (e.g., the training of personnel); or
- (b) the completion of all Sections (e.g., in a hydroelectric power station, where early completion of the penstocks would not be useful if the powerhouse is still under construction); or
- (c) certain seasonal effects to take place (e.g., the onset of the rainy season, for impounding a reservoir); or
- (d) other circumstances.

20.30 Also, a more rapid draw down of budgeted funds may be required. All such factors should be fully considered prior to considering inclusion of a bonus clause in the Contract.

Force Majeure

20.31 The Conditions of Contract shall stipulate that failure on the part of the parties to perform their obligations under the Contract will not be considered a default if such failure is the result of an event of force majeure as defined in the conditions of contract. The Clause given in Goods is as under:

“The Supplier shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

For purposes of this Clause, “Force Majeure” means an event or situation beyond the control of the Supplier that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Supplier. Such events may include, but not be limited to, acts of the PE in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.

If a Force Majeure situation arises, the Supplier shall promptly notify the PE in writing of such condition and the cause thereof. Unless otherwise directed by the PE in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and

shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.”

Settlement of Disputes

20.32 Settlement of disputes provisions is an integral part of the Conditions of Contract and are seen by bidders as a major risk mitigation factor depending upon how the provisions are specified. This is particularly apparent in bids received for large ICB contracts in which the bidders insert qualifications or deviations pertaining to mode of settlement of disputes or the place selected for settlement if they perceive major risk. These deviations can be considered as major and non-quantifiable in nature and may lead to rejection of such bids.

20.33 According to international best practices, Arbitration should be used in contracts for the procurement of goods and works. In the case of works contracts, supply and installation contracts, and turnkey contracts, the dispute settlement provision shall also include mechanisms such as dispute review boards or adjudicators which are designed to permit a speedier dispute settlement.

20.34 Accordingly, the standard bidding documents (except in the case of supply of goods) provide for two types of mechanisms: a dispute review board/expert or an adjudicator of disputes mechanism; and a final settlement of disputes mechanism—namely arbitration, under the Arbitration Act, Revised Edition of 2000, by one or more Arbitrators appointed in accordance with the said Act. The ruling of the Arbitrator(s) shall be binding on both Parties.

20.35 Domestic Disputes:

- a. In the case of international bidding, at the time tenders are invited, it is not possible to determine if disputes shall be settled through national forum (domestic contractors) or international commercial arbitration (foreign contractors).
- b. Disputes between a Procuring Entity and a contractor / supplier / purchaser from the PE's country (domestic) should be settled in accordance with the mechanisms (judicial or arbitral) as mandated by domestic law.

20.36 International Arbitration:

- a. There are two main possible approaches to international commercial arbitration: either the arbitration will be administered by an institute following its own rules of arbitration (International Chamber of Commerce (ICC) Institute of Stockholm, Chamber of Commerce or London Court of International Arbitration, or the arbitral procedure will be defined by reference to well recognised set of procedures such as UNCITRAL (United Nations Commission on International Trade Law) Arbitration Rules. When the UNCITRAL rules are selected, it is critical that a credible appointing authority be also identified in the contract terms (it could be an institution such as Chief Justice of the Judiciary of Belize, Institute of Professional Engineers, ICC, country's Institute of Arbitration, etc.) for the arbitration provision to be perceived as fair and

impartial by the contractor/supplier. Furthermore, the place of arbitration is important and should be specified clearly in the document. Many contractors/suppliers/purchasers prefer that this should not be the country of the Procuring Entity.

- b. In the case of Belize, the UNCITRAL rules have been selected for all contracts with foreign contractors.

20.37 Adjudicator (Smaller works, Supply/Installation, etc.):

- a. The SBDSW as well as NCB works Conditions of Contract include a provision for an adjudicator whose role is to review the decision of the Project Manager/Engineer. If the Contractor believe that a decision taken by the Project Manager/Engineer was either outside his authority or that the decision was wrong, he can refer to the Adjudicator within 14 days of the notification of the Project Manager/Engineer's decision.
- b. The dispute shall be examined or reviewed by the Adjudicator within 28 days from the request made by the Contractor and a decision given. The decision of the adjudicator becomes final if neither party refers the dispute to arbitration within 28 days after the Adjudicator has communicated it.
- c. The appointing mechanism for the Adjudicator is built into the bidding process: the PE proposes an Adjudicator in the bidding documents data sheet and the bidder accepts or counter-proposes another Adjudicator in his bid. In the contract letter of acceptance, the PE accepts the counter-proposal (if any) of the winning bidder or refers the appointment to "an appointing authority" which has also been pre-identified in the bidding document data sheet. In the latter case, the appointing authority should immediately proceed with the designation and appointment of the Adjudicator.
- d. The Adjudicator is usually an expert in the subject matter of the contract. The appointing authority should be neutral (i.e. not a government official). Suggested appointing authorities would be professional organisations, centers of expertise, etc.

20.38 Dispute Review Boards:

- a. Dispute Review Boards (DRB-three members) and Dispute Review Experts (DRE-one Member) constitute more complex, accelerated dispute review mechanisms. These Boards/Experts have been assigned the role formerly played by the engineer under FIDIC IV Civil Works Conditions Clause 67.1. Dispute Review Boards and Dispute Review Experts are expected to keep themselves informed of the progress of the works (periodical site visits) and their role is mainly to preempt disputes from occurring by detecting, early on, potential grounds for disagreement between the PE and the contractor. Dispute review board/experts review disputes at the request of the contractor, & the PE. Their fees are split in half between the two parties and pre-paid by the contractor who is reimbursed (for half of it) by the PE.

- b. The Standard Bidding Documents for Larger Works provide details on how the Board operates, and on the General Conditions of Dispute Board Agreement and procedural rules to be followed.
- c. The essential elements of the Dispute Review Board are given below:
 - i. All three members of the DRB are neutral and are selected as per agreed procedures.
 - ii. All members serve both parties equally and fairly.
 - iii. The parties share the fees and expenses of the DRB members equally.
 - iv. The DRB is organised when work begins, before there are any disputes.
 - v. The DRB keeps abreast of job developments by means of relevant documentation and regular site visits.
 - vi. Either party can refer a dispute to the DRB.
 - vii. An informal but comprehensive hearing is convened promptly. (Presentation by representatives of the parties only. Normally, no legal presentation is permitted).
- d. The written decision of the DRB is binding on either party unless one party disagrees; and gives notice for going to arbitration. The decision is admissible as evidence, to the extent permitted by law, in case of later arbitration or litigation.
- e. Altering or deleting any essential elements is a divergence, which may place the success of the DRB process at risk.

Termination of Contract

20.39 The Standard forms of contract all include provisions dealing with the termination of a contract before its term. Most (but not all) the forms also include detailed provisions stipulating how the contractor/supplier/purchaser will be paid following termination of a contract.

20.40 Contracts can be terminated as a result of the PE's default, convenience, force majeure, suspension of works/services, or contractor's or supplier's default.

20.41 Contractor's default usually includes failure to commence or proceed with the work and to comply with the notice requesting to proceed, failure to complete the work/delivery of goods within the agreed period of time, insolvency, voluntary or involuntary bankruptcy, liquidation or dissolution amount to the same as contractors' default. In such cases, the contractor is responsible for the additional costs incurred by the PE to complete the works/supply (except for SBD small works and NCB works which stipulates that the PE's compensation will be in the form of a percentage of the value of work not completed).

20.42 The Procuring Entity's default includes failure to pay within a certain period of time (usually non-payment, but also in the smaller works, fundamental breach of contract); termination for PE's convenience, i.e. discretionary decision to terminate the contract amounts to the same as termination for PE's default. The contractor, purchaser or supplier is entitled to be compensated for all of the expenses incurred

and for the reasonable cost associated with the early termination of the contract, but not loss of profit. Termination may also occur as a result of suspension of the works when not followed by resumption of the works within a certain period of time, force majeure, outbreak of war, or release from performance.

Section 21 Important Contract Provisions

Clarity of Bidding Documents

21.1 Bidding documents shall be so worded as to permit and encourage wide competition and shall set forth clearly and precisely the work to be carried out, the location of the work, the goods to be supplied, the place of delivery or installation, the schedule for delivery or completion, minimum performance requirements, and the warranty and maintenance requirements, as well as any other pertinent terms and conditions. In addition, the Bidding documents, where appropriate, shall define the tests, standards, and methods that will be employed to judge the conformity of equipment as delivered, or works as performed, with the specifications. Drawings shall be consistent with the text of the specifications and an order of precedence between the two shall be specified.

21.2 The Bidding documents shall specify any factors, in addition to price, which will be taken into account in evaluating bids, and how such factors will be quantified or otherwise evaluated. If bids based on alternative designs, materials, completion schedules, payment terms, etc., are permitted, conditions for their acceptability and the method of their evaluation shall be expressly stated.

21.3 All prospective bidders shall be provided the same information, and shall be assured of equal opportunities to obtain additional information in a timely basis. PEs shall provide reasonable access to works project sites for visits by prospective bidders.

Standards & Brand Names

21.4 The PE is responsible for drafting specifications in such a way to avoid any obstacles to wide participation. Thus:

- The specifications should be based on objective technical and quality characteristics;
- Standardised features or requirements, etc., should be as far as possible used.

21.5 Standards and technical specifications quoted in Bidding documents shall promote the broadest possible competition, while assuring the critical performance or other requirements for the goods and/or works under procurement. As far as possible, the PE shall specify internationally accepted standards such as those issued by the International Standards Organization (ISO) with which the equipment or materials or workmanship shall comply. Where such international standards are unavailable or are inappropriate, national standards may be specified. In all cases, the Bidding documents shall state that equipment, material, or workmanship meeting other standards, which promise at least substantial equivalence, will also be accepted.

21.6 Specifications shall be based on relevant characteristics and/or performance requirements. ***References to brand names, catalog numbers, or similar classifications shall be avoided.*** If it is necessary to quote a brand name or catalog number of a particular manufacturer to clarify an otherwise incomplete specification, the words "or equivalent" shall be added after such reference. The specifications shall permit the acceptance of offers for goods which have similar characteristics and which provide performance at least substantially equivalent to those specifications.

Samples

21.7 Bidding documents should generally avoid requesting submission of samples along with bids by bidders, as this requirement discourages competition and increases the bid prices. Alternatively, bidders should be requested to confirm that their product meets with the required specifications and in support attach appropriate test certificates from recognized testing laboratories.

Bids Validity

21.8 Bidders submitting bids for goods and works shall be required to submit bids validity for a period specified in the Bidding documents. Normally, this varies between 60-150 days depending upon the time required by the PE to complete the comparison and evaluation of bids, review the recommendation of award, and obtain all the necessary approvals so that the contract can be awarded within that period. If the validity period is too long, bidders will pad their prices for possible price increases; hence, this should be fixed reasonably. Usually, this period is 90 days for international competition (ICB) and 30 days for national competition (NCB).

Bid Security

21.9 Bid security is an instrument to provide compensation to the PE for the time and money lost if the successful bidder fails to honor its bid and sign the contract after issue of notification of award. It assures serious bidders and eliminates speculative bids. However, for contracts of very small value, it adds a burden to the bidder and the PE in verifying the acceptability, as the risk of a bidder withdrawing its bid and the consequent additional cost to the PE is minor.

21.10 The bid security protects the PE against the risk of the bidder withdrawing the bid during its period of validity, or refusing to sign the contract when the contract award has been notified within the validity of the bid, or failing to furnish a performance security, within the prescribed time, in the form and amount required in the bidding documents.

21.11 Bid security shall be required to be valid for 4 weeks beyond the validity period of the bids in order to provide sufficient time for the PE to encash the security if the need arises. The bid security should be released at the end of the bid validity period, unless extended; or upon issue of advice to the successful bidder of contract award; and receipt of the successful bidder's signed contract and performance security.

21.12 The Bid Security shall be denominated in the currency of the bid or another freely convertible currency (US Dollars), and contain the following elements:

- a. Bid Security should be normally about 2% of the cost of works put to tender, but could range between 1% for large contracts and 3% for small contracts. In case of goods, it should normally be in the range of 2 to 5% of the estimated cost of item put to tender. The amount of bid security should be computed based on estimated cost and specified to the nearest thousand or hundreds. Whenever a Bid security is required, the PE shall determine and specify in the invitation to tender, the amount in Belize dollars in which the security shall be expressed, which amount shall correspond to not less than one and not more than 2% of the estimated value of the contract. This should be followed in all cases.
- b. The Bid Security has to be in one of the acceptable forms, including Bank guarantees, whose format should be given in the Bidding documents, and should be valid for 4 weeks beyond the bid validity period. The Bid security shall be in the form of an on-demand guarantee by a bank or other reputable financial institution, which institution shall be independent of the bidder.
- c. The Bid security of a joint venture must be in the name of all the partners in the joint venture submitting the bid.
- d. No exemption of Bid Security should be permitted to any bidder or class of bidders after the bid is opened.
- e. Any bid not secured in accordance with the requirements specified in the Bidding documents will be rejected as non-responsive.

21.13 The Bid security can be forfeited for the following reasons:

- a. Withdrawal or modification of the tender after the deadline for submission of tenders, or before the deadline if so stipulated in the documents;
- b. Failure to sign the contract if required by the PE to do so; and
- c. Failure to provide a required performance bond for the performance of the contract after the tender has been accepted, or to comply with any other condition precedent to signing the contract specified in documents.

21.14 The PE shall return the Bid security after:

- i. The expiry of the validity of tender security;
- ii. The entry into force of a contract and the provision of a security for performance of the contract where required; and
- iii. Termination of tender proceedings without entering into contract.

Pricing Of Bids

21.15 Bids for goods shall be invited on the basis of CIP (first port of entry at customs barrier) for all goods offered from abroad, and EXW (ex-works), ex-factory, or off-the-

shelf) for goods already located within the country or those to be assembled or manufactured within the country plus cost of inland transportation and insurance to the place of destination.

21.16 Bidders shall be allowed to arrange for ocean and other transportation and related insurance from any eligible source. Where installation, commissioning, or other similar services are required to be performed by the bidder, as in the case of "supply and installation" contracts, the bidder shall be required to quote for these services, in addition.

21.17 In the case of turnkey contracts, the bidder shall be required to quote the price of the installed plant at site, including all costs for supply of equipment, marine and local transportation and insurance, installation, and commissioning, as well as associated works and all other services included in the scope of contract such as design, maintenance, operation, etc. Unless otherwise specified in the bidding documents, the turnkey price shall include all customs and other duties, taxes, and other levies.

21.18 Bidders for works contracts shall be required to quote unit prices or lump sum prices for the performance of the works, and such prices shall include all duties, taxes, and other levies. Bidders shall be allowed to obtain all inputs (except for unskilled labor) from any eligible source so that they may offer their most competitive bids.

21.19 The delivery terms CIP, CIF, EXW, etc., are as defined in INCOTERMS 2010 - Published by the International Chamber of Commerce, 38 Cours Albert 1er, 75008 Paris, France. CIP is carriage and insurance paid to named place of destination. This term may be used irrespective of the mode of transport, including multimode transport. CIP term is for custom duties and other import taxes unpaid, payment for which is the responsibility of the buyer, either for goods previously imported or that will be imported. For previously imported goods, the quoted CIP price shall be distinguishable from the original import value of these goods declared to customs and shall include any rebate or mark-up of the local agent or representative and all local costs except import duties and taxes, which will be paid by the buyer. The EXW price shall include all duties, sales, and other taxes already paid or payable for the components and raw materials used in the manufacture or assembly of the equipment, offered in the bid.

Transportation

21.20 The most widely used term which is applicable to Belize is Cost Insurance Freight (CIF) where the consignment comes by sea to a domestic seaport. Where a combination of road, rail or air transport is used or where the consignment is containerized and shipped, PE can use Cost Insurance Paid (CIP) terms to the first customs clearance point in the country, if one is available, rather than CIF terms.

21.21 Commonly used terms which are relevant to Belize are listed in the table below:

Terms	Description
Cost Insurance Freight (CIF) <i>(named port of destination)</i>	The seller delivers when the goods pass the ship's rail in the port of shipment. The seller obtains transport insurance against the risk of loss or damage to goods to the destination port. The seller must contract with the insurer and pay the insurance premium. The risk of loss or damage to the goods as well as any additional costs due to events occurring after time of delivery, are transferred from the seller to the buyer. The purchaser is obligated to pay the contract price of goods as provided in the sales contract, and arrange and pay for all import licenses and formalities and take delivery at the port of entry. Used for sea or inland waterway transportation.
Carriage and Insurance Paid (CIP) <i>(named place of destination)</i>	The seller must deliver the goods to the carrier nominated by the purchaser, but the seller must in addition pay the cost of carriage needed to bring the goods to the named destination. The buyer bears all the risk and any additional costs occurring after the goods have been so delivered to the first carrier. However the seller must also procure insurance against the buyer's risk of loss or damage to the goods during the carriage. The seller must clear the goods for export in his country. The purchaser is obligated to pay the contract price of goods as provided in the sales contract, and arrange and pay for all import licenses and formalities, pay import taxes, if, any, and take delivery at the destination (which should be the first customs clearing point in its country). The term may be used for any mode of transportation.
Ex-Works (EXW) <i>(named place)</i>	The seller delivers when he places the goods at the disposal of the buyer at the seller's premises or another named place (i.e. factory warehouse, etc.) not cleared for export and not loaded on any collection vehicle. This term represents the minimum obligation for the seller, and the buyer has to bear all costs and risks involved in taking the goods from the seller's premises. Used for any mode of transportation.

