



THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2005

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ACT NO. 9 OF 2005

I ASSENT

A. A. Karume
AMANI ABED KARUME
PRESIDENT OF ZANZIBAR
AND
CHAIRMAN OF THE REVOLUTIONARY COUNCIL

1ST JULY, 2005

AN ACT TO REPEAL AND REPLACE THE CENTRAL TENDER BOARD ACT NO. 5 OF 2002 AND OTHER MATTERS CONNECTED THEREWITH

ENACTED by the House of Representative of Zanzibar.

PART I PRELIMINARY PROVISIONS

Short title and
Commencement.

1. This Act may be cited as the Public Procurement and Disposal of Public Assets Act, 2005 and shall come into operation immediately after being assented to by the President.

Application.

2.(1) This Act shall apply to all procurement and disposal of public assets undertaken by a procuring and disposing entity except where it is provided otherwise in this Act.

(2) This Act, shall apply to:-

(a) all Public finances:-

(i) originating from the Consolidated fund and related special finances expended through the capital or recurrent budget, whatever form these may take;



- (ii) that may be earmarked for external obligation purposes, except those resources that may be earmarked for payment of membership subscription and contribution;
 - (b) resources in the form of counterpart transfer or co-financing or any finances of a similar nature within the context of development co-operation agreements for the implementation of national programmes; and
 - (c) procurement and disposal of, supplies or any combination however classified by:-
 - (i) entities of Government within and outside Zanzibar; and
 - (ii) entities not of Government, by which benefit from any type of specific public funds specified in paragraph (a) of this sub-section.
- (3) any dispute arising from the application of this Act shall be referred to the Department for its decision following procedures to be prescribed by regulation made under this Act.

Interpretation.

3.(1) In this Act unless the context requires otherwise:-

"Accounting Officer" means a Government officer appointed in accordance with the provisions of Public Financial Act, 2005 to hold a vote or sub vote and account for all monies expended from that vote;

"Appointing Authority" means:

- (i) the President of Zanzibar and Chairman of the Revolutionary Council, in case of the Commissioner for Department of Stock Verifications and Procurement Services;



- (ii) the Accounting Officer, in case of a Chairman for the Ministerial Tender Board, the Chairman for Parastatal Tender Board and the Chairman for Regional Tender Board;

"Approving authority" means an Accounting Officer, a Ministerial Tender Board, a Parastatal Tender Board, Regional Tender Board;

"Associate" means:-

- (i) in the case of a public officer, that person is the public officer's husband, wife or relative, or a husband or wife of the relative of the public officer;
- (ii) that person is in partnership with the public officer; or
- (iii) in the case of a body corporate, the public officer is a controller of the body corporate or the public officer and the persons who are his associates together are controllers of it;

"Competitive selection" means the method of procurement whereby limited number of consultants or providers of services are invited by the procuring and disposing entity to compete with each other in submitting either on the basis of quality alone or on the basis of a combination of quality and cost;

"Competitive tendering" or "tendering" means the method of procurement or disposal of public assets whereby suppliers, and/or contractors are invited by the Procuring and disposing entity to compete with each other in submitting priced tenders for goods and works;



"Consultant" means a company, corporation, organization, Partnership or individual person engaged in or able to be engaged in the business of providing services in any professional fields, and who is, according to the context, a potential party or the party to a contract with the Procuring and disposing entity;

"Contractor" means a company, corporation, organization, partnership or individual person engaged in civil, electrical or mechanical engineering or in construction or building work of any kind including repairs and renovation, and who is, according to the context, a potential party or the party to a procurement contract with the procuring and disposing entity;

"Corrupt practice" means the offering, giving, receiving or soliciting of any thing of value or service to influence the action of public officer in the procurement or disposal of public assets process or contract execution;

"Department" means the Department of Stock Verifications and Procurement Services established under section 4 of this Act;

"Commissioner" means a Commissioner for the Department as prescribed in Section 9 of this Act;

"Disposal" means the process of transferring ownership of public asset from any government institution to another person and includes sale of valuable goods of any kind or destruction of such goods;

"Fraudulent practice" means misrepresentation of facts in order to influence a Procurement and/or disposal of public assets process or the execution of a contract to the detriment of the Government and includes collusive practices among tenderers (prior to or after submission) designed to



establish tender prices at artificial non-competitive levels and to deprive the Government of the benefits of free and open competition;

"Goods" means raw materials, products, equipment and other physical objects of every kind and description, whether in solid, liquid or gaseous form, electricity, intangible asset and intellectual property, as well as services incidental to their supply;

"Government" means the Revolutionary Government of Zanzibar;

"Government Stores" means unallocated stores providing Goods or/and service to Government institutions;

"Independent Department" A government department which holds vote of account in the government budget;

"Minister" means the Minister for the time being responsible for matters relating to finance;

"Ministerial Tender Board" means a Tender Board established under section 10 of this Act;

"Minor value" means any value involving procuring of goods, works or services of minor nature;

"Parastatal organization" means:-

- (i) a body corporate established by or under any Act;
- (ii) any corporation registered under the Companies decree Cap. 153 in which not less than fifty percent of the share capital is owned by the Government or by another parastatal organization, or in the case of a company which is limited by guarantee,



where the Government has undertaken to meet fifty percent or more of the liabilities of that company; or

- (iii) any company, management, board, association or Statutory body in which the Government has a majority or controlling interest;

"Parastatal Tender Board" means a Tender Board established under section 10 of this Act;

"Paymaster General" means the Principal Secretary to the Ministry responsible for finance of the Government and include other officers acting under the authority of Paymaster General;

"Person" is an individual or a body corporate;

"Pre-qualification" means a formal procedure whereby suppliers, contractors or consultants are invited to submit details of their resources, and capabilities and are screened prior to invitation to tender on the basis of meeting the minimum criteria to invitation to tender on the basis of meeting the minimum criteria on experience, resources, capacity and financial standing;

"President" means President of Zanzibar and Chairman of the Revolutionary Council;

"Principal Secretary" means: the Principal Secretary of the Ministry responsible for Finance;

"Post-qualification" means a formal procedure applied after tenders have been evaluated prior to award of contract, to determine whether or not the lowest evaluated tender has the experience, capability and resources to carry out the contract effectively;



"Procurement" means buying, purchasing, renting, leasing or otherwise acquiring any goods, works or services by a procuring and disposing entity; it shall include payment of money on acquisition of goods, consultancy services and works for the purpose of attaining planned operations;

"Procurement agent" means a person specialized in procurement who acts for another, called the principal, in dealing with third parties in matters relating to procurement;

"Procurement contract" means any license, permit, or other concession or authority issued by a public body or entered into between a public body and a supplier, contractor or construction or other related works or for the supply of any goods or services;

"Procuring and disposing entity" means Ministry, Independent Department, Agency, Parastatal Organization; or Region;

"Procurement expert or specialist" means a person who is engaged in a profession, occupation or calling in which recourse to Procurement is directly or indirectly involved and has such knowledge and experience of the practice of Procurement;