Insurance

21.22 Another common practice in public procurement is to insist on suppliers/contractors to take the following insurance, which is covered in the terms of the Contract:

a. Goods:

The goods supplied under the contract shall be fully insured in BZ\$ against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery from warehouse (supplier's) to warehouse (final destination) for an amount equal to 110% of the value of goods on "All Risks" basis, including war risks and strikes.

b. Works:

The contractors shall provide in the joint names of the PE and the Contractor, insurance cover from the start date to the end of the defects liability period in the amounts and deductibles to be specified for each contract, for the following events which are due to the contractors' risks:

- Loss of or damage to the works, plant and materials;
- Loss or damage to equipment;
- Loss of or damage to property (except the works, plant, materials, and equipment) in connection with the contract;
- Personal injury or death.

c. Consultancy:

- Third party motor vehicle liability insurance
- Third party liability insurance
- Professional liability insurance
- Employer's liability and worker's compensation insurance

21.23 Insurance against loss of or damage to: (i) equipment purchased with the funds provided by client; (ii) the consultant's property used; and (iii) any documents prepared by the consultant in the performance of services.

Price Adjustment

21.24 Bidding documents shall state either that (a) bid prices will be fixed, or (b) that price adjustments will be made to reflect any changes (upwards or downwards) in major cost components of the contract, such as labor, equipment, materials, and fuel. Price adjustment provisions are usually not necessary in simple contracts involving delivery of goods or completion of works within eighteen months, but shall be included in contracts which extend beyond eighteen (18) months. However, it is normal commercial practice to obtain firm prices for some types of equipment regardless of the delivery time and, in such cases, price adjustment provisions are not needed - for example, in the case of computers and information systems where prices fall because of improved technology and are unrelated to input costs.

21.25 Prices may be adjusted by the use of a prescribed formula (or formulae) which breaks down the total price into components that are adjusted by price indices specified for each component or, alternatively, on the basis of documentary evidence (including actual invoices) provided by the supplier or contractor. The use of the formula method of price adjustment is preferable and should be used instead of documentary evidence, and this has been provided in all Standard Bidding Documents. The method to be used, the formula (if applicable), and the base date for application shall be clearly defined in the Bidding documents. If the payment currency is different from the source of the input and corresponding index, a correction factor shall be applied in the formula, to avoid incorrect adjustment.

Currency Provisions

21.26 Bidding documents shall state the currency or currencies in which bidders are to state their prices, the procedure for conversion of prices expressed in different currencies into a single currency for the purpose of comparing bids, and the currencies in which the contract price will be paid. Bidding documents shall state that the bidder may express the bid price in any currency.

21.27 The PE may require bidders to state the portion of the bid price representing local costs incurred only in BZ\$. In Bidding documents for works, the PE may require bidders to state the bid price entirely in the local currency BZ\$, along with the requirements for payments in up to three (3) foreign currencies of their choice for expected inputs from outside Belize, expressed as a percentage of the bid price, together with the exchange rates used in such calculations.

Currency of Payment

21.28 The bid price is the sum of all payments in various currencies required by the bidder. For the purpose of comparison, bid prices shall be converted to a single currency selected by the PE (usually BZ\$) and stated in the Bidding documents. The PE shall make this conversion by using the selling (exchange) rates for those currencies quoted by an official source (such as the Belize Central Bank) for similar transactions on a date selected in advance, such source and date to be specified in the Bidding documents, provided that the date shall not be earlier than four (4) weeks prior to the deadline for the receipt of bids, nor later than the original date for the expiry of the period of bid validity.

Terms and Methods of Payments

21.29 Payment terms shall be in accordance with the international commercial practices applicable to the specific goods and works for ICB and commercial practices for NCB.

- a. Contracts for supply of goods shall provide for full payment on the delivery and inspection, if so required, of the contracted goods except for contracts involving installation and commissioning, in which case a portion of the payment may be made after the Supplier has complied with all its obligations under the contract. The use of letters of credit is encouraged so as to assure prompt payment to the supplier. In major contracts for equipment and plant, provision shall be made for suitable

advances and, in contracts of long duration, for progress payments during the period of manufacture or assembly.

- b. Contracts for works shall provide in appropriate cases for mobilization advances, advances on Contractor's equipment and materials, regular progress payments, and reasonable retention amounts to be released upon compliance with the Contractor's obligations under contract.
- c. Any advance payment for mobilization and similar expenses, made upon signature of a contract for goods or works, shall be related to the estimated amount of these expenses and be specified in the Bidding documents. Amounts and timing of other advances to be made, such as for materials delivered to the site for incorporation in the works, shall also be specified. The Bidding documents shall specify the arrangements for any security required for advance payments.
- d. Contracts for construction works shall be paid in installments as certified in accordance with the contract, except for contracts providing an execution period of less than three months, in which case payment of installments is optional.
- e. The amount of installment shall not exceed the value of the services for which the contract is awarded, once the sum required for the reimbursement of advance payments, if any, is deducted.
- f. Where the installments are paid according to predetermined execution phases and not according to material execution, the contract may determine, in the form of a percentage of its initial price, the amount of each installment.

21.30 The specifications of general administrative terms determine the periods of technical phases of execution according to which the installments shall be paid and the contractor may not use the supplies for which any advance payments or installments have been paid for any work other than those provided in the contract. Any breach of this provision may lead to the termination of the contract fully and entirely.

21.31 Bidding documents shall also specify the payment method and terms offered, keeping the above in view, whether alternative payment methods and terms will be allowed and, if so, how the terms will affect bid evaluation.

Clarification/Modification of Bidding Documents and Pre-Bid Meeting

21.32 A supplier, purchaser or contractor may request a clarification of the tender documents from the PE. The PE shall respond within a reasonable time to any query so as to enable either of them to make a timely submission of its tender. The PE shall communicate the clarification, without identifying source of the query, to all suppliers, purchasers or contractors to which the PE has issued tender documents.

21.33 At any time prior to the deadline for submission of tenders, the Procuring Entity may for any reason, whether on its own initiative or as a result of a request for

clarification by tenderers, modify the tender documents. Where necessary the PE may convene a pre-bid meeting.

21.34 In civil works and complex items of equipment, etc., it is usual to organise a **pre-bid meeting** before bidders prepare and submit bids. Pre-bid meetings should be convened early in the bidding process, but should allow sufficient time for bidders to study the Bidding documents and prepare questions seeking clarifications. The meeting should be scheduled at about one third or midpoint of bidding time. The purpose of the meeting will be to clarify all doubts/issues raised by bidders on the bidding terms, specifications, evaluation/qualification criteria, etc., at this stage, to enable receipt of competitive and responsive bids.

21.35 Minimum post-qualification criteria to be met (if a pre-qualification procedure was not used prior to bidding), as well as the important provisions of the Bidding document, schedule of requirements and the special conditions of contract, and the special features of the specifications, should be explained clearly to the prospective bidders. Minutes of the meeting, indicating the responses given in the meeting (including an explanation of the query but without identifying the source of the inquiry) should be furnished expeditiously to all those attending the meeting (and subsequently to all purchasers of the Bidding documents). Any modification of the Bidding documents, which may become necessary as a result of the pre-bid meeting, shall be made exclusively through issuance of corrigendum and not through the minutes of the pre-bid meeting.

Time for Preparation/Submission/Opening of Bids

21.36 The PE shall fix the place, and a specific date and time, for the deadline for submission of Bids.

21.37 If clarification/modifications to documents were issued whether as a result of pre-bid meeting or not, the deadline for submission should be extended to provide reasonable time to the bidders to take the amendments/clarifications into account in their tenders.

21.38 The PE has the discretion prior to the expiry of the deadline for submission, to extend the deadline based on documentary evidence, if the bidders were prevented from meeting the deadline by factors beyond their control.

21.39 The time allowed for the preparation and submission of bids shall be determined with due consideration of the particular circumstances of the development and the magnitude and complexity of the contract. Generally, not less than six (6) weeks from the date of the invitation to bid or the date of availability of Bidding documents, whichever is later, shall be allowed for ICB. Where large works or complex items of equipment are involved, this period shall generally be not less than twelve (12) weeks to enable prospective bidders to conduct investigations before submitting their bids. In such cases, the PE is encouraged to convene pre-bid conferences and arrange site visits. Bidders shall be permitted to submit bids by mail or by hand.

Clarification and Alteration of Bids

21.40 Bidders shall not be requested or permitted to alter their bids after the deadline for receipt of bids. However, to assist in the examination, evaluation, comparison and post-qualification of the bids, the PE may, at its discretion, ask any bidder for a clarification of its bid. Any clarification submitted by a bidder in respect to its bid, and that is not in response to a request by the PE, shall not be considered. The PE's request for clarification and the response shall be in writing. No change in the prices or substance of the bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the PE in the evaluation of the bids. Requests for clarification and the bidders' responses shall be made in writing, in hard copy or by a satisfactory electronic system.

Confidentiality

21.41 After the public opening of bids, information relating to the examination, clarification, and evaluation of bids and recommendations concerning awards, shall not be disclosed to bidders or other persons not officially concerned with this process until the publication of the contract award.

21.42 Information relating to the examination, evaluation, comparison, and post-qualification of bids, and recommendation of contract award, shall not be disclosed to bidders or any other persons not officially concerned with such process until publication of the Contract Award.

21.43 From the time of bid opening to the time of contract award, if any bidder wishes to contact the PE on any matter related to the bidding process, it should do so in writing. Any effort by a bidder to influence the PE in the examination, evaluation, comparison, and post-qualification of the bids or contract award decisions may result in the rejection of its bid.

Fraud and Corruption

21.44 To promote the practice of ethical standards throughout the Country of Belize procurement operations and the Government's policy on fraud, corruption and collusion, each member of a Tenders Committee will be required to sign a copy of the declaration shown in **Appendix 1a** to this Handbook. This declaration will be attached to each evaluation report and signed by each member of the Evaluation Committee.

21.45 All bidders and consultants are also required to adhere to the ethical standards and the Government's policies on fraud, corruption and collusion set out in this Handbook. In support of this, bidders and consultants are required to complete the declaration shown in **Appendix 1b** to this Handbook and submit it with their bid or proposal as may be the case.

Other Contract Provisions

21.46 The contract documents shall clearly define the scope of work to be performed, the goods to be supplied, the rights and obligations of the Procuring Entity and of the supplier, purchaser or contractor, and the functions and authority of the engineer, architect, or construction manager, in the supervision and administration of the contract. In addition to the general conditions of contract, any special conditions particular to the specific goods or works to be procured and the location of the activity

shall be included. The conditions of contract shall provide a balanced allocation of risks between the parties.

CHAPTER 7. PROCUREMENT OF CONSULTING SERVICES, METHODS AND STRATEGIES

This chapter describes the characteristics of procurement of Consulting Services and addresses issues such as when a Request for Proposals may be used, under which conditions, what procurement methods may be used for the selection of Consultants. It also provides standard contents to be used for developing the Request for Proposals, Terms of Reference, and consulting Contracts.

Section 22 Consulting Services Procedure

When RFP May Be Used

22.1 A Request for Proposals (RFP) procurement procedure may be used if the procurement is of services, or combination of goods and services, and the services are advisory or otherwise of a predominantly intellectual nature. Before this procurement method is resorted to, it must have the approval of the Tenders Committee in addition to being provided with the Procuring Entity's annual procurement plan.

22.2 A Procuring Entity shall procure consultancy services only when:

- It does not have the capacity to provide these services; and/or
- Time is not available due to workload.

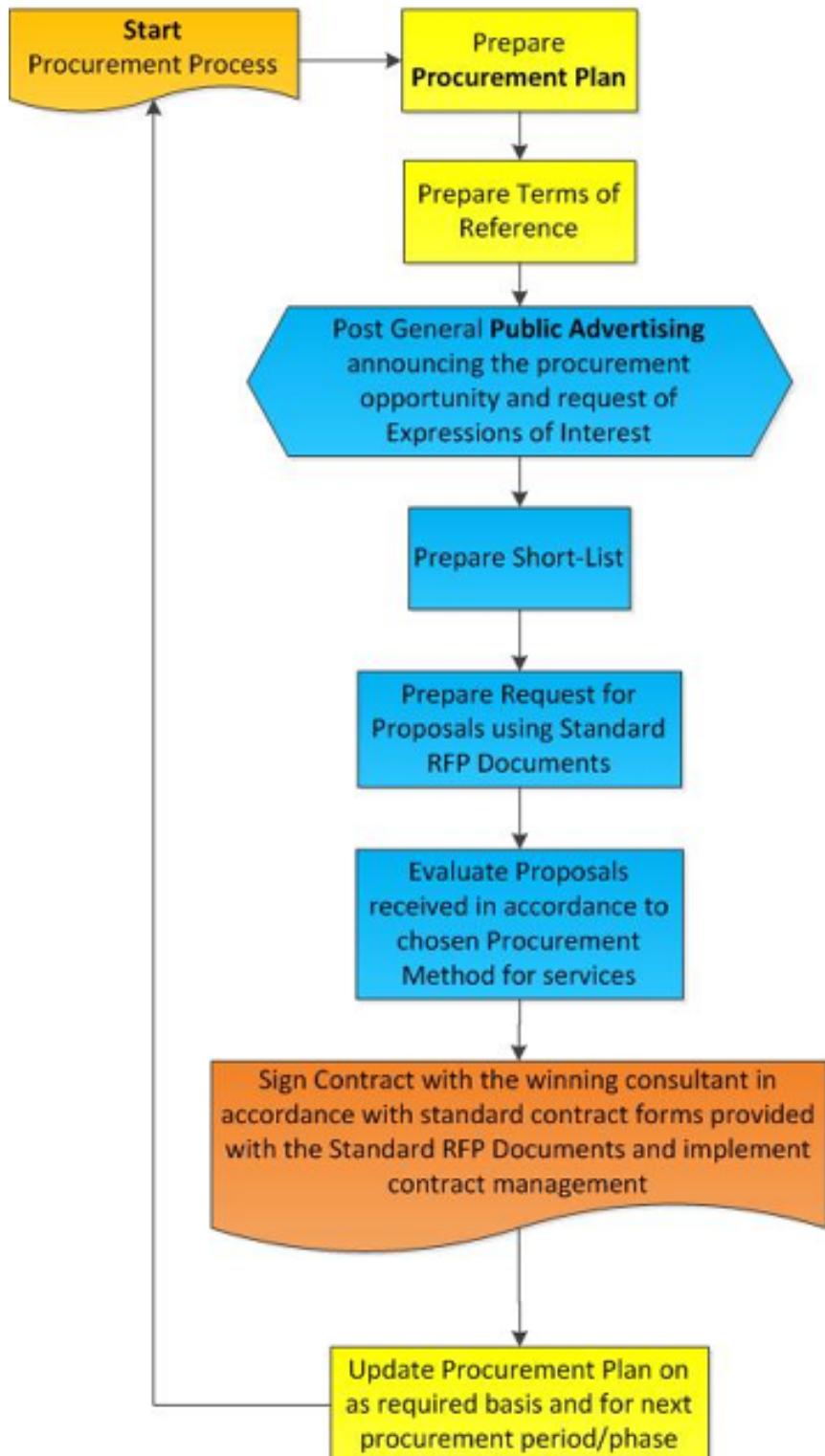
Procurement Stages

22.3 Irrespective of the amount and method used, the following stages in the procurement of services must, in addition to any Contractor General's approval, be reviewed and approved by the Tenders Committee:

- The method of procurement;
- The Terms of Reference;
- The Request for Proposals;
- The evaluation report;
- The final draft contract.

Figure 5 - Overall Procurement Cycle for Services

Procurement Cycle for Services



Key Elements of Procurement Cycle for Services

22.4 The procedures and guidelines in this Chapter are generally based on the standard QCBS process of selection, although other selection methods are available for use in appropriate circumstances.

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

- Preparation of the Terms of Reference (TOR);
- Preparation of a cost estimate and confirmation of available budgeted funds;
- Advertising for Expressions of Interest (if appropriate) or preparation of the shortlist of consultants;
- Preparation and issue of the Request for Proposals (RFP), including:
 - Letter of Invitation (LOI);
 - Information to Consultants (ITC);
 - Draft contract.
- Receipt of proposals;
- Evaluation of technical proposals;
- Evaluation of financial proposals;
- Final evaluation according to the criteria stated in the RFP;
- Negotiations and Award of the contract to the winning firm;
- Contractor-General's ratification of contract Award;
- Notification of contract Award;
- Record keeping.

Special Features of Consultancy Services

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

Merit-Point Systems

22.7 A merit point system uses a point-scoring basis to determine the winning Tenderer. Points are awarded for technical capability and usually for the financial cost, according to criteria specified in the Request for Proposals. The Tenderer scoring the highest number of points is usually recommended for the award of contract. Merit point systems can also be used to evaluate whether tenders pass a minimum technical score to proceed to the final financial evaluation. The financial envelopes of all Tenderers whose tender pass the minimum technical score are then opened, and the tender with the lowest price recommended for award of contract.

Two-envelope Tendering

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

Section 23 Procurement Methods

23.1 The procurement of services is distinct from the procurement of goods and works, primarily due to the significant differences between goods or structures which are relatively simple to quantify in absolute terms and the challenge of quantifying a consultant's service. Because of this difference, consultants' services procurement differs from the procurement of goods and works. The primary difference is that a significant emphasis is placed on quality rather than price alone (although price is often still a factor). Also, rather than submitting 'bids' consultants submit 'proposals', and therefore the Standard Bidding Documents are called a "Request for Proposals".