"Procurement and disposal proceedings" means the proceedings to be followed by a Procuring and disposing entity or any approving authority when engaging in Procurement and disposal of public assets;

"Public body or public Authority" means:-

- (i) the Government;
- (ii) ministry, department or agency of government;



- (iii) any body corporate or statutory body or authority established by the Government;
- (iv) any company registered under the Companies Decree Cap 153, being a company in which the Government or an agency of Government, whether by the holding of shares or by other financial input, is in the position to influence the policy of the company;
- (v) any local government Authority;
- (vi) any parastatal organization;

"Public officer or officer" means:-

- (i) any person holding or acting in an office of emolument in the service of the Government;
- (ii) a person holding or acting the office of Minister in the Government;
- (iii) an employee of any body corporate such as is referred to in the definition of public body or public department;
- (iv) any person conducting negotiations, for in relation to a public contract, or a prospective public contract on behalf of a public body;
- (v) a person who is a consultant to a public body or public department;

"Relative" means:-

uncle, aunt, nephew, niece, lineal ancestor or lineal descendent and references to a husband or wife and a reputed husband or wife, and for the purposes of this subsection, a relationship shall



be established as if an illegitimate child, step child or adopted child of a person had been a child born to the person in wedlock;

"Regional Tender Board" means Tender Board as established under section 10 of this Act;

"Services" means any Procurement other than goods or works, which involve the furnishing of labor, time or effort including the delivery of reports, drawings or designs, or the hire or use of vehicles, machinery or equipment;

"Successful tender" means the tender selected by the procuring and disposing entity as:-

- (i) offering the lowest evaluated cost, in case the method of procurement used was competitive tendering; or
- (ii) offering the highest evaluated price, in case the method used for disposal of public assets was competitive tendering;
- (iii) being the most responsive to the needs of the procuring and disposing entity and to the advantage of the Government, in case the method of procurement used was competitive quotations, single source procurement, competitive selection or where goods or services of minor value were procured;

"Supplier" means a company, corporation, organization, partnership or individual person supplying goods or providing services, hiring equipment or providing transport services and who is, according to the contract, a potential party or the party to a procurement contract with the Procuring and disposing entity;



"Tender" means an offer, proposal or quotation made by a supplier, contractor or consultant in response to a request by a procuring and disposing entity;

"Terms of reference" means the statement issued by the procuring and disposing entity giving the definition of the objectives, goals and scope of the services, including where applicable the means to be used;

"User Department" means an entity which goods, services or works are intended for;

"Works" means:-

- (i) all works associated with the construction, reconstruction, demolition, repair or renovation of a building, structure, road or airfield;
- (ii) any other civil works, such as site preparation, excavation erection, building, installation of equipment or materials, decoration and finishing;
- (iii) services which are tendered and contracted on the basis of performance of a measurable physical output such as drilling, mapping, satellite photography or seismic investigations; Provided that, contracts that include the provision of works and services shall be regarded as works contracts if the total value of the works is greater than the value of the services covered by the contract.



PART II
**DEPARTMENT OF STOCK VERIFICATION AND
PROCUREMENT SERVICES TENDER BOARDS
AND OTHER PROCUREMENT AND DISPOSAL
AUTHORITIES**

Establishment of the Department.

4. There is hereby established within the Ministry responsible for finance a Department to be known as the Department of Stock Verification and Procurement Services.

Objectives of the Department.

5. The objectives of the Department are:-

- (a) to formulate, establish and enforce the maintenance of standards of conduct and regulate activities of procurement and disposal of public assets for the purpose of ensuring application of fair, competitive, transparent, non-discriminating and value for money procurement;
- (b) to plan, direct, coordinate, monitor and control personnel requirements in Procurement Management Units in the Government institutions; and
- (c) to harmonize policies, systems and practice relating to the procurement and disposal of public assets to the central Government, local Government and statutory bodies.

Functions of the Department.

6. The Department, on behalf of the government; shall:-

- (a) monitor and report the conduct of procurement and disposal of public assets by Ministries, Parastatal Organizations and local authorities, with a view of ensuring the full compliance;
- (b) advice the Government on all matters regarding procurement and disposal of public assets and the operation of the Government's procurement system and make recommendation as it deems fit;



- (c) advice the Principal Secretary on matters of procurement and disposal of public assets control system and shall include preparation, updating and issuing of standardized bidding and contract documents, procedural journals and any other attendant documents to procuring and disposing entities;
- (d) ensure that any deviation from the use of the standardized bidding documents, procedural forms and any other attendant documents are affected only after prior, written approval of the Department;
- (e) set training standard, competence levels, certification requirements and professional development paths in consultation with competent authorities;
- (f) establish and maintain institutional linkages with entities with professional and related interest in public procurement and disposal of public assets;
- (g) issue guidelines from time to time, which shall be laid before the House of Representatives and shall be gazetted for the better carrying out of the objectives of and functions under this Act;
- (h) liaise with National and International procurement and disposal of public assets professional Boards and promote procurement profession in the country;
- (i) develop the procurement management training needs and recommend training for Procurement Management Staff in Government System, that shall include organization and maintenance of a system for publication of data on procurement opportunities, awards and any other information of public interest as may be determined by the Department;



- (j) maintain a register of national eligible providers of works, services and supplies;
- (k) conduct periodic inspections of the records and proceedings of the procuring and disposing entities to ensure full and correct application of this Act and the Public Finance Act, 2005;
- (l) Institute:-
 - (i) procurement or disposal audits during the bid preparatory process;
 - (ii) contract audits in the cause of execution of an awarded bid; and
 - (iii) performance audit after the completion of the contract in respect of any procurement or disposal, as may be required;
- (m) carry out such other function as may be conferred upon the Department by any written law or as are necessary to expedient for the proper carrying out of its functions under this Act.

Submission of
Annual Report.

7. The Department shall, within three months after the end of each financial year, submit to:-

- (a) the Minister an Annual Performance Evaluation Report in respect of that year's activities consisting of:-
 - (i) the Annual Management Plan;
 - (ii) an evaluation of the operations of the Department and procuring and disposing entities; and
 - (iii) any other information the board may direct;



- (b) the Controller and Auditor General the Annual Performance Evaluation Report referred to in paragraph (a) of this section.

Powers of the Department.