23.2 The primary methods of procuring consultants' services are:

- Quality Cost Based Selection (QCBS);
- Quality Based Selection (QBS);
- Selection under a Fixed Budget (FBS);
- Least Cost Based Selection (LCS);
- Selection Based Upon Consultants' Qualifications (CQS);
- Single Source Selection (SSS);
- Selection of Individual Consultants.

23.3 There is little difference in the processes for QBS, QCBS, FBS, LCS, CQS, and SSS. The same Standard Bidding Documents are required for all types of procurement, except in the case of Selection of individual consultants and procurement of relatively low value.

23.4 All services procurement, with the exception of single source, must be advertised nationally. Services procurement above the threshold must also be advertised internationally. When the Tenders committee determines that there will not be a sufficient number of appropriate skilled national consultants to guarantee competition, irrespective of the value of the procurement, it may recommend the Head of Procuring Entity to place an international advertisement even if the value is below the threshold.

Quality Cost Based Selection (QCBS)

23.5 **Quality Cost Based Selection (QCBS)** is the preferred method to be used and is the standard form of procurement of services. It is advertised both nationally and internationally and a shortlist is drawn up. **Quality** will be evaluated in each of the technical proposals and will be ranked against the criteria listed in the RFP.

23.6 There will also be a **financial weighting** assigned, of which shall normally be 20 marks, the balance of 80 marks being available for the technical marks. In exceptional cases, 30 marks may be made available for the financial weighting when the consulting assignment is very simple. For highly complex assignments, 10 marks may be available for the financial weighting - both of these instances require the prior concurrence of the CG.

23.7 After the ranking (evaluation of quality) is complete, a public opening is scheduled, and the firms representatives invited to attend. At this public opening, the firm's technical scores are announced and their financial proposals (which will have been held still sealed in a secure location) are opened, and their financial proposals are read out. After the opening of financial proposals, these are checked for errors and an overall technical and financial score determined for each of the proposals. That with the highest score is the one recommended for a contract award and the consultants invited to negotiate a contract.

Quality Based Selection (QBS)

23.8 The **Quality Based Selection (QBS)** method is appropriate when *quality* is the most important consideration in the selection process. The assignment will be advertised both nationally and internationally, and a shortlist will be drawn up from those firms that expressed interest.

23.9 Consultants are then asked to submit only their technical proposal and each proposal is ranked in terms of its technical score against a set of criteria included in the Request for Proposals. To guide firms in preparing their proposals, the RFP will normally include either an estimate of the person months the assignment is estimated to take or the funds available. It is recommended that the funds available normally be indicated as this information should already be public knowledge through the PE's various publications. The firm with the highest technical score is invited to submit its financial proposal, and a contract is negotiated on the basis of the firm's technical and priced proposal.

23.10 This method is suitable for:

1. National economic or sector studies, multi-sectoral feasibility studies, design of a hazardous waste remediation plant or of an urban master plan, financial sector reforms.
2. Assignments that have a high downstream impact and in which the objective is to have the best experts (for example, feasibility and structural engineering design of such major infrastructures as large dams, policy studies of national significance, management studies of large government agencies).
3. Assignments that can be carried out in substantially different ways, such that proposals will not be comparable (for example, management advice, and sector and policy studies in which the value of the services depends on the quality of the analysis).

23.11 The RFP may require submission of a technical proposal only (without a financial proposal), or request submission of both technical and financial proposals at the same time, but in separate envelopes (two-envelope system). Only the financial envelope of the highest ranked technical proposal is opened. The rest are returned unopened to the tenderers, after the negotiations are successfully concluded.

Selection under a Fixed Budget

23.12 Fixed Budget Selection (FBS) may be used when the assignment is simple, can be clearly defined, and there is only a strictly limited budget available for the services. Consultants are invited to submit their best technical proposal within the fixed budget price and award of contract is made to the highest scoring technical proposal.

23.13 This method is only appropriate when the assignment is simple and can be precisely defined, and when the budget is fixed. The mains elements to be considered under this method are the following:

- The RFP will indicate the available budget and request the consultants to provide their best technical and financial proposals in separate sealed envelopes, within the stated budget;
- The TOR must be carefully prepared to ensure that the budget is sufficient for the consultants to perform all of the expected tasks;
- Technical proposals are evaluated and tenderers who pass the minimum technical score will be invited to a public opening of their financial envelopes;
- Tenderers whose technical proposals fail to meet the minimum technical score will have their financial envelopes returned unopened;
- Any financial proposals that exceed the indicated budget should be rejected;
- The consultant who has submitted the highest ranked technical proposal within the budget will be selected for award of contract.

Least-Cost Selection (LCS)

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

23.15 The mains elements to be considered under this method are the following:

- A minimum qualifying score for the required quality is established and stated in the RFP;
- Technical and Financial Proposals are required to be submitted in separate envelopes by the short-listed tenderers;
- Technical envelopes are opened first and evaluated. Those tenders scoring less than the minimum qualifying score are rejected.
- The financial envelopes of the remaining tenderers are opened in public;

- The firm with the lowest price is selected for contract award.

Selection Based on Consultants' Qualifications (CQS)

23.16 This method may be appropriate for very small assignments where the need for submission and evaluation of detailed competitive proposals is not justified. Main elements to be considered under this method:

- Information on the consultants' experience and competence relevant to the assignment are requested;
- The firm/consultant with the most appropriate qualifications and references is selected;
- The selected firm is invited to submit a combined technical and financial proposal, and then invited to negotiate the proposal and the contract.

Single-Source Selection

23.17 Single-source selection of consultants lacks the benefit of competition in regard to quality and cost. Furthermore, the selection is not transparent, and may encourage unacceptable practices. Therefore, Single-source selection should only be used in exceptional circumstances and approved by the Tenders Committee. The justification for Single-source selection must be examined carefully to ensure economy and efficiency. Single-source selection is appropriate if there is a clear advantage over competitive selection, for instance:

- For tasks that are a natural continuation of previous work carried out by the Consultant;
- Where rapid selection is essential (for example, in an emergency situation);
- For very low value assignments;
- When only one firm is qualified or has the necessary experience for the assignment.

Selection of Individual Consultants

23.18 Advertising is an effective way of securing Expressions of Interest from individual consultants. Therefore, advertising to invite CVs for the selection of individual consultants is required. The evaluation and selection of the individual will not involve a proposal (either technical or financial) but will be based on the assessment of the individual's qualifications for the assignment, judged on the basis of relevant academic background, experience, and, as appropriate, knowledge of the local conditions, such as language, culture, administrative system, and government organization. The individual judged best qualified from a minimum of three (3) relevant candidates will then be invited to negotiate a contract based on the Terms of Reference.

Section 24 Terms of Reference and Budget Estimate

The Terms of Reference (ToR)

24.1 The Terms of Reference (ToR) are the key document in the RFP. They ensure that both the Procuring Entity and the Consultant are fully aware of the objectives and outputs of the services. Consultant services are expensive, and lack of careful thought, research and preparation of the Terms of Reference by the Procuring Entity, may result in considerable waste of resources.

24.2 The Terms of Reference (TOR) should provide sufficient information to enable Consultants to fully understand the services required by the Procuring Entity, and to prepare proposals that are realistic and competitive. The ToR must be complete, precise and clear to minimise request for clarifications from Consultants. They must be prepared by staff with the requisite expertise.

24.3 The Terms of Reference will normally contain the following information under the sequential headings:

1. Background. This should be limited to the necessary general background and introduction to the assignment;
2. Objectives. The objectives of the assignment should be specified in clear and unambiguous terms
3. Scope of the Services. The scope of services defines in detail the specific services/duties/activities that the Consultant is expected to perform during the assignment.
4. Transfer of Knowledge/Training (when appropriate). The transfer of knowledge is critical to describe in details, and includes the level of training or transfer of knowledge activities required by the Consultant. This may include on-the-job training of counterpart staff, training seminars and workshops, or the provision of overseas training facilities.
5. Deliverables. The Deliverables detail the specific outputs expected from the Consultant. These will include reports, achievements, and other measurable progress indicators. For Lump-Sum Contracts, key deliverables are often defined for use with a schedule of interim part payments.
6. Assignment Reports and Schedule of Reports. The assignment and schedule reports specify the reporting requirements and frequency of reports, and where appropriate, the structure of Reports required. Entities should avoid specifying unnecessary routine reports, since these reports can easily distract the Consultant from more productive work for the Procuring Entity. It should be noted that reports are no substitute for effective personal management of an assignment.
7. Facilities, services and resources to be provided by the Procuring Entity. The facilities, service and resources detail the nature and extent of facilities that will be made available to the Consultants (office accommodation, equipment, support or counterpart staff, etc.), any services (communication, photocopying, stationery, security, etc.) that

will be provided, and any other resources or support that the Procuring Entity, or the Government, will make available.

8. Assignment Period. The assignment period indicates the anticipated period of time that the Assignment will take to complete.
9. Assignment Management & Administration. The Management and Administration of the assignment details the management arrangements that will apply to the Consultants during the Assignment (who they will report to, frequency of meetings, etc.).

Estimating Cost and Budget

24.4 Preparation of a well thought-through cost estimate is essential for earmarking a realistic budgetary resource for the envisaged service. The cost estimate should be based on the Procuring Entity's assessment of the resources needed to carry out the assignment.

24.5 The Cost estimate includes expenses relating to:

- Consultant staff remuneration;
- Travel and transport;
- Mobilization
- Staff allowances;
- Communications;
- Office rent, supplies, equipment, shipping, and insurance;
- Surveys and training programs;
- Report translation and printing;
- Taxes and duties; and
- Contingencies.

Section 25 Expression of Interest (EOI)

25.1 A request for Expressions of Interest is required to be published on the website of the Government of Belize and in one national newspaper of wide circulation for any consultancy services prior to the issue of an RFP.

Pre-Qualification Criteria

25.2 Pre-qualification is based upon the capability and resources of prospective Consultants to perform the assignment satisfactorily, taking into account:

- Experience and past performance on similar assignments;
- Capabilities with respect to personnel and facilities;
- Required licensing and professional registrations; and
- Commercial and financial resources.

Advertisement

25.3 The request for Expressions of Interest shall be advertised in the same way as for competitive Tenders and shall contain:

- Name and address of the Procuring Entity;
- Background for the assignment;
- Scope of the services required;
- Location and required timescale for the completion of the services;
- Criteria and procedures to be used to evaluate the qualifications of Consultants;
- Place and deadline for the submission of EOI (which shall not be less than four (4) weeks following the first advertisement).

Evaluation of EOI and Short-Listing

25.4 No formal opening of submissions is required but a formal evaluation of the capabilities of each Consultant is required against the criteria as stated in the advertisement.

25.5 The following details of each firm should be assessed in the selection of a short-list of between three (3) and eight (8) Consultants:

- General background of the Consultant;
- Eligibility in terms of country of origin, turnover requirements and any other conditions stated in the advertisement;
- Previous experience of similar assignments;
- Competence and sector related experience of the firm;
- Language proficiency in English;
- Relevant experience in Belize, and other CARICOM countries; and
- Quality of performance under previous contracts.

25.6 Where a large number of Consultants pass the stated qualification criteria, it may not be realistic to invite more than eight (8) to participate in the specific RFP. If so, only the best qualified Consultants should be selected and invited to respond to the RFP.

25.7 Applicants who fail to meet the pre-qualification criteria or reach the shortlist should be briefly advised of the reasons. No further correspondence will be entered into regarding applications. On completion of the process and approval of the shortlist by the Tenders Committee, the RFP will be issued to the qualified Consultants.

Section 26 Preparation and Issue of Request for Proposal (RFP)

26.1 The Request for Proposals (RFP) shall provide all the information necessary for the (short-listed) Consultants to prepare their proposals. It identifies the evaluation criteria, selection method, and procedures that will be used to evaluate the proposals.

26.2 The standard Request for Proposal which can be adapted for any of the selection methods, includes the following Sections:

1. Letter of Invitation (LOI)
2. Information to Consultants (ITC) (including the Data Sheet)

3. Technical Proposal – Standard Forms
4. Financial Proposal – Standard Forms
5. Terms of Reference (ToR)
6. Standard Forms of Contract

26.3 The RFP has been designed in such a way that some of its parts cannot be modified by the Procuring Entity, such as the ITC, while other parts, such as the Data Sheet and TOR, are assignment specific and can be used to reflect the assignment conditions.

The Letter of Invitation (LOI)

26.4 The Letter of Invitation states the intention of the entity to enter into a contract for a given assignment and informs the short-listed Consultants that they are invited to submit a proposal for the assignment. It provides basic information regarding the following:

- Name of the Procuring Entity;
- Sources of funds to finance the consulting services;
- Names of the short-listed Consultants;
- Brief description of the objectives and scope of the assignment;
- Method of selection; and
- Date, time, and address for submission of proposals.

26.5 The LOI also instructs Consultants to indicate whether they intend to submit their proposal alone or in association with other short-listed Consultants. This information is necessary to allow the Procuring Entity to invite other Consultants in case one or more short-listed Consultants decline the invitation or decide to associate, thus reducing competition. In these cases, the deadline for submission of proposals may have to be extended.

Information to Consultants (ITC)

26.6 The ITC section contains all the information Consultants need to prepare responsive proposals. It also informs Consultants about the evaluation criteria and sub-criteria, their respective weights and the minimum qualifying mark, in order to provide for a fair and transparent selection process. The ITC should not be modified other than through the Data Sheet. The Data Sheet is the part of the ITC that contains specific information relating to the Procuring Entity and the assignment.

Technical Proposal - Standard Forms

26.7 This section contains the standard forms which are to be completed by the Consultant as part of the technical proposal. The Consultant is required to complete and submit these forms as requirements of the Request for Proposals, which are:

- Technical Proposal submission form;
- Firm's references;
- Comments and suggestions of consultants on the Terms of Reference and on data, services, and facilities to be provided by the Procuring Entity;

- Description of the methodology and work plan for performing the assignment;
- Team composition and task assignments;
- Format of curriculum vitae (CV) for proposed professional staff;
- Time schedule for professional personnel;
- Activity (work) schedule.

Financial Proposal - Standard Forms

26.8 This section contains the standard forms which are to be completed by the Consultant in submitting the financial proposal. The Consultant is required to complete and submit the following in accordance with other requirements included in the Request for Proposals:

- Financial Proposal submission form;
- Summary of costs;
- Breakdown of price per activity;
- Breakdown of remuneration per activity;
- Reimbursable per activity;
- Miscellaneous expenses.

Standard Forms of Contract

26.9 The following are various forms of Contract that a Procuring Entity can use depending on the nature of the assignment:

- Consultant Services - Complex Time-Based Assignments;
- Consultant Services - Lump-Sum Assignments;
- Small Time-Based Assignments;
- Small Lump-Sum Assignments.

Section 27 Evaluation of Proposals

Technical Evaluation Criteria

27.1 The criteria for evaluating the Technical Proposals specified in the RFP should include:

- The firm's relevant experience for the assignment;
- The quality of the methodology proposed;
- The qualifications and experience of the key staff proposed; and
- The extent of participation by nationals among key staff in the performance of the assignment.

27.2 The marks for each criterion are aggregated to give the total technical score. The following table shows the normal range of points to be specified for each criterion, which may be adjusted for specific circumstances. The proposed points must be declared in the standard RFP.

Table 1 - Indicative Weighting of Evaluation Criteria

0 to 10 points

Specific relevant experience:

Response to the TOR and Methodology Proposed:	20 to 50 points
Key personnel:	30 to 60 points
Training:	0 to 10 points
Participation by nationals:	10 to 15 points
Total:	100 points

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

Consultant's Specific Experience

27.4 The points given to the Firm's experience can be relatively low if this criterion has already been taken into account when short-listing the consultant firms. A large number of points should be given to the response and proposed methodology for more complex assignments (for example, multi-disciplinary feasibility or management studies).

Key Personnel

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

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

Minimum Technical Score

27.6 The minimum qualifying technical score to be achieved for a Proposal to proceed to the Financial Evaluation must be specified in the RFP.

Financial Evaluation Criteria

27.7 Only Proposals that have achieved the pass mark for Technical Proposals shall be subjected to financial evaluation. In addition to specifying the weighting for technical and financial scores, the RFP must specify the formula for award of points to each Proposal price. Normally, the lowest priced Proposal receives 100 points and the other Proposals receive points based on dividing their prices by the lowest priced proposal and multiplying by 100.

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

Weighting of Technical and Financial Scores

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

Section 28 Contract Types and Negotiation

28.1 The type of Contract must be selected when preparing the Request for Proposals and included as a draft with all relevant contract terms and conditions in the RFP.

Lump Sum (Fixed Price) Contracts

28.2 Lump Sum Contracts are used mainly for assignments in which both the content and the duration of the services, and the required outputs of the Consultants, are clearly defined. Their main characteristics are:

- Lump sum contracts are widely used for simple planning and feasibility studies, environmental studies, detailed design of standard or common structures, preparation of data processing systems, etc.
- Payments are linked to defined outputs (deliverables), such as reports, drawings, bills of quantities, tender documents, and software programs.
- Lump sum contracts are simple to administer because payments are due on attainment of clearly specified outputs.

Time-Based Contract

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

- It is difficult to define the full scope of services, or the input of the Consultants required to attain the objectives of the assignment;
- The length of services can be precisely defined and deliverables are only incidental to the main purpose of the assignment;

- The services are related to activities by others for which the completion period may vary.