8.(1) In the exercise of their powers under this Act, the Department may:-

- (a) require any information, documents, records and reports in respect of any aspect of the public Procurement and disposal process where a breach, wrongdoing, mistreatment or collusion has been alleged, reported or proven against any procuring or disposing entity or provider;
- (b) commission any study/studies or inspection relevant to Procurement and disposal of public assets practices in government organization;
- (c) request any professional or technical assistance from any appropriate institution or person in Zanzibar or elsewhere; and
- (d) require the chairman, accounting officer or chief executive officer of a public body:-
 - (i) to furnish any information or produce any records or other documents relating to a procurement contract;
 - (ii) to answer all relevant questions;
- (e) examine such records or other documents and take copies or extracts there from;
- (f) act upon complaints by procuring and disposing entities providers and any other entity or person in respect of any party to a Procurement or disposal activity in accordance with the procedures set out in part VI of this Act;



- (g) do all such acts and things, as they may consider incidental or conducive to the attainment of their objects.
- (2) The Department may:-
- (a) recommend to the competent authority, where there are persistent or serious breaches of this Act or regulations or guidelines made under this Act:-
- (i) the suspension of officers concerned with the procurement and disposal process in issue;
 - (ii) the replacement of the head of a Procurement Management Unit or the chairman of a Tender Board as the case may be;
 - (iii) the disciplining of the Accounting Officer; or
 - (iv) the temporary transfer of the procuring and disposal function of a procuring and disposing entity to a third party procurement and disposal of public assets agency;
- (b) a competent authority shall respond in writing to the Department's recommendations under paragraph (a) of this subsection within a period prescribed by regulations made under this Act;
- (c) where the competent authority rejects the Department's recommendations under paragraph (a) of this subsection the Department shall:-
- (i) communicate its recommendations and all related documentation to the relevant law enforcement and oversight agencies for their action; and
 - (ii) request for any other appropriate action within the power of the competent authority;



- (d) the competent authority shall respond in writing to the Department's recommendations within a period specified in regulations made under this Act, on the precise action taken on the Department's recommendations, or give an explanation if no action is deemed necessary;
- (e) the Department shall, in its Annual Performance Evaluation Report include:-
 - (i) its audited findings and complaints investigated;
 - (ii) its recommended corrective measures in each case;
 - (iii) the response of the respective competent authority and relevant law enforcement and oversight agencies;
 - (iv) any remedial measure taken.

(3) Any person to whom request is made under subsection (1) of this section, and who: -

- (a) fails to comply with the request; or
- (b) refuses to answer or willfully gives any false or misleading answer to any question lawfully put by a Department;

commits an offence and shall be liable to penalties under section 45 of this Act.

Appointment of
the Commissioner.

9.(1) There shall be a Commissioner who shall be appointed by the President.

(2) The Commissioner shall be the head of Department and subject to the general supervision of the Minister shall be responsible for the execution of functions of the Department.



(3) The Commissioner may, subject to any Law in force or to any direction of the Minister, delegate any of his functions in relation to administration of the Department to any officer subordinate to him.

Tender Boards.

10.(1) There shall be in each Ministry, Independent Department, Parastatal and Region of the Government a Tender Board for procurement of goods, services and works and disposal of public assets, of the respective entity.

(2) The Accounting Officer of a procuring and disposing entity shall have overall responsibility for the execution of procurement and disposal process in the procuring and disposing entity, and in particular, shall be responsible for:-

- (a) establishing a Tender Board in accordance with this Act;
- (b) appointing members of a Tender Board specified in the first, second and third schedule;
- (c) causing to be established a Procurement Management Unit staffed at an appropriate level;
- (d) advertising bid opportunities;
- (e) communicating award decisions;
- (f) certifying the availability of funds to support the procurement activities;
- (g) signing contracts for procurement or disposal activities on behalf of procuring and disposing entity;
- (h) investigating complaints by providers;
- (i) submitting a copy of any complaints and reports of the finding to the Department; and



- (j) ensuring that the implementation of the award contract is in accordance with the terms and conditions of the award.

(3) Members of the Tender Boards shall be nominated by the Accounting Officer and approved by the Principal Secretary as prescribed in the First, Second and Third Schedule to this Act.

(4) Tender Boards shall perform the following functions:-

- (a) approve the issue of tenders or the use of alternative method of Procurement and disposal of public assets as prescribed in the regulations;
- (b) receive tenders and hold tender openings in public, review tender evaluations and recommendations made by tender evaluation committee or independent department, and authorize awards contract;
- (c) review all applications for variations, addenda or amendments to on-going contracts; and
- (d) review and approve sales by tender being made by Ministries and Parastatal Organizations.

(5) An Accounting Officer may delegate to a Head of Department within the same entity, his authority to procure and such delegation shall be made in writing and for a period not exceeding the period the Accounting Officer shall himself serve in that position.

Composition of procuring and disposing entity.

11. For the purpose of this Act, a procuring and disposing entity shall be composed of:-

- (a) an Accounting Officer defined in section 3 of this Act;
- (b) the Tender Boards;



- (c) a Procurement Management Unit;
- (d) a user department as defined in section 3 of this Act; and
- (e) an evaluation committee.

Powers of procuring and disposing entity.

12. A procuring and disposing entity shall be responsible for the management of all procurement and disposal activities within its jurisdiction in accordance with this Act, regulations and guidelines made under this Act.

Duties of Procuring Entities.

13.(1) Notwithstanding anything to the contrary contained in any written law, where any expenditure is to be incurred on any procurement (of goods, works or services) or disposal of public assets it shall be the duty:-

- (a) of the Accounting Officer designated as such for the head of expenditure under the Public Finance Act, 2005; and
- (b) of the chief executive officer of the Parastatal body;

to ensure that such procurement (of goods, works or services) or disposal of public assets is in accordance with the procedures prescribed by or under this Act or regulations made there to.

(2) Subject to the provisions of subsection (4) of this section, every Accounting Officer or chief executive officer shall be accountable for failing to comply with the provisions of subsection (1) of this section.

(3) Where an Accounting Officer or chief executive officer satisfies the Department that he had, in accordance with the provisions of any rules or regulations made under this Act, delegated his functions under subsection (5) of section 10 of this Act to any other person or committee, then such other person or every member of such committee shall also be accountable for the failure to comply with the provisions of subsection (1) of this section.



(4) Where an Accounting Officer or chief executive officer satisfies the Department that he is, under the provisions of any written law, subject to the control or direction of any other person, board, committee or other body and that it was such control or direction of such other person, board, committee or other body which caused the failure to comply with the provisions of subsection (1) of this section then such other person or every member of such board, committee or other body shall be accountable for such failure to comply.

(5) In respect of any failure to comply with the provisions of subsection (1) of this section, the respective Tender Board shall take such appropriate corrective or punitive measures, as it may consider necessary.

Composition of the PMU's.

14. A procuring and disposing entity shall cause to be established a Procurement Management Unit staffed at an appropriate level.

Functions of PMU's.

15. A Procurement Management Unit shall:-

- (a) manage all Procurement and disposal activities of the procuring and disposing entity except adjudication and the award of contracts;
- (b) support the rationing of the Tender Board;
- (c) implement the decisions of the Tender Board;
- (d) liaise directly with the Department on matters within its jurisdiction;
- (e) act as secretariat to the Tender Board;
- (f) plan the Procurement and disposal activities of the procuring and disposing entity;
- (g) recommend Procurement and disposal procedures;
- (h) check and prepare statements of requirements;



- (i) prepare bid documents;
- (j) prepare advertisements for bid opportunities;
- (k) issue bidding documents;
- (l) maintain a providers list;
- (m) prepare contracts documents;
- (n) issue approved contracts documents;
- (o) maintain and achieve records of the procurement and disposal process;
- (p) prepare monthly reports for the Tender Board;
- (q) co-ordinate the Procurement and disposal activities of all the departments; and
- (r) prepare any other such reports as may be required from time to time.

Powers of PMU's.

16. A Procurement Management Unit shall have the powers to: -

- (a) recommend the composition of evaluation committees for the approval by the Tender Board;
- (b) contract independent advice as may be necessary on the discharge of its functions;
- (c) ensure compliance with this Act, regulations and guidelines made under this Act, and best practices;
- (d) manage bid proposals and pre-qualification submissions and make recommendations on them to the Tender Board;
- (e) provide bid clarifications; and



(f) receive bids.

Disagreement
between a Tender
Board and a
Procurement
Management unit.

? 17.(1) Where a Tender Board disagrees with the recommendations of a Procurement Management Unit, it may:-

- (a) return the submission to the Procurement Management Unit for review giving written reasons for disagreement; or
- (b) request for independent advice from the Department.

(2) Where a Procurement Management Unit disagrees with the view of the Tender Board or its recommendations under subsection (1) of this section, it may request for independent advice from the Department.

(3) A party seeking for advise from the Department under subsections (1) and (2) shall state in writing the reasons for its disagreement.

Functions of the
User Department.

18.(1) The user department of the procuring and disposing entity shall perform the following functions:-

- (a) liaise with and assist the Procurement Management Unit throughout the procurement and disposal process to the point of contract placement;
- (b) initiate procurement and disposal requirement and forward them to the Procurement Management Unit;
- (c) propose technical inputs to statements of requirements for Procurement and disposal of public assets requirements to the Procurement Management Unit;
- (d) propose technical specifications to the Procurement Management Unit when necessary;



- (e) input with technical evaluation of bids received as required by the Procurement Management Unit;
 - (f) arrange for payments to providers;
 - (g) report any departure from the terms and conditions of an awarded contract to the Procurement Management Unit;
 - (h) forward details of any required contract amendments to the Procurement Management Unit for action;
 - (i) maintain and archive records of contracts management; and
 - (j) prepare any reports required for submission to the Procurement Management Unit, the committee or the Accounting Officer.
- (2) The user department shall prepare a work plan for procurement and disposal of public assets based on the approved budget, which shall be submitted to the Procurement Management Unit for implementation when required.

PART III PUBLIC PROCUREMENT & DISPOSAL BASIC RULES.

Procurement and disposal planning.

19. A procuring and disposing entity shall plan its procurement and disposal in a rational manner and in particular shall:-

- (a) aggregate its requirements wherever possible, both within the procuring and disposing entity and between procuring and disposing entities, to obtain value for money and reduce procurement costs;
- (b) make use of framework contracts wherever appropriate to provide an efficient, cost effective



and flexible means to procure works, services or supplies that are required continuously or repeatedly over a set period of time;

- (c) avoid splitting of procurement or disposals to defeat the use of appropriate procurement or disposal methods;
- (d) integrate its procurement budget with its expenditure programme; and
- (e) integrate the disposal of assets both listed and unlisted in its Asset Register as well as in its income and expenditure budget.

Initiation of procurement or disposal requirements and confirmation of funding.

20.(1) All procurement or disposal requirements shall be documented prior to the commencement of any procurement or disposal proceedings.

(2) Procurement or disposal shall only be initiated or continued on the confirmation that funding, in the full amount over the required period, available or will be made available at the time the contract commitment is made.

(3) All procurement or disposal requirements shall be approved by the Accounting Officer prior to the commencement of any procurement or disposal process.

Statements of Requirements.

21. All statements of requirements:-

- (a) specifications;
- (b) terms of reference;
- (c) scope of works;
- (d) drawings;
- (e) bills of quantities; or
- (f) their equivalent as may be appropriate;



shall give a correct and complete description of the object of the procurement activity for the purpose of creating fair and open competition.

Best practice and industry standards. 22. Procuring and disposing entities shall at all times use industry standards defined and codified by internationally recognized trade association and professional bodies in the appropriate fields.

Solicitation documents. 23.(1) A procuring and disposing entity shall use the standard documents provided by the Department as models for drafting all solicitation documents for each individual procurement or disposal requirement.

(2) All solicitation shall:-

- (a) detail the terms and conditions, which shall apply to any resulting contract; and
- (b) contain the general conditions of contract, or statement of the general conditions of contract which shall apply.

(3) The general conditions of contract shall not be modified except through special conditions inserted into the solicitation documents or contract.

(4) A procuring and disposing entity shall obtain the prior consent of the Department to place a contact against the general conditions of contract other than those contained in the standard solicitation documents provided by the Department.

Alteration and amendment. 24. A procurement and disposal of public assets contract shall not be altered or amended in any way after it has been signed by both parties unless such alteration or amendment is:-

- (a) to the benefit of the Government or no disadvantageous to the Government; and



Additions to
Contract price.

(b) endorsed by the Tender Board.

25. Any additions to the value of a Procurement or disposal of public assets contract shall be reviewed and agreed by the Tender Board.

Language.

26.(1) Except as provided for in sub-section (2) of this section, pre-qualification documents and tender documents shall be written in English and tenders shall be invited in that language.

(2) For procurement and disposal of public assets, which are unlikely to attract International competitors, tender documents may be written in either Kiswahili or English and tenderers may be requested to tender in either language.

Tender Securities.

27. Where the procuring and disposing entity requires suppliers, contractors or consultants who are submitting tenders to provide any form of tender security, or any form of guarantee or bond against satisfactory performance of the contract, such requirement shall apply equally to all suppliers, contractors or consultants.

Rejection of all
tenders.

28.(1) Tender documents and request for proposals shall provide that procuring entities may reject all tenders or all proposals.

(2) The rejection of all tenders or all proposals under this section shall only be justified where:-

- (a) there is lack of effective competition;
- (b) tenders or proposals are not substantially responsive to the tender dossier or to the request for proposals and terms of reference;
- (c) the economic or technical data of the project have been altered;
- (d) tenders or proposals involve costs substantially higher than the original budget or estimates.



(3) Lack of competition shall be determined solely on the basis of the number of tenderers or persons who made proposals, the minimum of which is three, and where all tenders or proposals are rejected, the procuring and disposing entity shall review the causes justifying the rejection and shall consider:-

- (a) making revision to the conditions of contract, design and specifications, scope of the contract, or a combination of these before inviting new tenders; or
- (b) revising the request for proposals (including the short list) and the budget.

(4) Where the rejection of all tenders or all proposals is due to lack of competition, wider advertising shall be considered and where the rejection is due to most or all of the tenders or proposals being non-responsive, new tenders or new proposals may be invited from the initially pre-qualified firms, or with the prior agreement of the Tender Board, from only those who submitted tenders or proposals in the first instance.

(5) Tender Board shall seek prior approval from the Accounting Officer before rejecting all tenders or all proposals, soliciting new tenders or proposals or entering into negotiations with the lowest evaluated tenderer;

Acceptance of
tender and entry
into force of a
procurement or
disposal
of public assets
contract.