28.4 Payments are based on:

- Remuneration: Agreed hourly, daily, weekly, or monthly rates for staff;
- Reimbursable: Reimbursable items using actual expenses and/or agreed unit prices.
- Rates for staff remuneration include salary, social costs, overhead, fee (or profit), and, where appropriate, special allowances.

28.5 This type of contract must include a maximum amount of total payments (the contract ceiling) to be made to the Consultants. The contract ceiling usually includes a contingency allowance for unforeseen work and duration, and provision for price adjustments, where appropriate. Time-based contracts need to be closely monitored and administered by the Procuring Entity to ensure that the assignment is progressing satisfactorily, and payments claimed by the Consultants are appropriate.

Retainer and/or Contingency (Success) Fee Contract

28.6 Retainer and contingency fee contracts are frequently used when Consultants (banks or financial firms) are undertaking specialist financial activities such as preparing companies for sale, in mergers of firms, or in privatization operations. The remuneration of the Consultant includes a retainer and a success fee, the latter being normally expressed as a percentage of the sale price of the assets.

Percentage Contract

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

- Percentage contracts directly relate the fees paid to the Consultant to the estimated or actual project construction cost, or the cost of the goods procured or inspected.
- Contracts are negotiated on the basis of market standards for the services and/or estimated staff-month costs for the services.
- In the case of architectural or engineering services, percentage contracts lack any incentive for economic design or performance. The use of a percentage contract format for architectural services is only recommended if based on a fixed target cost and covers precisely defined services.

Definite Delivery Contract (Price Agreement)

28.8 These contracts are used when there is a need for “on call” specialised services to provide advice or services, the extent and timing of which cannot be defined in advance.

- These are commonly used to retain “advisers” for implementation of complex projects, expert adjudicators for dispute resolution panels, institutional reforms, procurement advice, technical troubleshooting, etc., normally for a period of a year or more.
- The Procuring Entity and the firm agree on the unit rates to be paid, and payments are made on the basis of the time and resources actually used.

Tender and Performance Security

28.9 Tender and performance securities for Consultants’ services are not recommended for the following reasons:

- Tender securities are not an accepted standard for Consulting services tenders and are likely to discourage participation by international consulting firms.
- Enforcement of tender securities may be subject to dispute, for example when final negotiations fail to reach a satisfactory conclusion.
- Performance securities can be easily abused by the Procuring Entity’s personality clashes or other factors beyond the direct control of the Consultant that may affect achievement under the Contract.
- There is often a strong element of subjectivity rather than objectivity in determining the success or failure of an assignment.
- Securities increase the costs to the consulting industry without evident benefits, and the costs are inevitably passed on to the Client through higher prices.

28.10 However, the Procuring Entity may resort to the use of professional indemnity policy.

Negotiation of Contract

28.11 Following approval of the Evaluation Report and recommendations by the Tenders Committee, the Procuring Entity shall invite the recommended Consultant for contract negotiations in accordance with the procedure stated in the RFP.

- Negotiation is expected to ensure agreement on all points and to result in an agreed draft Contract. Negotiation may include discussions on the technical proposal, the proposed methodology (Work Plan), staffing and any suggestions that may be made or have been made by the Consultant to improve the TOR. The Procuring Entity and the Consultant shall then establish the final TOR, staffing, scheduling of services and clarify any general financial issues, such as taxes payable and mode of payment.
- The selected firm should not be allowed to substitute key staff, unless both parties agree that undue delay in the selection process makes such substitution unavoidable or that such changes are critical to meet

the objectives of the assignment. Any substitution of key staff by the Consultant will require the offering of an equivalent or better candidate.

- Where the selection process specifies a time based form of Contract, the Consultant is requested to provide justification of the unit rates quoted for individual staff. Negotiation of staff rates and reimbursable expenses may be discussed in this instance. Financial adjustments to any lump-sum price proposals may only be made through minor modifications to the scope of the proposed services.
- A detailed record of negotiations shall be maintained and signed by the Procuring Entity and the Consultant.
- The final TOR, agreed methodology, and any financial adjustments shall be incorporated in the draft Contract for approval of contract award by the Tenders Committee, or if above the thresholds, to the Contractor General.

Award of Contract

28.12 Following approval from the relevant Tenders Committee, or if above the thresholds (\$100,000), to the Contractor-General for review, the Contract will be awarded.

Award Notification

28.13 A formal notice of tender award shall be issued to the successful Consultant, who will be required to confirm in writing acceptance of the contract award.

- The Consultant shall be invited to attend contract signature, or where this is not practical, provided with the copies of the Contract for signature and return of the original and two signed copies of the Contract to the Procuring Entity.
- Failure of the Consultant to confirm acceptance of the award, or to sign the Contract, will constitute grounds for the annulment of the award. In that event, the Procuring Entity may cancel the proceedings and invite the Consultant who submitted the next ranked Proposal for negotiations.
- Procuring Entities are required to submit notice of contract awards to the Contractor General where the total amount is \$100,000, for publication on the Government of Belize website. The information on contracts awarded/signed shall include the:
 - Name of Procuring Entity;
 - Name of the Consultant;
 - Description of the services;
 - Contract Sum;
 - Start and finish dates of the Contract;
 - Method of procurement used; and
 - Source of funding.

Notification to Unsuccessful Tenderers

28.14 All unsuccessful Consultants should be notified in writing immediately once the Contract has been awarded.

CHAPTER 8. CONTRACT ADMINISTRATION AND MONITORING

Contract administration pertains to the preparation of procurement documentation, the processing and approval of such documentation, monitoring contract implementation, approving and administering contract variations and modifications, and possibly cancelling or terminating contracts. Weak contract administration along with poor documentation and records management is an invitation to corrupt practices.

Section 29 Effective Contract Management

29.1 Effective management of Contracts is essential to ensure that the objectives of the procurement process are achieved and that all contractual obligations and activities are completed efficiently by both parties to the Contract.

29.2 The point at which a Contractor begins the execution of the Contract responsibilities is dependent on the terms and conditions stated within the Standard Bidding Documents and Contract Documents and the signing of the Contract documents by those authorised to sign.

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

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

29.4 If a bidder for goods or works fails to provide the performance security or refuses to attend signing the contract as requested, the PE will call the proceeds of the bidder's bid security or execute its bid securing declaration as appropriate, and award the Contract with the next best evaluated bidder.

29.5 In the event that the Bidding Documents allow for an advance payment and the Supplier, Purchaser or Contractor wishes to avail of the advance payment, the Supplier, Purchaser or Contractor will be paid the advance once the advance payment bank guarantee is received, reviewed, and accepted by the Procuring Entity. The advance payment guarantee must be in the form and amount laid out in the Bidding Documents. The advance payment will be amortised (reduced pro-rata) against the future payments until it is completely off-set at the rate described in the Bidding Documents and Special Conditions of Contract. The advance must be off-set before a maximum of eighty percent (80%) of the Contract amount is paid to the Contractor or Supplier.

Principles of Contract Administration

29.6 In planning and carrying out Contract Administration and Contract Monitoring functions, a number of fundamental principles should be kept in mind.

Fairness

29.7 While it is incumbent upon the Procuring Entity at all times to protect the public interest, successful contract administration depends significantly on treating the Supplier, Purchaser or Consultant concerned fairly. This means, for example, avoiding attempts to force the Supplier, Purchaser or Consultant to do work or accept conditions not provided in the Contract. Attempting to squeeze unpaid work out of a Contract may cause the Supplier, Purchaser or Consultant concerned to attempt to recover the costs of that work in other ways (e.g., by “front-loading” tenders with greater overhead than would normally be charged). Moreover, unfair practices in Contract administration may ultimately serve to discourage qualified Supplier, Purchaser or Consultant from participating in public procurement or disposal, thus reducing competition.

Timeliness

29.8 One of the main problems in Contract implementation is delay. The procuring Entity should do everything that it can to minimize delay, not only by carefully monitoring the progress in the performance of the Supplier, Purchaser or Consultant, but also by ensuring that the Procuring Entity itself does everything it can to facilitate timely implementation of the Contract and to avoid contributing to delays. For example, Contract interpretation questions, and on-site questions, should be handled without delay, so as to allow work to progress without delay. Site access, as well as any facilities and any equipment to be provided by the Procuring Entity, should be made available without delay. In addition, the Procuring Entity might be instrumental in assisting the Supplier, Purchaser or Consultant in obtaining approvals and licenses that might be required under the applicable law. From a systemic point of view, it is always helpful if excessive and parallel approval requirements can be consolidated or economised in some other fashion, without sacrificing the public interest.

Communications

29.9 Effective Contract administration relied heavily on the availability of open and reliable channels of communication between the Supplier, Purchaser or Consultant and the Procuring Entity. Implementation of the principle of open communications,

which can help to solve many problems before they develop into significant obstacles to successful Contract implementation, requires the Procuring Entity clearly to designate an official with whom the Supplier, Purchaser or Consultant can have direct, unimpeded communication. That official may be, for example, the project manager.

Contract Administration Planning

29.10 Like other aspects of the procurement process, contract administration requires proper planning. While the contract administration plan cannot be finalised until the award of the Contract, the planning of contract administration should be part of the procurement planning exercise carried out prior to the initiation of the procurement proceeding.

29.11 Steps linked to the planning of contract administration include:

- a. As an initial step, becoming closely familiar with the contents of the procurement file, in particular the procurement contract, for it is the contract that should serve as a roadmap for contract administration activities; it may be helpful also to review the record of the procurement proceedings, in particular the tender evaluation reports.
- b. Reviewing of the past performance of the Supplier, Purchaser, or Contractor in order to inform the planning of contract administration for the current Contract;
- c. Setting up the contract administration procedures;
- d. Ensuring that forms for various procedures are in place (e.g., forms for measurement and assessment of work);
- e. Identification of reporting requirements applicable to the Procuring Entity, at the national level, as well as to any funding agencies;
- f. Identifying the required personnel, and delegating contract administration functions to them, including in particular the project manager, if applicable; this step includes formation of the multidisciplinary contract administration team (legal, administration and finance, procurement, engineering and design, operations official and document management), which may be similar to or even based to one extent or another on the procurement planning team;
- g. Developing a contract administration plan, in particular for higher value and complex procurement, including:
 - i. Contract milestones and deliverables;
 - ii. Procedures for reporting by the Supplier, Purchaser or Contractor;
 - iii. System for technical monitoring and quality assurance;
 - iv. Procedures for inspection and acceptance;
 - v. Procedures for financial management and monitoring;
 - vi. Listing, in proper sequence, of all contract administration tasks for each phase of contract implementation.

- h. Giving notification to the Supplier, Purchaser or Contractor, as the case may be, of the designated representatives of the Procuring Entity, their functions, and any limits on their authority to bind the Procuring Entity;
- i. Identification of applicable laws and regulations of particular relevance to the Contract at hand (e.g., environmental and labour laws);
- j. Identification of the appropriate enforcement authorities for those applicable laws and regulations (including for those laws and regulations for which enforcement authorities other than the Procuring Entity would have primary responsibility, with a view to avoiding duplicating of the work of those enforcement authorities, who are likely to be better equipped and trained);

Conference following Signature of Contract

29.12 Depending upon the nature of the procurement, and particularly in the case of procurement of significant works, it may be advisable to conduct an orientation exercise of some sort in order to ensure that the parties to the procurement contract have a shared understanding of various aspects of the way forward in the implementation of the contract. Issues that may be discussed at an orientation meeting include, for example, the Contractor's mobilisation plan, site hand-over, and Contractor's personnel issues.

29.13 The success of an orientation exercise depends significantly on proper planning and the preparation of an agenda. Another key aspect of planning is to ensure that the key personnel from both sides of the table participate in the exercise.

Section 30 Contract Performance Monitoring

Monitoring Quality of Performance

30.1 Monitoring of the quality of the performance of the procurement or sale Contract is aimed at identifying problems in the implementation of the contract, preferably before they arise, or if they have already developed, in time for the problems to be remedied.

30.2 The procurement contract should stipulate inspection procedures at other stages in the performance of the contract. Indeed, it should address the question of inspections and their timing, and should empower the Procuring Entity to conduct inspections and testing that it deems necessary. The procuring Entity should notify the Supplier or Contractor in a timely manner of the identity of its representatives for the purpose of inspection.

30.3 As with other aspects of contract administration, the extent to which monitoring of performance is required, and the modalities of that monitoring, vary from procurement to procurement depending upon a variety of factors. Those include, in particular, the following:

- Nature of the procurement;
- Type of inspection approach utilised in standard commercial practice;

- Whether design, function or performance specifications are applicable;
- Extent to which the Procuring Entity may rely on the Supplier or the Contractor's own procedures for quality assurance procedures;
- Supplier, Purchaser or Contractor's experience and performance in the past;
- Contractual procedures for progress reporting;
- Extent of the performance risk;
- Financial solidity of the Supplier, Purchaser or Contractor.

30.4 Various approaches to quality monitoring may be considered, including:

- Relying on the Supplier, Purchaser or Contractor's quality monitoring procedures - an approach that might be more appropriate in the case of procurement of commercially available items;
- Random inspections;
- Complete inspection (i.e., 100% of all work or output);
- Inspection during the production process.

30.5 It should be noted that reliance on the quality monitoring procedures of the supplier or contractor should not prevent the procuring entity from resorting to its own testing or inspection when it is deemed necessary to do so. The procurement contract should in any case reserve to the procuring entity the right to do so. Moreover, part of the monitoring responsibilities of the contract administration team should include monitoring the application of the supplier or contractor's own quality assurance procedures.

Monitoring Progress of Performance

30.6 Another of the main “controls” exercised in contract administration is the monitoring of the implementation of the procurement contract from the standpoint of the agreed fulfillment schedule. In a works contract, this may be done on the basis of a program submitted by the Contractor showing the order and timing for the contractual activities. If updated periodically at stipulated intervals, the programme can be used to track progress in various aspects of contract implementation and can serve as part of the documentation for progress payments.

30.7 In practice, procurement contracts, in particular in the works and services sectors, establish reporting requirements to be fulfilled by the Contractor, referred to as “progress reports” (particularly in services sector). Such reports describe, for example, the progress that has been achieved during the period covered in the implementation of the contract and steps that may need to be taken by the Procuring Entity to remove any obstacles to further implementation. At the same time, the contract administration should not necessarily rely exclusively on written reports from the Supplier or Contractor. Those reports may be supplemented by site visits (for works) and other forms of obtaining information on actual progress.

30.8 Another aspect of the “time control” exercised in contract administration is the responsibility of the Procuring Entity in certain circumstances to extend the time allowed for performance of the contract (e.g., when a change order is issued rendering the original completion date unfeasible).

Defects in Performance

30.9 Determining whether performance of contractual obligations, in particular those of the Supplier, Purchaser or Contractor, are defective depend in the first place on whether the performance rendered is in line with the technical requirements and descriptions set forth in the procurement/sale contract.

30.10 The types of remedies available to the Procuring Entity will depend in particular on the gravity of the defects, set in the context of the nature of the procurement/sale at hand. Again, the Contract should be helpful in determining whether a given defect is serious in nature. For example, in the context of a works contract, a defect that prevents the works from attaining the performance parameters set forth in the procurement contract (e.g., as to production capacity, or quality of the output of the facility, increased utilisation of inputs beyond limits set in the contract) may be deemed serious.

30.11 Apart from the nature of a defect, other factors may impact upon the rights of the parties and the steps to be taken in the face of defective performance. Those factors include:

- a. The stage at which a defect is discovered. Defects may be discovered at various stages in the implementation of a procurement Contract, and even beyond. For example, defects may be discovered:
 - i. During manufacturing or construction;
 - ii. Upon failure to carry out required performance tests;
 - iii. Failure to pass performance tests;
 - iv. Defects discovered following acceptance, but during the warranty period and notified to Supplier/Contractor;
- b. Whether a defect is curable or incurable, in which cases different solutions apply.

30.12 It may be noted that the procurement contract may require a Contractor to cure defects that are not the responsibility of the Contractor. The Contractor would be entitled to reasonable compensation for the extra work involved.

Delay in Performance

30.13 Delay in performance of the procurement/sale contract is a problem that should be foreseen by the contract so that the remedies available to a party when a delay is attributable to the other party are known and understood by both sides. The extent to which remedies for delay need to be specified, and the detail and content of those provisions in the contract, depends on the nature of the procurement or sale. As a general rule, however, it is desirable to specify the remedies for delay in the contract, as that promotes transparency, predictability and compliance.

30.14 One should distinguish at the outset of encountering a delay problem between excusable and inexcusable delays (in particular *force majeure* or delays occasioned by the acts or omissions of the other party).

30.15 Typical delays by a contractor, for example, include delay in commencement of work, delay in completion of a component part of the works by a binding milestone date, and delay in completion. Delay in the implementation of the contract can be attributable not only to the Supplier, Purchaser or Contractor's side of the contract, but can also be the responsibility in some cases of the Procuring Entity. Delays attributable to the Procuring Entity may include, for example:

- a) Delay in giving a Contractor access to the site;
- b) Delay in providing the design or other information required in order to implement the procurement contract;
- c) Failure to provide materials or equipment as called for in the procurement contract in a timely fashion;
- d) Delay in taking over and acceptance of works;
- e) Delay in taking delivery of goods, or taking over goods/equipment;
- f) Failure to make payment due under the Contract in a timely fashion.

30.16 Provisions on remedies often provide that, before exercising any other remedy, the aggrieved party is obligated to give notice to the other side of the delay in performance, giving an additional period of time to cure the problem.