29.(1) Subject to the provisions of section 28 of this Act, the tender or proposal that has been ascertained to be the successful tender or proposal pursuant to section 49 (1) of this Act shall be accepted.

(2) The procuring and disposing entity on whose behalf the tenders, offers or proposals were invited shall be notified by the Tender Board of the Tender Board's acceptance of the tender, offer or proposal and the notice of acceptance shall be given, by the procuring and disposing entity, promptly to the supplier, contractor or consultant who submitted the tender, offer or proposal.



(3) The notifications referred to in subsection (2) of this section shall be in writing and signed by Secretary to Tender Board.

(4) Where a tender, offer or proposal has been accepted by the Tender Board, the Accounting Officer of the procuring and disposing entity and the person whose tender, offer or proposal has been accepted shall enter into a formal contract for the supply of goods, services or the undertaking of works, as the case may be.

(5) A formal contract shall be in such form and shall contain such terms, conditions and provisions as contained in the solicitation documents, request for proposals or tender dossiers.

(6) Any formal contract arising out of the acceptance of a tender, offer or proposal under this Act shall be ratified by the Attorney General's Chambers before being signed by the parties.

(7) The Procurement and disposal of public assets contract shall enter into force where a written acceptance of the tender has been communicated to the successful bidder.

(8) The Tender Board shall publish in the official *Gazette* the name of the person or body to whom the contract is awarded, the amount of tender or proposal and the date on which the award was made.

Records,
Information and
notices.

30.(1) Each procuring and disposing entity and each Tender Board shall maintain a record of procurement and disposal of public assets proceedings in which each is involved, including decisions taken and the reasons for it and such record shall be kept for a period of not less than five years from the date of completion of the contract and be made available within a reasonable time during that period to the Paymaster General and the Controller and Auditor-General or any other officer authorized by accounting Authority.



(2) The record referred to in subsection (1) of this section, may under special circumstances be kept beyond the period specified in that subsection.

(3) A list of those submitting tenders and the prices tendered, as read out at the time of opening the tenders in public, may be made available to tenderers and to the general public.

PART IV METHODS OF PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS

Basic Qualifications.

31. A procuring and disposing entity shall require all bidders participating in public procurement or disposal to meet the qualification criteria set out in the bidding documents which in all cases shall include the following basic qualifications:-

- (a) that the bidder has the legal capacity to enter into the contract;
- (b) that the bidder is not:-
 - (i) insolvent; or
 - (ii) in receivership; or
 - (iii) bankrupt; or
 - (iv) being wound up;
- (c) that the bidder's business activities have not been suspended;
- (d) that the bidder is not the subject of legal proceedings for any of the circumstances mentioned in paragraph (b) of this section; and
- (e) that the bidder has fulfilled his or her obligations to pay taxes and social security contributions.



Choice of procurement or disposal methods.

32.(1) A procuring and disposing entity in respect of: -

- (a) each procurement activity shall use any of the methods in sections 33 to 39 of this Act; and
- (b) each disposal activity shall, in addition to the methods in sections 33 to 39, use any of the disposal methods in section 40 whenever circumstances demand it, and their conditions for use specified in the fourth schedule.

(2) The choice of a procurement method shall first be approved by the Tender Boards.

(3) A procuring and disposing entity shall first obtain the consent of the Department before it uses any other method than the ones set out in this part of the Act.

Open domestic Bidding.

33.(1) Except as provided for in this Act or regulations made under this Act, a procuring and disposing entity shall use the open domestic bidding method.

(2) Open domestic bidding is a procuring or disposal method, which is open to participation on equal terms by all providers through advertisement on the Procurement or disposal opportunity.

(3) Open domestic bidding shall be used to obtain maximum possible competition and value for money.

(4) Nothing shall prevent a foreign or international bidder from participating in open domestic bidding.

Open International bidding.

34.(1) Open international bidding is Procurement or disposal method which is open to participation on equal terms by all providers, through advertisement of the procurement or disposal opportunity and which specifically seeks to attract foreign providers.



(2) Open international bidding is used to obtain the maximum competition and value for money, where national providers may not necessarily make this achievable.

Restricted
Domestic Bidding.

35.(1) Restricted domestic bidding is the Procurement or disposal methods where bids are by direct invitation without obtained open advertisement.

(2) Restricted domestic bidding is used to obtain competition and value for money to the extent possible, where the value or circumstances do not justify or permit the open bidding procedure.

Restricted
International
Bidding.

36.(1) Restricted international bidding is the procurement or disposal procedure where bids re obtained by direct invitation without open advertisement and the invited bidders include foreign providers.

(2) Restricted international bidding shall be used to obtain competition and value for money to the extent possible where the value or circumstances do not justify or permit an open bidding method and the short listed bidders include foreign providers.

Quotations and
proposals.

37.(1) Quotation and proposals are simplified procurement and disposal method which compare price quotations obtained from a number of providers.

(2) The quotation and disposal method shall be used to obtain competition and the value for money to the extent possible, where the value or circumstances do not justify or permit open or restricted bidding procedures.

(3) Quotations shall be used in works and supplies while proposals shall be used for services.

Direct
Procurement.

38.(1) Direct Procurement or disposal is a sole source procurement or disposal method for procurement or disposal requirements where exceptional circumstances prevent the use of competition.



Micro procurement.

(2) Direct Procurement or disposal shall be used to achieve efficient and timely procurement or disposal, where the circumstances do not permit a competitive method.

39.(1) Micro Procurement or disposal is a simple direct procurement or disposal method, which shall be used for very low value procurement and disposal of public assets requirements.

(2) Micro Procurement or disposal shall be used to achieve efficient and timely procurement and disposal of public assets where the value does not justify a competitive procedure.

Other methods of disposal.

40.(1) Disposal of public assets may also be by way of the following methods:-

- (a) public auction where the professional valuation of an individual asset or lot does not exceed the value stated in the guidelines;
- (b) direct negotiation where disposal on the open market would raise legal or human rights issues and the consideration received is not less than the professional valuation;
- (c) destruction of assets where there is no residual value or no grounds of national security or public interest;
- (d) conversion or classification of assets into another form for disposal by sale such as scrap metal or land fill;
- (e) trade-in; and
- (f) transfer to other procuring and disposing entity.

(2) The procedures for the methods in subsection (1) of this section, shall be prescribed by regulations made under this Act.



PART V PROHIBITION

Fraud and
Corruption.

41.(1) The Tender Boards as well as tenderers, suppliers, contractors and consultants under public financed contracts shall proceed in a transparent and accountability manner during the procurement and disposal of public assets and execution of such contracts.

(2) Where the Department, by the competent Authority, after appropriate investigation, to which it is proposed that a tender awarded is engaged in corrupt or fraudulent practices in competing for the contract in question, the Department may require the Tender Board to:-

- (a) reject a proposal for award of such contract;
- (b) declare such person or firm ineligible for a period of ten years to be awarded a public financed contract.

(3) The procuring and disposing entity, after determination by a court of law or following a special audit by the Controller and Auditor-General, carried out on directions of the Competent Authority after consulting or being reported by a commission of which in accordance to this section he is empowered to form and elect members, and being satisfied that ethics have been violated and corrupt or fraudulent practices were engaged in by any person or firm during the procurement and disposal of public assets, award of contract or the execution of that contract:-

- (a) cancel the portion of the funds allocated to a contract for goods, works or services;
- (b) declare such person or firm ineligible for a period of ten years to be awarded a public financed contract.

(4) Any member of the procuring and disposing entity or approving Authority who engages in corrupt or



fraudulent practices during the procurement and disposal of public assets proceedings or the execution of the public financed contract shall be dealt with in accordance with section 45 of this Act.

(5) The Tender Board shall, in any tender forms for public contracts, include an undertaking of the tenderer to observe the country's laws against fraud and corruption (including bribery) in competing for/and executing a contract.

Conducts
Influencing Public
Officers.

42.(1) No person, whether such person has made an offer or not, with intent to gaining any advantage or concession for himself or any other person shall:-

(a) offer any member or an associate of a member of a Tender Board or its committee or any consultant or an associate of any consultant or a person or an associate of any person providing services, a gift of money or other valuable thing; or

(b) approach any member or any associate of a member of a Tender Board or its Committee or any of its officers or an associate of any officer with respect to any matter that is before the Tender Board or Committee or that is expected to come before a Tender Board or a committee.

(2) No member of the Tender Board or its Committee or an approving authority or any Public Officer or other Government authority shall accept a gratuity in any form, any offer of employment or any other thing, service or value as an inducement with respect to an act or decision, by the Tender Board or by other approving authority in connection with any authority approving procurement and disposal of public assets proceedings or tender, and a procuring and disposing entity or by the approving authority in connection with any procurement and disposal of public assets or tender; and a Tender Board shall promptly reject a tender of any supplier, contractor or consultant who gives, agrees to give or offers, directly or indirectly, any such inducement.



(3) Procurement and disposal of public assets shall not be made from a public officer or associate of a public officer acting in a private capacity, either alone or as a partner in a partnership or as an officer of a company.

(4) A Tender Board shall not include in any tender document any condition or specification such as to favour any one supplier, contractor or consultant.

(5) Any member of a Tender Board shall declare any interest that they may have in any supplier, contractor or consultant, and shall take no part, nor shall seek to influence in any way, Procurement and disposal of public assets proceedings in which that supplier, contractor or consultant is involved or liable to become involved.

(6) A supplier, contractor or consultant whose tender or proposal has been rejected or revoked on the grounds of inducement and corrupt practices shall not be able to qualify or pre-qualify in any Procurement and disposal of public assets proceedings during the ten years following the date of the notice of such rejection or revocation.

(7) Any rejection or revocation on the grounds of inducement or corrupt practices shall be notified to the Principal Secretary who shall in turn take effect to notify all Government procuring entities for the purposes of effecting the provision of subsection (6) of this section.

Disclosure of
Payment made or
mission.

43.(1) A supplier, contractor or consultant, in relation to the public contract, shall within thirty days after the execution the contract, furnish in writing to the Tender Board and the Zanzibar Revenue Board and Tanzania Revenue Authority – Zanzibar:-

- (a) stating particulars of any consideration given or to be given to any person or organization for the purpose of or as a commission for obtaining the contract; and



(b) giving the names of the persons o whom and the Organization to which any such consideration was or is to be given.

(2) If no such consideration is to be given to any person or organization, a statement furnished pursuant to subsection (1) of this section shall so state.

(3) Where in relation to a public contract, and where a body corporate is a contractor, then:-

(a) if the consideration for the contract exceeds in value or total, two percent of the contract value, the statement furnished pursuant to subsection (1) of this section:-

(i) shall be signed by the Chief Executive of the body corporate; and

(ii) if the contract is a subsidiary of another body corporate, shall also be signed by the Chief Executive of the other body corporate;

(b) in any case other than that which is referred to in paragraph (a) of this section, the statement furnished shall be signed by an officer of the body corporate deputed to do so.

(c) the provisions of the Companies Decree Cap. 153 in relation to the determination of whether a body corporate is the subsidiary of another body corporate shall apply.

Conduct of
Directors, servant
or agents.

44.(1) Any conduct engaged in or on behalf of body corporate:-

(a) by a director, servant or agent of the body corporate within the scope of the actual or apparent authority; or



(b) by any other person at the direction or with the consent or agreement (whether express or implied) of a director, servant or agent of the body corporate, where the giving of the direction, consent or agreement by the director, servant or agent is within the scope of the actual or apparent authority; shall be deemed, for the purposes of this Act, to have been engaged in by the body corporate.

(2) Any conduct engaged in or on behalf of a person other than a body corporate:-

- (a) by a servant or agent of the person within the scope of actual or apparent authority of the servant or agent; or
- (b) by any other person at the direction or with the consent or agreement (whether express or implied) of a servant or agent of the first mentioned person, when the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the servant or agent shall be deemed to be engaged by that person.

Penalties.

45.(1) Any person convicted of an offence against section 18 of this Act is liable to a fine not less than five hundred thousand shillings or to imprisonment for a term not less than eighteen months but not exceeding three years or to both such fine and imprisonment.

(2) Any person who contravenes the provisions of section 8(1)(a) and 8(1)(d) of this Act commits an offence and is liable upon conviction to a fine of five million shillings imprisonment for a term not less than five years or for both.

Institution of
Criminal
Proceedings.

46. The measures provided by this Act shall not preclude the institution of criminal proceedings pursuant to the Penal Act or any other written law against any person



discharging functions or exercising duties under this Act or regulations made under this Act.

PART VI **MISCELLANEOUS PROVISIONS**

Regulations.

47.(1) The Minister may make regulations for the better carrying out of the provisions of this Act.

(2) All regulations and directions made in connection with this Act shall be published in the official *Gazette*.

Evaluation Committee.

48.(1) All evaluations shall be conducted by an Evaluation Committee which shall report to the Procurement Management Unit.

(2) The membership of Evaluation Committee shall be recommended by Procurement Management Unit, in accordance with regulations made under this Act, and approved by the Tender Board.

(3) The number of the members of the Evaluation Committee shall depend on the value and complexity of the Procurement and disposal of public assets requirement, but shall in all cases be a minimum of three members.

(4) The members shall be on appropriate level of seniority and experience, depending on the value and complexity of the Procurement and disposal of public assets requirement.

(5) Members of the Evaluation Committee may be external to the procuring and disposing entity, where the required skills and experience are not available within the procuring and disposing entity or where members are indisposed or have a conflict of interest.

(6) All members of the Evaluation Committee shall sign the code of ethics provided under the regulations made under this Act, declaring that they do not have a conflict of



interest in the procurement and disposal of public assets requirement.

(7) The meeting of the evaluation committee, the conduct of the evaluation and the evaluation methodologies shall be executed in accordance with the regulations made under this Act.