30.17 A typical contractual remedy available to a Procuring Entity for delay (for example delay by the Contractor in a works contract) is commonly referred to as "liquidated damages". Pursuant to a liquidated damages clause in a Contract, the party subject to the clause is required to pay to the Procuring Entity's other party a sum stipulated in the Contract for each unit of delay (i.e., each, day, week or other unit of time stated in the contract). The Contract typically would provide for incremental payment and set an overall ceiling on the total amount that may be paid under a liquidated damages clause.

30.18 One of the main advantages of a liquidated damages clause is that it enables the parties to avoid negotiating or litigating the amount of damages to be paid upon the occurrence of the contingencies covered by the liquidated damages clause. In addition, the clause also promotes predictability in the implementation of the contract by allowing a party to know what the limit will be for its liability with respect to the contingency covered by the clause. It should be noted that payments under the liquidated damages clause do not relieve the Supplier, Purchaser or Contractor of its contractual obligations.

30.19 While it may be self-evident, it is nevertheless worth emphasising that a Procuring Entity should not apply remedies for delay when the delay is attributable to actions or omissions of the Procuring Entity.

30.20 In calculating what should be the amount set in the contract to be charged for delay, the Procuring Entity might wish to take into account relevant factor such as: cost of inspection and superintendence, and other losses such as cost of substitute facilities, and rental of buildings and facilities.

Warranty Obligations

30.21 The procurement Contract should include provisions on the obligations of the Supplier or Contractor as regards the guarantee (warranty) covering the goods or works provided under the procurement contract. With respect to the **procurement of goods**, the Supplier's obligations concern:

- a) The supply of new and unused supplies, unless otherwise stipulated in the procurement contract (which might be the case if, for example, on environmental protection grounds, the procuring entity is interested in purchasing used items or items containing recycled materials);
- b) The supply of the most recent model, incorporating all recent technical improvements;
- c) The absence of defects arising from design, materials and workmanship;
- d) Fitness for the intended purpose and usability without infringing industrial or intellectual property rights;
- e) Warranty coverage of spare parts and accessories;
- f) Supplier's responsibility to make good defects or damage covered by warranty;
- g) Recommencement of warranty for repaired or replaced goods;
- h) The "self-help" rights of the procuring entity (including deductions from amounts due to the supplier) if the supplier does not fulfill the warranty obligations.

30.22 In the **procurement of works**, the concept of a guarantee applies as well. In the works context, the Contractor guarantees to repair any defects in the works arising during the period stipulated in the procurement contract ("defects liability period").

Other Aspects of Monitoring

30.23 The Procuring Entity's monitoring of contract implementation should also include keeping track of the carrying out of contract administration activities themselves (e.g., inspection and quality control, payment, documentation, acceptance procedures).

30.24 Part and parcel of the monitoring process in contract administration is the resolution of problems in the progress of implementation that may be detected. Resolving such problems may require a mix of steps including in particular, investigation, contract interpretation and an assessment of the impact of the problem.

Section 31 Management of Payment

31.1 One of the main functions in contract administration has to do with the handling of payment due to the Supplier, Contractor or Consultant under the procurement contract. The requirements should be in the terms and conditions of payment should be stipulated in the procurement Contract. The general principle to be applied, in accordance with the detailed provisions in the procurement Contract, is that the Procuring Entity shall pay the Supplier, Contractor or Consultant upon the submission of proper invoices, the prices set in the procurement Contract for goods, works, or services rendered and accepted, subject to any applicable deduction.

Advance Payment

31.2 In procurement contracts of various types, it may be provided that an initial payment is to be made at the outset (e.g., upon signature of the procurement contract). In particular in the context of works procurement, that initial payment (referred to as an “advance payment”) is intended to facilitate the Contractor’s mobilisation of resources (equipment, material, labour) required in order to commence work.

31.3 In order to mitigate the risk associated with the advance payment, the procurement contract should make it clear that the advance payment funds are to be utilised solely for the intended purpose. Moreover, it is typically the case that the making of the advance payment is contingent upon the Contractor providing to the Procuring Entity an advance payment guarantee. The purpose of the advance payment guarantee is to secure the obligation of the Contractor to utilise the advance payment solely for the intended purpose.

31.4 Another aspect of the advance payment procedure that is important for Procuring Entities properly to administer is the process of recouping the advance payment. Because of the nature of the advance payment, it is the standard practice that the amount of the advance payment should be recouped over the course of the progress payments made to the Contractor at various stages in the fulfillment of the procurement contract. In order to do so, a certain percentage is deducted from each progress payment.

Progress (or Partial) Payments

31.5 A procurement contract, in particular a works contract based on the measurement (unit rates) approach, may structure payment so that it is linked to progressive stages in the implementation of the contract. Such a performance-based payment scheme should be based on the principle that payment is linked to the following types of milestones:

- a) Performance measured by objective, quantifiable methods such as delivery of acceptable items, work measurement or statistical process controls;
- b) Accomplishment of events defined in the contract performance plan;
- c) Other quantifiable measures of results.

31.6 In accordance with the above principles, progress payments might be based, for example, on percentage of completion.

31.7 Under such a progress-payment scenario, the Contractor would be required to periodically to submit payment certificates (e.g., on a monthly basis) which state the estimated value of the work performed. The project manager then checks the Contractor's statement and certifies the amount to be paid.

Invoices

31.8 The payment process under a procurement contract typically is triggered by the submission of an invoice. One of the contract administration functions of the Procuring Entity is to verify that that invoices have the required contents. The following are possible required elements of an invoice, depending upon the nature of the procurement:

- a) Identification and coordinates of the Supplier, Contractor or Consultant, including the relevant officer to be contacted should the need arise;
- b) Procurement contract number;
- c) Description, quantity and price of the goods, works or services delivered;
- d) Shipping and payment terms;
- e) Inclusion of any supporting documentation as may be required by the procurement contract;
- f) Payment instructions;
- g) Proper authentication (e.g., signature).

31.9 If the Procuring Entity is in possession of an invoice that is defective, the Procuring Entity should notify the Supplier, Contractor or Consultant of the defect without delay so that it can be corrected.

Retention Money

31.10 A technique that Procuring Entities may utilise as an alternative or as an adjunct to a performance security is the retention of a portion of each payment that becomes due under the procurement contract. That procedure is utilised typically in works contracting. In international practice, some portion of the retention money (e.g., 50 percent) is released upon provisional acceptance, with the remainder released at the end of the defects liability period. The technique of a retention guarantee may be used to provide security to the procuring entity if it agrees to release the retention money at an earlier stage.

Disbursement

31.11 The identification and authority of officials charged with disbursement of payment is a key part of planning and implementing contract administration. Other aspects include aligning and coordinating the payment process with procedures for monitoring and assessing progress in and quality of implementation.

Section 32 Other Contract Management Elements

Contract Modifications

32.1 Modifications of the procurement/sale Contract may concern a variety of aspects, including, for example, time period for performance, technical aspects, quality and quantity, and contract price. The procurement contract addresses the question of price revision and contract amendment generally.

32.2 **Contract amendments** may be concluded with the agreement of both parties. However, procurement contracts typically empower the Procuring Entity unilaterally to order changes in the performance required from its counterpart party under the procurement contract. That approach reflects various considerations including the need to enable public entities, acting in the public interest, to adjust to changes in programmatic needs and priorities, and to technological changes, to promote economy and efficiency in public procurement, and to provide a mechanism by which positive adjustments can be made during the course of the implementation of the procurement contract upon the suggestion of the Supplier, Contractor or Consultant.

32.3 Looking firstly from the standpoint of the contractual relationship in the procurement contract, it is important, from a contract administration viewpoint, that variations are properly handled and do not become a source of abuse or needless contention in the implementation of procurement contracts. A widely recognized principle is that **contract variations** are appropriate and obligatory to be carried out if they are “within the general scope” of the procurement contract. Changes ordered that fall outside the general scope of the contract are more likely than not to lead to contentious disputes and ultimately diminish confidence in the fairness of the procurement system.

32.4 From the standpoint of protecting the competitive character and integrity of the procurement system, it is important that variations not be used in a manner that has the effect of circumventing the fundamental requirement that procurement should be carried out on the basis of competition. Stepping outside of the basic parameters of a procurement contract by way of variations means that substantial amounts of goods, works or services are being procured on a single-source basis.

32.5 Thus, it can be seen that improper resort to variations may give rise to private sector parties to procurement contracts, who are reluctant to carry out work outside of the scope of the procurement contract, or by third parties, legitimately object that procurement contracts have been improperly extended in circumvention of competition requirements.

32.6 At the same time, the contract administration team should be vigilant against unscrupulous Suppliers or Contractors who have submitted unrealistically low bids and then attempt to obtain additional payment by way of contract variations that are precipitated in the course of contract implementation. Vigilance is also required as contract variations represent a major potential source of corruption in the procurement process.

32.7 A distinction needs to be drawn between variations that potentially raise the types of issues mentioned above and administrative changes to the contract that do

not affect the obligations of the parties, as well as other changes foreseen in the contract such as exercise of options clauses.

Assignment and Sub-Contracting

32.8 “Assignment” involves the transfer by a party to a contract of its rights and obligations under the contract to a third party. “Subcontracting” involves the engagement by a party to a contract of a third party to perform part of its obligations under the contract. Either of those practices might be encountered in the course of contract administration. Both types of practices are widely known in commercial circles.

32.9 While sub-contracting in particular is widely practiced also with respect to public procurement contracts, sub-contracting and assignment are typically subject to restrictions. Assignment is particularly subject to restriction or prohibition, since it may readily be understood as running counter to the fundamental public procurement premise that the procurement contract should be awarded - and performed - by the bidder that emerged victorious from the competitive procurement procedure.

32.10 Sub-contracting is only permitted with the written consent of the Procuring Entity and the Contractor is not released from liability for the performance of the procurement by virtue of the sub-contracting.

Stop Work Orders

32.11 Procurement contracts may authorize the Procuring Entity to issue stop-work orders. The circumstances that typically give rise to stop-work order include:

- a) The inability of the Procuring Entity to provide site access, equipment, or other property or services in accordance with the contractual schedule;
- b) The need to suspend manufacturing and to adjust the manufacturing process or tools due to quality considerations;
- c) The need to contemplate the possibility of modifying the technical specifications.

32.12 Issuance of stop-work orders is not a step to be taken lightly, in view of the potentially disruptive effect on the procurement process. It is therefore necessary to consider whether less disruptive, more cost-effective measure might be an option. If a stop-work order is unavoidable, it is necessary to be as specific as possible as what portions of the contractual performance are subject to the stop-work order and what portions are not subject to the order.

32.13 In cases of urgency, the procurement contract may authorize stop-work orders to be delivered orally, subject to prompt confirmation in writing.

Replacement of Personnel

32.14 One of the fundamental principles of public procurement - one that due to various circumstances is quite frequently tested in practical application - is that the

winning bidder must employ, in the implementation of the procurement contract, those key personnel that were listed in the successful tender, and on the basis of whose listing the award of contract was made. Failure to apply that principle would subject the procurement process to manipulation by unscrupulous bidders, and diminish fairness and competition in the procurement process.

32.15 When the use of substitute personnel is unavoidable, the substitute personnel must have the same or greater qualifications than the personnel being replaced, and the substitution of the personnel must be approved in advance by the Procuring Entity (e.g., the procurement contract might provide that substitutions are subject to approval by the Project Manager).

Remedies

32.16 A remedy is a measure that a party may take in response to non-compliance by the other party with the terms of the contract. While contract remedies are generally specified in applicable law, the remedies intended to be available to the parties in the event of a breach of contractual obligations should be identified in the procurement contract. From the standpoint of the Procuring Entity, the main types of remedies include:

- a) Notice of, and period to cure, the defective performance;
- b) Rejection of the defective performance and withholding of payment until satisfactory performance is provided;
- c) Remedies pursuant to applicable express or implied warranties;
- d) Correction of the Supplier or Contractor's defective performance by the Procuring Entity (e.g., by way of substitute performance), with any costs incurred by the Procuring Entity (including that of replacement performance) to be on the account of the defaulting Supplier or Contractor;
- e) Acceptance of minor defects with reduction of price;
- f) Termination of the contract;
- g) Payment of damages, which, in the case of delay, may take the form of liquidated damages.

Settlement of Contract Disputes

Claims

32.17 A “claim” can be understood as a demand by a party to the Contract for compensation, or perhaps for some other sort of relief (e.g., adjustment of the contract), on the grounds that the party has an entitlement to the relief requested.

32.18 Thus, the Procuring Entity may claim against its counterpart for defective performance, or additional costs incurred due to the need to re-procure. However, the possibility of lodging claims under a contract is a two-way street. Claims may be

lodged not only by the Procuring Entity, but also by the other party to the procurement or sale contract (i.e., the Supplier, Purchaser or Contractor).

32.19 There are several main principles as regards the procedures for making claims. Those include:

- a. Timely notice. The procurement contract should impose a notice requirement designed to prevent tardiness in the making of claims. For example, pursuant to the FIDIC conditions of contract, a Contractor's claim for additional payment must be filed within 28 days of the occurrence of the event giving rise to the claim.
- b. Contemporary records. It is a widely recognized principle that a Contractor must produce "contemporary record" (i.e., records made at the time of the occurrence of the event giving rise to the claim) in order to support the claim.
- c. Substantiating the claim. The procurement contract may require the Contractor to provide the detailed information concerning the claim within a stipulated period of time following the notice of claim; if the problem is of an ongoing nature, the Contractor may be required periodically to update the information.

Fraud

32.20 Contract claims is another area that requires the particular vigilance of the contract administration team, as it may present ample opportunities for fraud. If the Contractor is unable to support any part of the claim and there is evidence that the inability is attributable to misrepresentation of fact or to fraud on the part of the Contractor, the Procuring Entity should not pay the claim to that extent, and should refer the matter to the official(s) responsible for investigating fraud.

End of Activity Report

32.21 The preparation and submission of an End of Activity Report to the Tenders Committee, or its other ad-hoc Committees, is a mandatory requirement for all Procuring Entities. On completion of a contract, the Head of Technical Department will prepare a detailed End of Activity Report, with a copy for the contract file, whereby the performance of the Contractor shall be assessed. It will include the Contractor's adherence to contract instructions, responses to progress enquiries, timely completion of delivery and quality of the work carried out and shall be the basis of the performance appraisal.

Documentation

32.22 A particularly important "administrative" function in the bundle of contract administration activities is the production, collection and maintenance, in an updated manner, of various types of documents related to and generated in the course of, contract implementation and administration. Those documents include, in particular:

- a) Contract documents;

- b) Records tracking progress in the implementation of the procurement contract (e.g., time schedules and bar charts of detailed schedules in works procurement; dispatch, delivery and inspection documents in goods procurement);
- c) Minutes of meetings held by the Project Manager;
- d) Financial records;
- e) Progress reports from the supplier, contractor or consultant, and internal Procuring Entity reports.

Contract Close-Out

32.23 This final step in the contract administration process takes place following the completion of the Contract, including any lingering period during which the Supplier or Contractor remains responsible (e.g., the defects liability period). Upon the conclusion of the Contract close-out exercise, steps such as the following will have been carried out:

- All the supplier or contractor's claims will have been settled;
- All outstanding payments made;
- Securities discharged;
- Any retention money released; and
- Performance evaluation completed.

CHAPTER 9. HANDLING OF COMPLAINTS AND PROTEST

Even after the procurement or sale Contract has been awarded and signed, it is possible for a party to address a complaint to the Procuring Entity and/or the Contractor General's Office. This Chapter provides a brief description of the process, its format and conditions.

Section 33 Complaint Mechanism

33.1 An efficient system to address complaints and protests from Suppliers and Contractors, as well as from professional bodies and the public, is a fundamental requirement for a good public procurement system to achieve transparency. An efficient and fair system would contribute to perception of integrity and consequent trust in the public procurement system.

33.2 For this reason, this Handbook describes the complaint process, however in general terms and centered on Suppliers and Contractors. Notwithstanding, the SBDs and conditions of contract shall establish more specifically and depending on the nature of the procurement, the review of complaints when a contract has already been awarded and signed: the review by the Procuring Entity when completed within the prescribed time limit, or if completed, the complainant is not satisfied with the

response of the Procuring Entity; and the review at a higher level by the Contractor-General's Office.

Format of the Complaint

33.3 A complaint means a written objection, submitted by one or more of the Suppliers, Purchasers or Contractors (the complainant) within five (5) days, regarding a solicitation, contract award or proposed contract award for goods, works or services.

33.4 The complaint must be received in a written form and should contain the following information:

1. Company name, address, contact person name, telephone number, fax number, email address.
2. The nature of the problem, and if applicable, identifying the part of the regulation or rule that is believed to have been broken.
3. Description of the background leading to the problem; statement of breach of Tender/Contract; relevant dates and times; Tender/Contract reference number.
4. The supporting and provable facts.
5. Any Debriefing that was requested, dates, time, and PE representative.
6. The Procuring Entity's representative(s) originally contacted to review the problem and the results of those discussions.
7. Listed in detail, the action that is requested.

33.5 Prior to formally presenting a written complaint, Suppliers or Contractors are strongly encouraged to contact the Procuring Entity to discuss their concerns. It has often been found that there are minor errors, omissions or other inadvertent actions that can be clarified and corrected, to the satisfaction of the complainant.

Procuring Entity Register of Complaints

33.6 Every Procuring Entity shall maintain a register of complaints in which all information such as date of receipt of complaint, date of reply, date of submission of appeal to CG, etc., shall be recorded. The PE shall publish the register of complaints annually on the Government of Belize website.