Award of Contract.

49.(1) Notwithstanding any other enactment, no public body shall:-

- (a) advertise, invite, solicit or call for tenders or proposals in respect of a contract unless authorized by approving authority;
- (b) award any contract unless the award has been approved by approving authority.

(2) No person or firm shall sign a contract with any public body unless the award has been approved by the Tender Board.

(3) Where it comes to the knowledge of the Department or Tender Board that a contract has been awarded or is about to be awarded in breach of this Act or regulations made there under, the Department or Tender Board shall have the power to stop the award of contract.

Settlement of complaints or disputes by arbitration.

50.(1) Complaints or disputes between procuring entities and suppliers, contractors or consultants which arise in respect of Procurement and disposal of public assets proceedings and awards of contract and which cannot be resolved by agreement between the two shall mutually be reviewed and decided upon a written decision by arbitration.

(2) The Arbitrator shall not entertain a complaint or dispute:-

- (a) unless it is submitted within twenty eight days from the date the supplier, contractor or consultant submitting it become aware of the circumstances



15. Issue from the Consolidated Fund.
16. Accountant Generals Notification of Expenditure.

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ESTIMATES OF REVENUE AND EXPENDITURE**

17. Estimates of revenue and expenditure.
18. Excess expenditure.
19. Grant of credit.
20. Provision of Appropriation Act not in force.
21. Minister may authorize advances.

22. Duration of Appropriation and Warrant.
23. Development project contracts.

**PART IV
PREPARATION AND EXAMINATION OF ACCOUNTS**

24. Annual accounts.
25. Existence of Public National Audit.
26. Power of Controller and Auditor General.
27. Value for money audits.
28. Power to make recommendations.
29. Annual and other reports.
30. Report to be tabled before the House of Representatives.



giving rise to the complaint or dispute or when that supplier, contractor or consultant should have become aware of those circumstances, whichever is earlier;

(b) after the procurement and disposal of public assets contract has entered into force.

(3) Unless the complaint or dispute is resolved by mutual agreement of the supplier, contractor or consultant that submitted it and the Arbitration shall within 30 days after the submission of the complaint or dispute deliver a written decision which shall:-

(a) state the reasons for the decision; and

(b) if the complaint or dispute is upheld in whole or in part indicate the corrective measures to be taken.

(4) If the Arbitration has not reached a compromise, the aggrieved party may forward the matter to the Trade Tribunal.

Judicial Review.

51. The Court of competent jurisdiction shall have jurisdiction over actions pursuant to complaints or dispute claimed by suppliers, contractors or consultants and petitions for judicial review of decision made by bodies or failure of those bodies to make a decision within the prescribed time-limit, pursuant to section 50 of this Act.

Misapplications of other laws.

52. Upon the coming into operation of this Act, all laws, sections of laws, regulations or rules relating to public procurement practice that shall conflict with this Act or a section in this Act shall cease to have any effect, power, function, authority or duty in relation to any matter connected with procurement (of public assets of goods, service or works).

Repeal.

53. The Central Tender Board Act no. 5 of 2002 is hereby repealed. 40



FIRST SCHEDULE

(Under Section 10(2)b)

COMPOSITION, APPOINTMENT AND PROCEDURES OF MINISTRY AND INDEPENDENT DEPARTMENTS TENDER BOARDS

Composition and appointment.

Board 1.(1) A Ministry or Independent Department Tender Board shall consist of:-

- (a) the Chairman who shall be appointed by the Principal Secretary for that Ministry;
- (b) the Chief Accountant of that Ministry or Independent Department;
- (c) the heads of all departments;
- (d) a government officer from Ministry responsible for Finance who shall be appointed by the Principal Secretary;

(2) A Government officer of that Ministry who is a specialist in procurement and disposal of public assets shall be the Secretary of the Board

Attendance by non-members.

2. The Board may invite Government Officers of that Ministry or Independent Department or of another Ministry or another Independent Department, to attend its meetings for the purpose of assisting the Board, but such person shall have no vote.

Meetings.

3. Meeting of the Board shall be convened by the Chairman, or in his absence or inability to act, the Secretary, by a notice specifying the date, time and place, being not less than once in a month as, the Chairman may determine.

Quorum.

4.(1) One half of the members of the Board shall form a quorum for a meeting of the Board. 41



(2) In the absence of the Chairman, the members present at a meeting of the Board shall elect one of the members to act as Chairman for that meeting and the member who is so elected shall be responsible for reporting the findings of such meeting to the Chairman.

(3) At any meeting of the Board, a decision of the majority of the members present and voting shall be recorded as a decision of the Board, save that a member who dissents from that decision shall be entitled to have his dissenting decision and the reasons for it to be recorded in the minutes of that meeting.

Minutes.

5. Minutes of each meeting of the Board shall be recorded by the Secretary in a proper form and shall be confirmed by the committee and signed by the Chairman and the Secretary at the next following meeting of the Board.

Notification of decisions.

6. Notification of decisions made by the Board and all other communications sent on its behalf shall be signed by the Secretary or by the Principal Secretary of that Ministry.

Proceedings.

7. The Board shall conduct its proceedings in accordance with the prescribed regulations.

Subcommittees.

8. A Ministry or Independent Department Tender Board may establish committees and appoint members, of such committees, persons who are, or are not, members of the Ministry Tender Board for the purposes of advising the Board on any specific matter.



SECOND SCHEDULE

(Under section 10(2)b)

COMPOSITION, APPOINTMENT AND PROCEDURES OF PARASTATAL TENDER BOARD

Composition
and appointment.

1.(1) The Tender Board for a parastatal organisation shall consist of eight members appointed by the Board of Directors. Provided that:-

(a) five of the members shall be heads of departments from the departments of the parastatal organisation of which one shall be head of the Procurement Management Unit.

(2) The Chief Executive Officer shall be appointed a Chairman by the Minister responsible for that ministry.

(3) The head of the department responsible for procurement and disposal of public assets or purchasing and supply in a parastatal organization shall be the Secretary to Tender Board.

Proceedings.

2.(1) Except as provided for in the regulations, a Parastatal Tender Board, shall determine its own procedures for Tender.

(2) A Parastatal Tender Board shall meet at such times and places being not less than once in a month as the Chairman may determine.

(3) A Parastatal Tender Board may establish Committees, which shall consist of persons who are, or are not, members of the Board for the purpose of advising the Board on any specific matter.

(4) A Parastatal Tender Board shall cause minutes of the proceedings of every meeting to be kept and such minutes shall be transmitted to the Chief Executive Officer as soon as practicable after the meeting at which they were confirmed.



(5) A Parastatal Tender Board may invite any person, whose presence is in its opinion, desirable to attend and to participate in the deliberations of the meeting of the Board but such a person shall have no vote.

(6) The Secretary of the Parastatal Tender Board shall communicate all decisions to heads of departments or organizations, including any refusal and the grounds for the refusal within seven days of the decision.

(7) At any meeting of the Parastatal Tender Board, one half of the members shall constitute a quorum and the decision of the majority of the members present and voting shall be recorded as the decision of the Board.