Section 34 Review of Procurement Process

34.1 Any Supplier, Purchaser or Contractor that claims to have suffered, or may suffer, loss or injury due to a breach of a duty imposed on the Procuring Entity by the legislation applicable to public procurement may seek a review of the procurement process. However, the following **shall not** be subject to a review process:

- The selection of the method of procurement used;

- The choice of a selection procedure;
- The limitation of procurement proceedings to National Competitive Tendering; or
- A decision by the Procuring Entity to reject tenders, proposals, offers or quotations.

34.2 A complaint shall, in the first instance, be submitted in writing to the Head of the Procuring Entity.

Review by the Head of Procuring Entity

34.3 The Head of the Procuring Entity shall not entertain a complaint unless it was submitted within five (5) days after the Supplier, Purchaser or Contractor submitting it became aware of the circumstances giving rise to the complaint, or when that Supplier, Purchaser or Contractor should have become aware of those circumstances, whichever is earlier.

34.4 The Head of the Procuring Entity shall, within ten (10) days after the submission of the complaint, issue a written decision:

- a) Stating the reasons for the decision;
- b) If the complaint is upheld in whole or in part, indicating the corrective measures that are to be taken;
- c) Copy of the decision shall be sent to the Contractor-General's Office within three (3) days of the decision.

34.5 If the Head of the Procuring Entity does not issue a decision within ten (10) days, the Supplier, Purchaser or Contractor submitting the complaint is entitled to institute proceedings for administrative review by the Contractor-General's Office.

Review by the Contractor-General's Office

34.6 Any complaint submitted to the Contractor-General's Office shall be accompanied by a registration fee of 2% of the estimated value of the procurement or sale.

34.7 If a procurement or sale Contract has already been signed, the complaint/protest may be submitted directly to the Contractor General within seven (7) working days of the date on which the complainant became aware or should have become aware of the circumstances leading to the complaint or protest. Simultaneously, a copy of the complaint/protest shall be sent to the Procuring Entity.

34.8 The complaint shall contain:

1. Identification of the Procuring Entity and the relevant procurement proceedings;
2. Description of the alleged breach by the Procuring Entity of the legislation and the remedy sought; and

3. Registration fee payment receipt.

34.9 The Contractor-General shall review the complaint or protest along with the procurement proceedings/comments of the Procuring Entity, and may:

1. Reject the complaint/protest giving reasons for its decision. If the complaint is also declared frivolous, the registration fee shall be forfeited.
2. Instruct both parties, i.e. the complainant and Procuring Entity, on the rules and policies that apply to the issue raised and direct them to proceed accordingly.
3. Prohibit the Procuring Entity from proceeding or deciding the issue unlawfully.
4. Annul any unlawful decision of the Procuring Entity unless a contract has been signed.
5. Order the Procuring Entity to pay compensation to the complainant for the costs incurred in the bid preparation and participation.
6. Order the Procuring Entity to terminate the procurement proceedings.

34.10 During the period of consideration of a complaint/protest, the procurement proceedings shall be suspended from the time the complaint is received to the time a final decision is issued by the Procuring Entity or the Contractor-General. However, the Procuring Entity may decide not to suspend the procurement proceedings in the public interest, but record its reasons for such a decision. The Contractor-General also may decide to remove the suspension if in its opinion the public interest warrants such action.

34.11 After the decision has been taken, the complaint and the decision shall be promptly made available to the general public, but no information shall be disclosed if its disclosure would be contrary to law, or would impede law enforcement, would not be in the public interest, would prejudice legitimate commercial interests of the parties or would inhibit fair competition.

PART II

GUIDELINES ON GOVERNMENT TENDERING FOR THE PRIVATE SECTOR

CHAPTER 10. DOING BUSINESS WITH THE PUBLIC SECTOR

Find out about public sector procurement or sale contracts, what they mean, under which principles they operate, and how they offer a readily accessible market for private sector businesses, specifically micro, small and medium enterprises (MSMEs), in Belize.

Section 35 Introduction

35.1 Public sector procurement means all those goods, works and services in Belize which are paid for out of government funds or international donor partners' funds, including the disposal of surplus goods and equipment already purchased. It is a rather big market offering a range of varied opportunities, from a few hundred to a few million BZ dollars, to the business community including small businesses, either by contracting directly with the government or by becoming a sub-contractor to another company.

35.2 In order for the private sector to successfully address public markets in Belize, it is essential for suppliers or purchasers to understand how the public sector operates, what are the rules and principles to observe, and how to respond effectively to its needs. Part II of the Procedures Handbook is intended to provide advice and information to local businesses to assist them in competing successfully. It provides an easy reference to enhance knowledge of the procurement processes by outlining the steps which should be taken into consideration to prevent making errors in submitting bids.

35.3 These guidelines are deliberately general enough to apply to a wide variety of Belize companies across many different industry sectors, while addressing specifically MSMEs.

35.4 The information given is however for general information only, and cannot be used and is not intended to be used as a substitute for legal advice in any factual situation. Potential bidders should also be acquainted with Part I of the Handbook containing the working guidelines more geared towards public Procuring Entities, as well as the tender documentation used by the government, such as the Standard Bidding Documents (SDBs) which are readily available to the public.

Section 36 Principles of Public Sector Procurement

36.1 Public sector procurement in Belize is undergoing substantial changes as part of a wider reform process of the Public Financial Management (PFM) system. The Government of Belize is determined that public procurement shall be carried out according to the legislation and associated guidance, in a transparent and accountable manner.

36.2 The public sector needs to buy or sale products in a structured way usually relating to their quantity and value, through the process of tendering, and observes certain fundamental principles in all dealings with private sector suppliers or purchasers. Purchasing and sale decisions are thus liable for control and audit. The following basic general principles shall govern the administration of government procurement and provide the framework for public contracting. Suppliers and purchasers need to be familiar with those in order to submit offers in the right conditions.

Value for Money

36.3 The underlying principle behind government purchasing is seeking the best “Value for Money”, which means gaining the best possible outcome when buying or selling goods, works and service. For suppliers, this means that it is not only about demonstrating the lowest price possible, but also the value of quality and whole-life costs, as well as the benefits of broader factors whether environmental, social and/or economic.

Fairness and Equal Treatment

36.4 In line with the principle of Equal Treatment all suppliers and purchasers shall be treated equally and with the utmost fairness at every stage of a contract award procedure. This means that the selection of applicable suppliers or buyers, the receipt and treatment of tenders must be carried out in a non-discriminatory manner.

36.5 Fairness of treatment requires also that:

- Demands placed upon suppliers or purchasers shall be both relevant and directly related to the contract being awarded, and that no excessive conditions for participating in the tendering procedure shall be placed upon prospective suppliers;
- Contractual payments shall be promptly paid, as late payments may cause suppliers or purchasers to experience serious cash flow problems.

Transparency and Accountability

36.6 Transparency standards require that potential suppliers be informed of the rules that will be applied in assessing their application for tender lists and the criteria to be used in the evaluation of bids. A competitive tendering process cannot be carried out properly in the absence of this information. Openness of the procurement process also means when applicable and relevant:

- Advertising of contract opportunities
- Public accessibility of procurement documents
- Publication of contract awards
- Debriefing of bidders and consultants
- Participation of civil society to bids openings.

Ethical Standards

36.7 Legal Codes of Conduct set out the ethical standards of behaviour that Procuring Entities and public officials are expected to respect in carrying out their duties that apply to procurement activities. Procurement-related staff and officials are not to engage in, nor give the appearance of engaging in, dishonest, collusive, or unethical actions, or being subject to sanctions for misconduct or fraud. Legislation limits government officials from receiving gifts, entertainment or services of a value that may exceed BZ\$250.00.

Section 37 What Is Expected from Suppliers

37.1 To do business with the public sector, suppliers and purchasers must respect and not undermine the procurement process, and adopt the highest business standards at each stage of the process. Any supplier, purchaser or consultant who attempts to influence a procurement process, or the administration of a contract by any unfair method, shall also be subject to sanctions. This may include blacklisting of the company or the individual from government contracts for a certain period (usually from three to five years), besides other legal civil, criminal or administrative sanctions.

37.2 When considering becoming a supplier, applicants should be prepared to:

- Demonstrate that their firm has the resources and experience to do the job successfully;
- Disclose the firm's management, ownership, financial situation and performance;
- Ensure that the firm obligations are up-to-date, including regarding payment of taxes and wages.

37.3 When submitting a bid or a proposal, potential suppliers or purchasers, or anyone acting on behalf of a supplier, are prohibited from trying and inhibiting competition or exploiting business or political relationships. Such prohibited behaviour includes not to:

- Cooperate or share pricing information with other competitors;
- Submit artificially high or low bids to make a competitor's price look more reasonable;
- Submit bids or proposals that are deceptively attractive with an expectation to receive additional costs after winning the contract, or inflate profits in case of single source competitive advantage;

- Offer any gift of any kind to a public official to directly or indirectly influence the drafting of procurement requirements, evaluations, awards, or payment (with exception of the gifts under BZ\$250.00);
- Discuss employment prospects with any public officials involved in the procurement process;
- Circumvent the procurement process by asking a current or former official to provide information to which bidders are not entitled.

37.4 Contractors are also expected to perform fully, timely, and honestly in accordance with the terms of their contracts. Unethical behaviour examples include:

- Delivery of goods or services that fall below contractual requirements at the initial contractual price;
- Falsification of labor or material costs, or misrepresentation of progress reached, to obtain faster payments;
- Improper claim for costs reimbursement.

Section 38 Variety of Goods, Works, Services, and Assets

38.1 Public authorities among the central and local government ministries and departments who are most likely to enter into contracts with the private sector are the large ministries, such as Ministries of Works, Education, Health and Finance, as well as the smaller ones.

38.2 Potential suppliers or purchasers may be involved in different forms of tender according to what they are supplying or buying. Government purchases are broadly broken down into three categories: Goods, Works, and Services. Goods and services can particularly offer a readily accessible market for Belize MSMEs. Public assets are referred to in the context of sale contracts or disposal of assets.

Goods

38.3 Goods contracts are usually for financial value and confirmed in writing by a purchase order. Goods can be for the purchase, lease, or rental, of products such as:

- Stationery
- Office equipment and furniture
- Consumables (food and drinks)
- Vehicles
- Uniforms
- Computer and software
- Telecommunications equipment
- Electrical supplies.

Works

38.4 Public works contracts have as their object the execution and/or the design of activities associated with construction and civil engineering, which include:

- The creation of a new building, or structure, including all associated site works;
- The alteration, refurbishment, repair or improvement (other than ordinary maintenance which is regularly scheduled), extension or demolition of an existing building, or structure.

38.5 Works may include materials, installation of equipment, and support services incidental to works, and involve the following infrastructures:

- Roads and bridges
- Railways
- Airports
- Seaports
- Communication facilities
- Civil works components of information technology projects
- Irrigation
- Flood control and drainage
- Water supply
- Sanitation
- Sewerage and solid waste management systems
- Shore protection
- Energy/power and electrification facilities
- National buildings
- School and hospital buildings

Services

38.6 Public procurement usually draws a distinction between general support services and consulting services of a more intellectual or advisory nature. Mixtures of services and supply of goods are usually put in the category to which more than 50% by value belongs, which explains why general maintenance services procurement could follow the less strict procedures of procurement of goods or comply with minimum tendering timescales.

38.7 General support services may be needed in the pursuit of any government undertaking, project or activity, and include for example:

- Advertising
- Catering
- Office cleaning
- General maintenance and repair
- Publishing and printing
- Security
- Transport services

38.8 Consulting services are any service to be performed by a Consultant, natural or legal person, under a service contract, and normally associated with the provision of

a particular skill or of specialist knowledge, such as management consultancy, market research, legal or financial advisory, study development, etc.

Assets

38.9 Public assets are obtained as the result of the expenditure of public funds in the acquisition of goods, works and services, or those supplied through donor assistance. Where assets (stores, plant, equipment or other) become unserviceable due to fair wear, or become obsolete, or surplus, Procuring Entities shall instigate their disposal using bidding procedures or public auction.

38.10 Assets disposed of are usually classified into categories such as: unused items, damaged items, obsolete items, surplus items or scrap items.

Section 39 Characteristics of a Good Supplier/Purchaser

39.1 In order to meet the requirements of their own institutions, public authorities must also carefully evaluate suppliers and purchasers. Below is a general perception of what procuring entities may seek from a good supplier/purchaser:

- Value for money
- Compatibility and adaptability to required use
- Overall response times and quality of service
- Security of supply
- Quality of product
- Consistency of product
- Delivery times and schedules consistently met
- Ability to supply in required quantities
- Ability to deliver to required locations
- After-sale services
- Ability to provide spares
- Flexibility to new/additional requirements
- Courtesy and cooperation.

The Public Sector Needs Belize's MSMEs

The Government of Belize is keen on helping more micro, small and medium-sized enterprises (MSMEs) to compete for government business as it shall increase better value for money for the public sector and best use of taxpayers' money. There are ways in which government can improve the chances of success for MSMEs such as:

- Ensure open and effective competition;
- Maximise opportunities for local businesses;
- Provide equal access to government business opportunities;
- Ensure adequate information about new business opportunities, especially the smaller tenders which do not have to be publicly advertised;

- Work with representative organisations, such as the Chambers of Commerce, to help businesses understand the tender process.

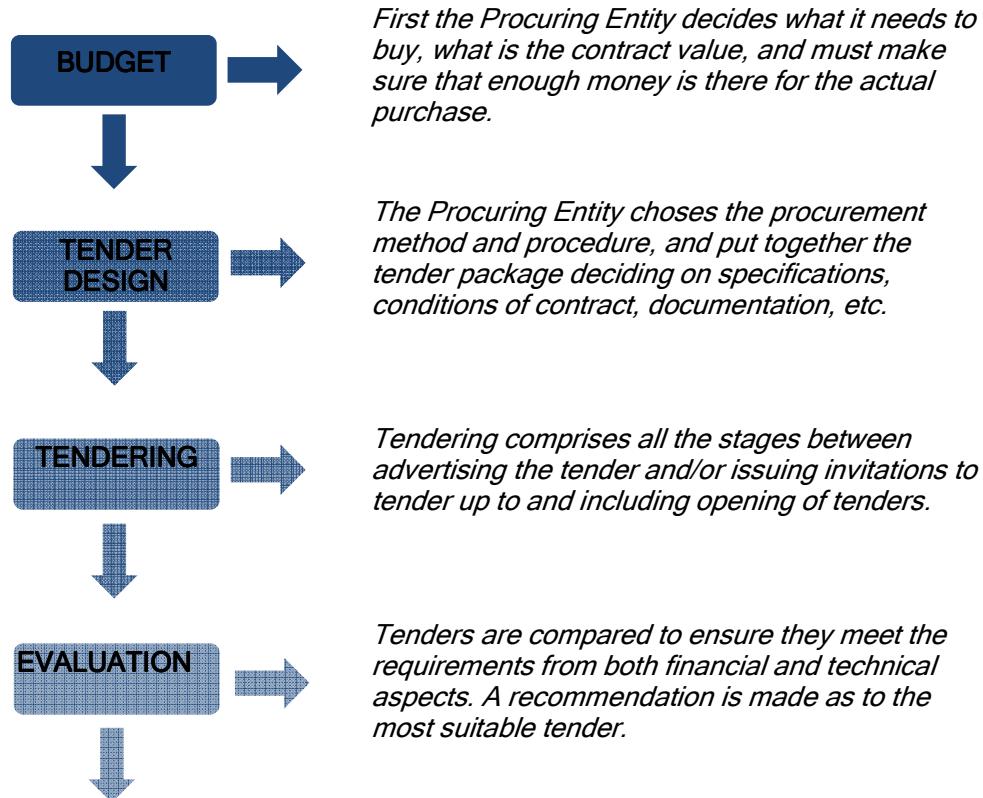
CHAPTER 11. UNDERSTANDING THE TENDERING PROCESS

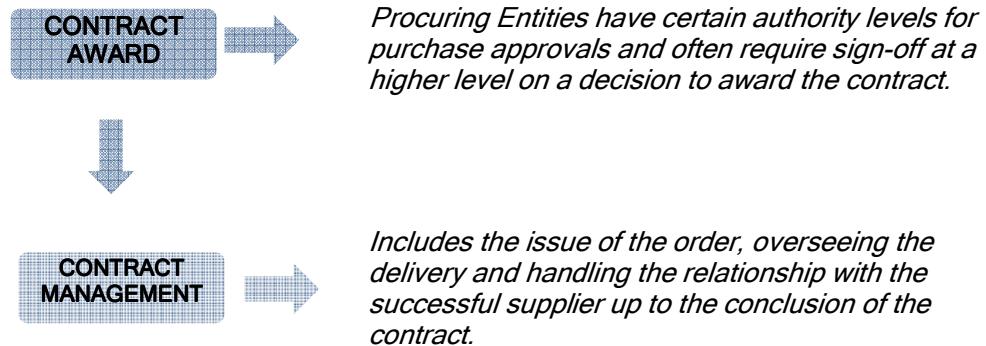
What is the tender process and how does it work? Find out about the different types of tenders and the documents likely to be found in the tender package; and what guides the evaluation of companies and tenders.

Section 40 What is Competitive Tendering?

40.1 Competitive tendering provides suppliers or purchasers with the opportunity to sell their products and services in competition with other interested parties. The competitive tendering process is normally used because it enables the government to source products and services from the best suppliers at prices that reflect true market conditions.