THIRD SCHEDULE

(Under section 10 (2)b)

COMPOSITION, APPOINTMENT AND PROCEDURES OF REGIONAL TENDER BOARD

Interpretation.

1. In this schedule, "the Board" means the Regional Tender Board.

Composition and Appointment.

- (1) A Regional Tender Board shall consist of the following Members:-

- (a) the Regional Administrative Officer;
 - (b) the Regional Planning Officer;
 - (c) the Regional Chief Accountant;
 - (d) the Regional Sector Officer for the procurement is intended for;
 - (e) the Engineer whose specialty is under consideration in the Tender Board;
 - (f) the Procurement and disposal of public assets specialist from the line Ministry.

(2) The Secretary shall be a Government Officer who is specialist and experienced in Procurement and disposal of public assets matters/procedures from within the Regional Office and be appointed by the Regional Commissioner.

Attendance by non member's.

3. The Board may invite any person whose presence is its opinion desirable, to attend and participate in the deliberations of the meeting but such person shall have no vote.

Meetings.

4. Meeting of the Board shall be convened by the Chairman, or in his absence or inability to act, the Secretary, by a notice specifying the date, time and place of such



meeting which shall be sent to each member not less than two full working days before the date of such meeting.

Quorum.

5.(1) One half of the members of the Board shall form a Quorum for a meeting of the Board.

(2) In the absence of the Chairman, the members present at a meeting of the Board shall elect one among the members to act as Chairman for that meeting and the member who is so elected shall be responsible for reporting the outcome of such meeting to the Chairman.

(3) At any meeting of the Board, a decision of the majority of the members present shall be recorded as a decision of the Board, save the act a member who dissent from that decision shall be entitled to have his dissenting decision and the reason for it to be recorded in the minute of the meeting.

Minutes.

6. Minutes of each meeting of the Board shall be recorded by a Secretary in a proper form and shall be confirmed by the Board and signed by the Chairman and Secretary at the following meeting of the Board.

Notification of decisions.

7. Notification of decisions made by the Board and all other communication sent on its behalf shall be signed by the Regional Commissioner.

Proceedings.

8. The Board shall conduct its proceedings in accordance with the prescribed regulations.

Fees and allowance.

9. Fees and allowance shall be paid as per civil servant directives.



FOURTH SCHEDULE

(Under section 32 (1)b)

CONDITIONS FOR USE OF PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS METHODS.

Open domestic bidding.

1.(1) Open domestic bidding shall be open to all bidders following a public advertisement of a bid notice in a list one widely read national newspaper.

(2) Bidding documents may be issued to prospective bidders at a fee, the cost of which shall be agreed upon by the respective Tender Board.

(3) a public bid opening shall be held in accordance with procedures prescribed by regulations.

Open International bidding.

2.(1) Open international bidding may be used instead of open domestic bidding where competition will not be effective without foreign bidders or where foreign bids will increase value for money.

(2) Nothing shall prevent a domestic bidder from participating in open international bidding.

(3) The Procurement and disposal of public assets process under open international bidding shall follow the Procurement and disposal of public assets or disposal process to be set out in regulations.

(4) Open international bidding shall be to all bidders following the public advertisement of a bid notice in a publication of wide international circulation.

(5) Bidding documents may be issued to prospective bidders at a fee, the cost of which shall be agreed upon the Tender Board but, in all cases shall be in line with guidelines.



(6) A public bid opening shall be held in accordance with the procedures prescribed by regulations.

Restriction on domestic bidding.

3.(1) Restricted domestic bidding may be used where:-

- (a) the supplies, works or services are available only from a limited number of providers; or
- (b) there is insufficient time for an open bidding procedure in an emergency situation; or

(2) The Procurement and disposal of public assets or disposal process under restricted domestic bidding shall follow the Procurement and disposal of public assets procedures prescribed by regulations and as follows:-

- (a) the invitation to bid shall be addressed to a limited number of potential bidders without advertising the opportunity in a bid notice;
- (b) the selection of bidders shall be in accordance with the procedures prescribed by regulations; and
- (c) public bid opening shall be held in accordance with the procedures prescribed by regulations.

Restriction on International bidding.

4.(1) Restricted international bidding may be used where the supplies, works or services are available only from a limited number of providers and there is insufficient time for an open bidding procedure in an emergency situation; or

(2) The Procurement and disposal of public assets or disposal process under restricted international bidding shall follow the procedure prescribed by regulations and made under this Act as follows:-

- (a) the invitation to bid shall be addressed to a limited number of potential bidders without advertising the opportunity in a bid notice;



- (b) the selection of bidders shall be in accordance with the procedure prescribed by regulations; and
- (c) a public bid opening shall be held in accordance with the procedure to be prescribed by regulations.

Quotations.

5.(1) Quotations or proposals Procurement and disposal of public assets or disposal may be used where:-

- (a) there is in sufficient time for an open or restricted bidding procedure such as in an emergency situation; or
- (2) The process under quotations Procurement and disposal of public assets:-
 - (a) the solicitation document shall be addressed to a limited number of potential bidders without advertising the opportunity;
 - (b) the selection of the bidders shall be in accordance with the regulations made under this Act;
 - (c) a procuring and disposing entity shall obtain at least three bids; and
 - (d) a internal bid opening shall be held in accordance with procedures to be prescribed by regulations.

Procurement or
disposal of public
assets.

6.(1) Direct Procurement or disposal of public assets may be used:-

(a) Where:-

- (i) there is in sufficient time for any other procedure such as in an emergency situation; or



- (ii) the works, services or supplies are available from only one provider; or
 - (iii) an existing contract could be extended the additional works, services or supplies of a similar nature and no advantage could be obtained by further competition, if the prices on the extended contract are reasonable; or
 - (iv) additional works, services or supplies are required to be compatible with the existing supplies, works or services and it is advantageous or necessary to purchase time additional works, services or supplies from the original supplier; provided the prices on the additional contract are reasonable; or
 - (v) it is essential or preferable to purchase additional works, services or supplies from the original supplier to ensure continuity for downstream work, including continuity in technical approach, use of experience acquired or continued professional liability, if the prices on the additional contract are reasonable;
- (b) in the circumstances set out in paragraph (a) where the value of the new works, services or supplies does not exceed 15% of the value of the original or existing contract and the original or existing contract has been awarded through a competitive process; and
 - (c) a procuring and disposing entity may engage into the Micro Procurement where the goods or services are of minor value.
- (2) Where a procuring and disposing entity engages in Micro Procurement:-



- (a) the original invoice or receipt evidencing the supplies procured and the price paid shall be obtained and signed by the official procuring the supplies; and
- (b) it shall be responsible for ensuring that the value for money is obtained to the extent that it is practical under the procurement and disposal of public assets procedure.

PASSED in the House of Representatives on the 14th day of April, 2005.

KJChande
{ KHAMIS JUMA CHANDE }
CLERK OF THE HOUSE OF REPRESENTATIVES.