40.2 From the perspective of the public sector organisations, the procurement process is very much linked with the tender process, which includes the various stages as shown below:





Section 41 Types of Procurement Procedure

41.1 Once the public entity has decided what it wishes to purchase, it must also select an award procedure to follow. The most widely used procedures are the Open tendering procedure, the Selective and Limited tendering procedures. In exceptional cases, use may be made of non-competitive procurement with the direct purchase method (Sole source) that requires only one verbal or written quote to identify a supplier. The competitive procedures are outlined below - full details can be found in Part I of this Handbook.

Open Tendering Procedure

41.2 In the open procedure, which shall be normally used, other than for small value contracts, any interested supplier or purchaser may request the tender documents and submit a tender in response to a contract notice advertised. This does not mean, however, that all tenders received will be evaluated: Tenderers will be required first to meet minimum requirements - selection criteria - regarding their financial and/or technical capacity. Tenders that qualify will then be evaluated against the award criteria. Once the successful tender is selected, the purchase order/contract is issued to the winning tenderer and the unsuccessful tenderers are notified in writing.

41.3 Under certain circumstances, such as when the scope of works is large, and/or cost estimates are high, complex services are required, or else technical specifications have not been established in advance, the Procuring Entity may use the two-stage open tender process. In this case, tenderers are first invited to submit their technical proposals, then to revise and clarify their offers after evaluation, and finally invited to submit their financial proposals based on the revised technical proposals.

Selective Tendering Procedure

41.4 Under the selective procedure, only pre-selected suppliers or purchasers will be invited to tender. The pre-selection of candidates is based on selection criteria made available in advance to interested parties. These criteria are applied in order to draw up the tender list. Invitations to tender are then issued to short listed suppliers or purchasers (usually more than three). The pre-selected suppliers or purchaser can be come from a permanent list of qualified suppliers or purchasers maintained by the relevant public authority and usually updated every year.

41.5 Tenders received are then evaluated against the award criteria. Once the successful tender is selected, the purchase order/contract is issued to the winning tenderer and the unsuccessful tenderers are notified in writing.

Limited Tendering Procedure

41.6 The limited procedure is used when the open and the selective procedures have failed to provide any interested suppliers or purchasers, or the tenders received failed to qualify. It is also used in specific circumstances such as national emergency or security, urgency, expediency in the public interest, continuity (spare-parts, additions, extensions), or day-to-day operation needs.

41.7 In these cases, Procuring Entities may use the Shopping method where they simply request for the submission of price quotations for readily available off the-shelf goods or ordinary/regular equipment, or simple civil works of small value to be procured directly from suppliers of known qualifications. They may also use the Direct Contracting or Sole source method where the supplier or purchaser is simply asked to submit a price quotation or a pro-forma invoice together with the conditions of sale or purchase.

Section 42 Selection and Award Criteria

Candidate Selection Criteria

42.1 In order to be eligible to participate in a Selective Tender, and for tenders to be considered in an Open Tender, suppliers or purchasers must be able to demonstrate that they meet a number of criteria. The requirements have to be specified in the advertisement (invitation to tender) and/or the tender documents, may vary in detail and structure, but should be applied fairly with the sole consideration being “Can this supplier/purchaser fulfill this contract reliably?” These criteria can be classified into two broad areas:

(i) Financial and Economic Information. Evidence of financial and economic standing is usually ascertained through the provision of:

- Statements of overall turnover and turnover related to products or services, over previous financial years (usually 3 years);
- Balance sheets;
- Bankers' reference;
- Evidence of no history of bankruptcy or professional misconduct, or tax evasion, etc.;
- Relevant professional risk indemnity insurance.

(ii) Information Supporting Technical Capacity. This information will relate to the nature, quantity and purpose of the products or services to be supplied, and should be confined to the subject of the contract. For suppliers of products, it may include the following elements:

- List of principal deliveries effected over the previous years (usually 3 years) with details of amounts, dates and recipients (whether public or private organisations);
- Supplier's technical, quality assurance and research facilities;
- Technicians or personnel responsible for quality control or compliance with other standards;
- Technical bodies responsible for monitoring quality control and conformance to other standards;
- Samples, descriptions or photographs of the products, authenticated if required;
- Recognised third party certification of conformity of the products to given specifications and standards;
- For complex or special products, a possible check on the supplier's production capacity;
- Information on Health and Safety aspects;
- Information on Environmental Controls.

For services providers, the key aspects to be considered are their skills, efficiency, experience and reliability, such as:

- Educational and professional qualifications of managerial staff and of those responsible for providing the services;
- List of the principal services provided in the past years (usually 3 years) with amounts, dates and recipients (whether public or private organisations);
- Technicians or personnel responsible for quality control or compliance with other standards, and the related monitoring;
- Average annual manpower and number of managerial staff for the last years (usually 3 years);
- Tools, plant or equipment available for the carrying out of the services;
- For complex or special purpose services the technical capabilities of the service provider with regard to study and research facilities and / or quality control measures may be checked;
- Indication of the proportion, if any, of the contract which the service provider intends to subcontract;
- Quality assurance standard;
- Service providers' registration on official lists.

42.2 Suppliers have the right to protect their legitimate interests as regards to technical or trade secrets, and should clearly be stated in the tender response.

Contract Award Criteria

42.3 These are the criteria used in determining to whom a contract should be awarded. Awarding entities must decide and make known, in advance of the tender process, the criteria they intend to use in choosing the successful tenderer(s) for each contract. Two sets of criteria can be used to choose between eligible tenders:

- (i) Lowest price. Where the public authority decides to choose this option as basis for awarding the contract, they must go on to make the award to the supplier or purchaser who submits the lowest priced.

(ii) **Most economically advantageous tender**. Where this option is chosen, the awarding entity must specify the particular factors chosen for the contract in question. Depending on the nature of the contract, these criteria could be quality, technical merit, aesthetic, functional characteristics, after-sales service and/or delivery date and period, as well as price. For products in particular, the “whole-life cost” factor means not just the purchase price but the cumulative aspect of associated costs such as maintenance, spares, training, manuals, waste management, disposal, etc. Thus, under this option, the tender with the lowest price will not necessarily be successful.

CHAPTER 12. APPROCHING THE PUBLIC SECTOR MARKET

Before tendering for contracts, private sector suppliers and purchasers need to investigate the public sector market: Getting good, up-to-date information on public sector customers and prospects is critical to increasing the chances of success, and reducing the risks of wasting time and money.

Section 43 Market Research

43.1 Finding suitable business opportunities within the public sector requires keeping eyes and ears open for prospects. The most effective way of approaching the public sector with a view to winning contracts is to adopt a pro-active approach:

- **Step 1 - Analysing the market.** Information gathering about public customers and their needs is one of the most important market research activities. Prospective suppliers and purchasers should notably identify:
 - Which public entities buy their products and services, or sell what they are interested in;
 - When do they buy/dispose of assets, if there is a planning cycle linked to the annual budget process;
 - How do they buy/sell and which procedures are used;
 - How often they award contracts and what are the contracts values;
 - Which contract award strategy they are using, if they have one (price and/or most advantageous);;
 - Who the current suppliers/purchasers are and how long they have been supplying/buying;
 - Who the other players are.
- **Step 2 - Making contact and introducing company.** This stage is aimed at ensuring that Procuring Entities become aware of the supplier/purchaser enterprise and the products/services provided. It is better to start by writing the relevant authority than telephone (at least for a first contact), and give information such as:

- Introductory letter about the company;
 - Outline of products/services/business;
 - Brochures;
 - Samples (if relevant);
 - Details of successes to-date;
- **Step 3 - Meeting the public entity.** Suppliers/purchasers are encouraged then to request a direct meeting with the relevant authority, as they get the opportunity to make a good impression of their company, products/services and after-sale services. It is recommended that not more than 2 persons should attend and to keep the meeting short and focused. This offers also the opportunity to confirm the real and immediate interest of the entity in the products/services presented.

43.2 Places to look for public sector tenders are the following: official Gazette, national press, chambers of commerce, and government websites. In order to build a company reputation it is important to constantly improve and to submit strong, realistic tenders.

Section 44 Getting on Qualified Suppliers or Purchasers Lists

44.1 Are ongoing lists of suppliers kept by different public entities and are they regularly updated? This is a question that suppliers/purchasers should ask themselves. In many instances, it is widely accepted practice that Procuring Entities develop these permanent lists to be used in the context of selective or limited tendering. Lists can be a useful tool to streamline future tender processes in providing a number of pre-qualified suppliers/purchasers who have already satisfied certain preconditions.

44.2 Where pertinent, businesses should look at being registered as qualified suppliers or purchasers with the relevant public procuring entities (ministries, departments, local authorities, etc.), which may have their own qualification criteria to be met, such as quality and timeliness of the work and other attributes. Public entities should ensure that suppliers or purchasers may apply for qualification at any time and that all qualified suppliers/purchasers are included in the lists within a reasonably short time. In the same way, qualified suppliers/purchasers should also be notified of the termination of any such lists or of their removal from them.

44.3 Earning a place for a business on a permanent list can be the right ticket to winning more government contracts because it puts businesses one step closer to participating in public procurement. Although being on a permanent list does not guarantee work, it does mean that public entities have recognised businesses capacity to perform, and could mean the difference between being invited to compete for a particular opportunity or not.

Section 45 What to Consider Before Tendering

Evaluating Opportunities

45.1 Writing and preparing a business response can be expensive, time-consuming and is not guaranteed to succeed. Tendering for contracts where there is no realistic chance of winning wastes time for both parties. To enable suppliers/purchasers to

make a quick decision whether it is worthwhile to submit a response, or whether the company needs improvement, it may be useful to consider the following questions regarding the potential opportunity, and if it does:

- Fit your company profile?
- Match your experience?
- Match your staffing and facilities?
- Match your business strategy?
- Require a capital investment?
- Require to show successfully completed similar work in the past?
- Require to have policies and systems in place such as health and safety, sustainability, standards and/or quality?
- Require additional registration, accreditation or certification?
- Require additional staff and/or resources?
- Enable to develop new product lines?

45.2 Attention should be particularly given to the factors of qualification and experience, as suppliers should be qualified to complete the works or supply the goods within the stipulated timeline. Suppliers should examine these elements in conjunction with the magnitude of the contract in question and their current commitments. Procuring Entities shall provide sufficient information in the bid/tender invitation about the scope of the works/supply, the qualification, capacity and experience required for the award of contract.

45.3 When in doubt, suppliers/purchasers should be allowed to request the Procuring Entities for free examination of the tender documents before purchasing them, if they are not provided free of charge (usually for contracts funded by international donors).

Understanding What to Respond to

45.4 When suppliers/purchasers make their initial approach, it is essential for them to understand what kind of request they are responding to. It could be the following cases as described below.

A Direct Request

45.5 A direct purchase/sale, in the case of sole source procurement, requires only one verbal or written quote to identify a supplier/purchaser. Procuring Entities are allowed to use this method in specific circumstances strictly defined in the applicable legislation (refer to Part I of the Handbook).

A Request for Quotation (RFQ)

45.6 The number of suppliers/purchasers requested to quote may range from three to five or more, for one contract, in order to demonstrate competition. The RFQ will include the relevant specifications and selection requirements. Subjected to the limits given in the applicable legislation, Procuring Entities are permitted to use the Shopping procedure for small value procurement and off-the-shelf goods. Wherever possible, the invitation for quotation should be sent to the suppliers/purchasers who are registered in a permanent list of qualified suppliers or purchasers.

A Call for Expression of Interest (EOI)

45.7 Calls for Expression of Interest (EOI) are used mainly when Procuring Entities are unsure of the market's ability or desire to meet their needs regarding a certain type of product or service required and to ensure a more cost-effective process by using the selective tendering procedure. This is more often used for consulting services. The objective of this first stage of the process is to pre-qualify and shortlist a number of eligible providers, which can be used to progress to the second stage of the process, generally referred to as Request for Proposal (RFP).

45.8 Preparing a response to an EOI represents an effort that can range from short to lengthy depending on the nature of the product or service to be provided, as it is designed to determine candidates' fitness, capacity and experience. Companies should be careful to stick rigidly to the requirement and make sure their answers are relevant, complete and backed up with evidence. Failing to get shortlisted at this stage entitles companies to feedback. It is important to receive the feedback critically in order to improve responses in future opportunities.

45.9 Not responding to an EOI means a potential risk of not being shortlisted and thus not receiving the invitation to tender, or an RFP, for the second stage of the process. The decision to respond can only be made by each company when weighing up the benefits and disadvantages, as responding to an RFP is an even a lengthier and more demanding effort. There, shortlisted bidders will prepare comprehensive technical offers and submit their financial offers that will be separately evaluated.

An Invitation to Tender (ITT)

45.10 Invitations to tender or request for bids are more often used for goods and works. Under the open and advertised procedure, any interested company may request the tender documents and submit a response, while under the selective procedure only pre-qualified shortlisted bidders may do so. In any case, suppliers need to take the time to read the documents carefully in order to compile their offer appropriately. Tender documents are likely to include some or all of the following:

- A letter of invitation to tender;
- Background information on the Procuring Entity;
- Instructions - including the tender deadline and the arrangements for submission of tenders;
- Specification - details of what is being purchased including any special product requirements;
- Plans, drawings relating to the equipment and the specification;
- Templates for pricing and delivery schedules;
- Terms and conditions of contract;
- Selection and award criteria, and the anticipated date of contract award;

- A list of the mandatory documents required - including certificate, tax certificate, tender security, etc.

Helping Tips

- Bidders do not have to be established in any particular location (although they must have the ability to meet response times).
- Bidders do not need to have a permit issued by a government department or be on an "official list" in order to apply for a contract. However, these should not be confused with tender or permanent lists, which the public sector commonly uses when seeking prequalified suppliers/purchasers. The aim is to be on these lists!
- Specifications in tender documents must not favour or eliminate certain candidates or standards.
- Specifications should not mention goods or products of a specific make, source, process or trademark, or patent, but if they do, they should also use the words "or equivalent".
- Bidders are not permitted to sub-contract an entire contract to another supplier.
- Bidders have the right to protect their legitimate interests as regards technical or trade secrets.
- When specified in tender documents, bidders might tender for one or more items in a list of required products - however quoted items should be clearly indicated.

CHAPTER 13. PREPARING AND SUBMITTING TENDERS

Identifying and compiling the required information to ensure a successful tender may be a meticulous task depending on the contract work complexity. Contracting authorities expect offers to be provided in the format requested and according to any rules such as the maximum number of words or pages. Allocating enough preparation time and getting the details right can make all the difference.

Section 46 Preparing the Tender (Bid)

Pulling the Information Together

46.1 Bidders are strongly advised to study carefully the instructions given in the bidding or tender documents with special attention to the Instruction to Bidders (ITB) and Bidding Data. Non-compliance with the conditions given for preparing the bid in the bidding documents may lead to a rejection of the bid irrespective of the bid price.

46.2 A substantially responsive bid should be one which conforms to all terms, conditions and specifications of the bidding documents, without material deviation or reservation. There are a few critical aspects to particularly consider:

- (i) Composition of the Bidding Documents: Bidders should ensure that all the sections listed in the bidding documents are received as it is their responsibility. If any document is missing, they must make a written request to the Procuring Entity's contact person(s) mentioned in the ITT, to obtain such documents.
- (ii) Amendments to Bidding Documents: If any amendments are made and sent, bidders should acknowledge their receipt and incorporate new requirements in their bid. Bidders can request for a time extension to submit the bid, if these amendments are substantial, and Procuring Entities will advise all bidders of the new deadline if any.
- (iii) Clarifications: Bidders are entitled to receive responses to any questions asked to the procuring entity. Questions must be made in writing and sent to the contact person mentioned in the ITT (usually by e-mail). Some tenders may have a deadline for the submission of questions that is likely to be well before the tender return deadline. All questions and answers will be also sent to all other tenderers, although in an anonymous way. In case several questions are on the same topic from different companies, the PE may decide to send to all potential tenderers a 'composite' response covering all the questions asked or points raised.
- (iv) Extension of the Tender Period: If a PE decides to extend the tender validity period, all bidders will be informed of the revised tender deadline. They will also be advised that they may, if they wish, submit

a revised tender within that deadline. In this case, the new tender must be accompanied by a covering letter to that effect. The PE should provide a blank pro-forma letter for that purpose.

- (v) **Site Visits:** Whether an official site visit is arranged by the PE or not, visiting the project site is recommended in work contracts to gather more information about under what circumstances and environmental conditions the contract will have to be performed. These are also an opportunity to find out who else is tendering and what questions they are asking.
- (vi) **Pre-Bid meeting:** Bidders are encouraged to participate in Pre-bid meetings if any (particularly for complex works contracts) and ask for clarifications to be included in the minutes of such pre-bid meetings.
- (vii) **Bid Currency:** Bidders should use only the currencies provided in the bidding documents for pricing the bid. The use of non-specified currency may result in the rejection of the bid.
- (viii) **Bid Prices:** To avoid difficulties during the execution of the contract, bidders should pay careful attention to pricing and what it does include, and consider the following factors before preparing the price schedule:
 - Under goods contract, risks and obligations involved for the supplier;
 - Under work contracts, generally items for which no rate or price is entered will not be paid for by the PE when executed, and shall be deemed covered by the other rates and prices in the Bills of Quantities;
 - Under goods contracts, if it is stated that bidders shall quote for all the items, not pricing an item may be a reason for rejection of the bid;
 - Obligations on the payment of taxes and duties and other factors that should be included in the item price;
 - Effect of bid validity period to the price quoted, especially when price fluctuation clauses are not included in the contract;
 - Contractual obligations such as submission of insurance policies, performance security, related services, furnishing of samples, tests, incidental expenses and manuals, which are not reimbursed directly under the contract.

Details to Get Right

46.3 Contracting authorities will always be pleased to see a clear proposal, a logical structure and a professional presentation. In particular, they don't want to have to search through a tender to find information. Bidders should always refer to the numbering in the ITT in their bid, or include a reference sheet in case of large and/or complex bid. These are also a few other elements to look out for, such as:

- How many tender copies? Some PE may only want a single copy but it is also possible that some others request two or five, or more;
- What format is required? The bid could be bonded or in loose-leaf pages for allowing photocopying depending on instructions;
- Is there a limit on the number of pages that will be accepted? The limit, if any, could also be on the number of words;
- All questions must be answered and the information required given. It is recommended to double check to make sure nothing has been missed;
- Are all the required mandatory documents included and signed? Failure to sign, for example, the Bid Submission Form which corresponds to a certificate of bona fide will result in automatic rejection of the proposal;
- Are certificates, such as tax certificates, or accreditations up-to-date? If not, this may lead to rejection of the proposal;
- Is the tender signed?

Tender Preparation Checklist

46.4 Compiling a checklist of what should be in the tender will ensure bidders to be less likely to forget anything. The checklist should include critical actions or items to be completed or provided in the tender document, with dates and name of the person responsible. A sample checklist is given below for reference purposes.

Sample Tender Checklist

Requirement	Action/Items	Responsibility	Complied with
<i>CLOSING DATE</i>	<ul style="list-style-type: none"> - Acknowledge receipt of ITT and intention to bid - Note the day and time - Make necessary arrangements for prompt delivery 		
<i>AWARD CRITERIA</i>	<ul style="list-style-type: none"> - Is it lowest price or most economically advantageous tender? - If the latter, which factors are involved? 		
<i>COMPANY GENERAL INFORMATION</i>	<ul style="list-style-type: none"> - Staffing - Structure - Management - Current commitments 		
<i>FINANCIAL INFORMATION</i>	<ul style="list-style-type: none"> - Turnover (past 3 years) - Audited Accounts - Bank References - Guarantees 		
<i>TECHNICAL INFORMATION</i>	<ul style="list-style-type: none"> - Plant & equipment - Health & Safety Policy - Accident Records - Environmental Issues - Quality Assurance 		

	<ul style="list-style-type: none"> - Contract Management Proposal 		
SPECIFICATIONS	<ul style="list-style-type: none"> - Understanding the full requirements - if not, seek clarifications - What standards are required? - Can requirements be met? 		
INSURANCE	<ul style="list-style-type: none"> - Is the appropriate insurance in place? - If not, can it be arranged? - Liability 		
GUARANTEES	<ul style="list-style-type: none"> - When required, normally agreed with banks. Usually for large contracts. - Bid security, usually for larger contracts (1 to 2% of contract value). 		
PRICING	<ul style="list-style-type: none"> - How is pricing required? - Are tender pricing sheets included? - Identify additional costs, taxes such as VAT, expenses allowed (applicable rates), etc. 		
SIGN OFF	<ul style="list-style-type: none"> - Sign and stamp relevant documents - unsigned and unstamped documents will not be considered 		

Section 47 Submitting the Tender

47.1 The tender documents will state clearly the date and time by which the tender must be submitted to the Procuring Entity's contact person, as well as the location. Bidders may be allowed to mail, e-mail, hand deliver and/or deposit their offer in a Bid Box, depending on the specification in the ITT (General conditions of contract). Whatever the way(s) specified, it is the bidders' responsibility to submit their bids before the deadline. Late bids will be returned unopened.

47.2 In order to ensure fair competition, tenders must be submitted anonymously in an outer envelope with no marks which might identify the company making the submission. The PE should not be able to recognise which company has submitted a tender until the outer envelope has been opened. The ITT also gives clear instructions regarding the sealing and marking of bids, how to enclose the original and copies of documents in the respective required envelopes (technical and financial). Failure to comply will lead to the rejection of the bids.

Common Tendering Mistakes

- Failure to register an Expression of Interest or respond to the prequalification - which means the company cannot receive the Invitation to Tender.
- Not providing the information requested.
- Not relating the tender response to the relevant sections of the Invitation to Tender.
- Not including mandatory documents or key documentation - or even explaining why it's not there.
- Failure to provide evidence of recent experience.
- Failure to ensure an anonymous response - for example by including the company logo on the outer envelope.
- Missing the submission deadline.

CHAPTER 14. CONTRACT AWARD AND BEYOND

Once the tender is submitted, what happens next? What happens to late or incomplete tenders? This Chapter answers these questions and covers also the final selection, contract award, what to do when an offer is unsuccessful, and how to keep good business relationships with the public sector.

Section 48 Bid Opening & Evaluation

Bid Opening

48.1 The invitation to tender documents should have included a timetable for decision-making as well as any intermediate stages such as inviting some or all of the tenderers to make a presentation. But it is not uncommon for these deadlines to slip and for decisions to take a little longer.

48.2 All of the tenders received will be opened in public at the place, date and time stated in the invitation to tender by the tender Committee of the relevant Ministry, Department or District. Some important aspects of the opening process are:

- (i) Bids are open in one location only;

- (ii) Bidders are highly encouraged to participate in the bid opening; it is always an advantage that a person who is knowledgeable of the enclosures of the bid participates in the bid opening;
- (iii) Bidders should ensure that their bid is opened at the bid opening, the prices and discounts are correctly announced; a bid not announced at the bid opening may not be considered for evaluation;
- (iv) Bidders should mark the attendance when requested.

48.3 **Late** tender submissions - those received after the submission deadline - are set aside and cannot be considered subject to the conditions stated in the invitation to tender. Also, any offer not received in full by the nominated closing time and date, at the nominated location, is considered as a late Tender. Bidders who have submitted late or incomplete bids will be formally notified.

Before the Evaluation

48.4 Before evaluation process, the procurement entity must establish if there are any points to clarify with the different bids. If there are apparent genuine arithmetical errors in a tender, the bidder will be notified in writing. Subject to a formal agreement between both parties, the resulting alterations will stand as part of the original tender. This is not an invitation to submit a revised tender; it is merely a clarification and confirmation of what appears to be a genuine arithmetical error.

48.5 A bidder may also be asked in writing to confirm the bid price. This may be because the price appears to be unreasonably high or low compared to other tenders, or because the prices quoted by the majority or all of the bidders differ greatly from the anticipated price. If it appears that the specifications were unclear or incorrect, then the procuring authority could invite all bidders to submit a revised tender. In effect, this means that the tender process is starting again with a new deadline for submission, evaluation and contract award.

48.6 The contracting authority expects bidders to agree to the terms and conditions of contract included in the invitation to tender package. If a bidder states in his offer that he does not agree to any of these or have requested that they be amended in any way, the procuring authority will ask the bidder in writing to withdraw these qualifications or reservations in order for the tender to be considered further.

Bid Evaluation

48.7 The Ministry, Department, or District's Tender Evaluation Committee will then evaluate all those tenders which are considered to be compliant. If they are evaluating for price only, the process should not take very long. Otherwise, using predetermined criteria to determine the most economically advantageous tender is more time consuming. The instructions for members of the Evaluation Committee together with evaluation scoring models are described in Part I of the Handbook.

48.8 Tenders are normally evaluated in two stages. First, the technical stage is to ensure the product or service will meet the specifications and performance requirements. If a product or service is not technically acceptable, the tender will be rejected and not considered further. The second stage of the evaluation is the

financial evaluation, where only tenders that comply with the specifications and general requirements of the tender documentation will be evaluated. The pre-published award criteria may not be altered by the procuring authority in carrying out the evaluation process.

48.9 Some important aspects of the opening process are:

- (i) The Evaluation Committee will consider only the information submitted along with the bid, unless specifically requested; for example when tenders selected move to a shortlist stage - shortlisted bidders may have to attend an interview and/or make a presentation;
- (ii) Any other information received from a bidder will not be considered for evaluation, even if it was registered prior to the closing of bids but received after the closing of bids;
- (iii) Bidders should promptly provide any further information or clarification requested by the procuring entity;
- (iv) Any attempt made by bidder(s) to influence the evaluation process may be a reason for rejection of the bid(s);
- (v) If a request is received from the procuring entity to extend the validity of the bid, if any bidder decides to stay in the competition, they will have to extend the validity of the bid before the expiry of the original bid;
- (vi) If the validity of the bid is extended, it may also be required to extend the validity of the bid security;
- (vii) Bidders should be prepared to be ready with initial works, such as recruitment procedure of staff if necessary, specialized equipment, material supply and/or programming, when they are expecting to be the successful bidders.

Section 49 Contract Award & Debriefings

49.1 When the Evaluation Committee has finished its assessment of the tenders, it reports its findings and recommendations to the relevant authority, or authorities if different levels of approval are necessary, which makes the final decision on which bidder is awarded the contract. Successful bidders are normally informed of their success in writing - this may be preceded by a phone call. A formal contract will be issued which is legally binding for both parties, with the submitted tender forming part of this contract. Sometimes ‘variations’ (changes) are agreed during the contract negotiations; variations may be negotiated where either party wishes to alter the original specifications or where unforeseen circumstances may affect the requirements of the contract. Some contracts provide a mechanism for “variations” to allow for this type of changes.

49.2 Contracting authorities will publish a Contract Award Notice in the official Gazette and possibly on the government website, giving brief details on the successful tender and contractor(s), the contract total value and duration. Unsuccessful bidders will receive a letter giving the name of the successful firm and

total price for the maximum contract duration, which should also include an offer to those bidders to be given feedback on their tender during a debriefing meeting.

49.3 Debriefing Panel meeting. After the notification of contract award, a post-tender debriefing to unsuccessful bidders should be available upon request from the procuring authority's contact person. This debriefing should help unsuccessful bidders to ascertain the grounds on which their bid was not selected and identify areas where they could have improved their offer, analysed against the selection requirements and the bidders ranking. However, it should be emphasised that the debriefing is confined to discussing the individual bidder's performance and not their competitors. Minutes of the debriefing should be kept.

Section 50 Complaints & Protest Process

50.1 If an unsuccessful bidder has a genuine problem or grievance, he/she should in the first instance contact in writing the procuring authority's contact person. Both parties may be able to put things right. If not, the bidder may want to take the grievance to the next stage, which is the Head of the Procuring Entity, as described in detail in Part I of the Handbook and summarised below.

50.2 In general, any supplier, contractor or consultant that claims to have suffered, or that may suffer loss or injury due to a breach of a duty imposed on the Procurement Entity, may seek a review of the procurement process. However, the claim shall not relate to aspects such as: the selection of the method of procurement or selection procedure, or the decision to reject tenders, proposals, offers or quotation.

50.3 A complaint means a written objection, submitted by one or more supplier, contractor or consultant (the complainant) within five (5) days, regarding a solicitation, contract award or proposed contract award for goods, works or services. The complaint must be received in a written form and should contain information related to details of the complainant, nature and background of the problem, supportive facts, and debriefing requested information.

50.4 The Head of the Procuring Entity shall, within ten (10) days after the submission of the complaint, issue a written decision. If it fails to do so, the complainant is entitled to ask for an administrative review by the Contractor-General's Office. However, complainant should be aware that this complaint would have to be accompanied by a registration fee of 2% of the estimated value of the protested contract.

Section 51 Public Sector Customer Relationships

51.1 Once the contract is in place, the supplier, contractor or consultant should be ready to start its execution within the delay agreed upon. The relationship with the public sector "customer" now becomes increasingly important. Public sector customers are similar to commercial customers in some ways and different in others. Suppliers, contractors or consultants need to understand thoroughly the values and objectives of the public sector entity.

51.2 Some more demanding aspects of the relationship could relate to:

- Government budgets may change more radically from year to year and may derive from a number of sources including donor partners;

- The demands of accountability mean that monitoring, reporting and audit processes can be stringent - contractors need to keep excellent administrative records, invoices, etc.;
- Contractors may be subject to clauses from the government's own code of practice. For instance, in case of subcontracting work, public tendering procedures may need to be followed;
- Projects may need to be managed through acceptable and/or approved project management;
- Monitoring and/or reporting information may be also required and must be understood, as this could also lead to external audit.

Managing Good Relationships

In order to maintain good relationships and maintain more public market opportunities open, contractors should give particular attention to some key points:

- Meet contract requirements, with delivery on time and of high quality.
- If several deliveries/works over a certain period are required, contractors should ensure to meet these timescales.
- Meeting with the Procuring Entity and users occasionally to ensure they are satisfied with the product, delivery and response times.
- Respond quickly to queries or problems, and provide an explanation and a timescale for solving the problem.
- Submit invoices on a regular basis, in accordance with the conditions of contract.
- Before the contract is due for renewal, meet with the Procuring Entity and users to gain an understanding of the requirements for the next contract, find out if they are satisfied with the contract performance and going to use the same specification next time.

**Appendix 1a: Statement on Ethical Conduct and Fraud and Corruption
(applicable to Evaluation Reports)**

Statement on Ethical Conduct and Fraud and Corruption

We the undersigned confirm that:

1. During the procurement process and the evaluation of bids and proposals, that we have adhered to the ethical standards set out in the Government of Belize Public Procurement Procedure Handbook for Goods, Works and Services.
2. We have gained in the execution of our duties, no benefit either monetary or in kind from any outside agency, bidder or consultant other than the official remuneration that we have received as public servants
3. To the best of our knowledge that no colleague, associate or relative has received any benefit monetary or in kind from any outside agency, bidder or consultant other than official remuneration.
4. We are unaware of any fraudulent, corrupt, collusive or coercive practices that have taken place during this procurement process and fully understand our moral and ethical obligation to report such should we be aware of it.
5. No conflict of interest exists either on our part or the part of the bidder or consultant recommended for an award of contract, or as far as we are aware the part of our immediate colleagues, associates and relatives.

Name	Position	Signature	Date

**Appendix 1b: Declaration on Ethical Conduct and Fraud and Corruption
(applicable to the Private Sector)**

Statement on Ethical Conduct and Fraud and Corruption

[The Bidder shall fill in and submit this form with the Bid]

We the undersigned confirm in the preparation of our Bid that:

1. Neither we, nor any of our employees, associates, agents, shareholders, consultants, partners or their relatives or associates have any relationship that could be regarded as a conflict of interest as set out in the Bidding Documents.
2. Should we become aware of the potential for such a conflict, will report it immediately to the Purchaser.
3. That neither we, nor any of our employees, associates, agents, shareholders, partners consultants or their relatives or associates have entered into corrupt, fraudulent, coercive or collusive practices in respect of our bid or proposal.
4. We understand our obligation to allow the Government to inspect all records relating to the preparation of our bid and any contract that may result from such, irrespective of if we are awarded a contract or not.
5. That no payments in connection with this procurement exercise have been made by us or our associates, agents, shareholders, partners or their relatives or associates to any of the staff, associates, consultants, employees or relatives of such who are involved with the procurement process on behalf of the Procuring Entity, Client or Employer.

Authorised Signature: _____

Name and Title of Signatory: _____

Name of Bidder: _____

Address: _____

Phone Number: _____

Fax Number: _____

Appendix 2a: Summary of Evaluation of Contract Award Sample Reports

GOODS AND WORKS

Name of Procurement :	Date of this Notice:	
Bid/Contract Description:	Scope of Contract:	
Procurement Method:	Contract Signature Date:	
Awarded Bidder		
Name of Awarded Bidder	Bid Price at Opening	Final Bid Price
Evaluated Bidder(s)		
Name of Evaluated Bidder(s)	Bid Price at Opening Bid	Price of Evaluated Bid
Rejected Bidder(s)		
Name of Rejected Bidder(s)	Bid Price at Opening	Reason(s) for Rejection

SERVICES

Name of Procurement Entity:		Date of Notice:			
Bid/Contract Description:		Scope of Contract:			
Procurement Method:		Contract Signature Date:			
Name of Consultant/Firm	Technical Score	Financial Sore	Financial Proposal Amount	Total Score	Final Ranking
Remark:					

Appendix 2b: Contracts Register Sample Report

Ministry/Department

Sr.N o.	Type of procurement	Name, Description of Procurement Package	Estimated Cost (as per approved PP)		Procureme nt Method	Total no. of bids received	List names of all bidders/consultants who submitted bids/proposals	Contract Identification No.	Contract Amount		Contract Signing Date	Name and address of Contractor/Supplier	Remarks
			Currency	Amount					Currency	Amount			
1	Goods						1. 2. 3. 4.						
2	Goods												
3	Goods												
4	Works						1. 2. 3. 4.						
5	Works												
10	Consulting Firm												
11	Consulting Firm												
12	Individual Consultant												
13	Individual Consultant												

Appendix 3: Procurement Plan Sample Format

Name of Procuring Entity

Name of Department

Procurement Plan Year

Serial No.	Contract No.	Description of Goods/Works/Services	Status	Total Estimated Cost (BZD)	Method of Procurement	Procurement Responsibility	Estimated Date of Invitation for Bids	Contract				
								Contract Signed	Contract Completed	Remark		
1			Plan									
			Revised Plan									
			Actual									
2			Plan									
			Revised Plan									
			Actual									
3			Plan									
			Revised Plan									
			Actual									
4			Plan									
			Revised Plan									
			Actual									
5			Plan									
			Revised Plan									
			Actual									
Total (BZD)				0								
Approved by:				Prepared by:								