

**THE PUBLIC PROCUREMENT AND DISPOSAL OF
PUBLIC ASSETS
ACT, NO. 11 OF 2016**

**PUBLIC PROCUREMENT REGULATIONS
(Made Under Section 93)**

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**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS
ACT, NO. 11 OF 2016**

**PUBLIC PROCUREMENT REGULATIONS
(Made Under Section 93)**

IN EXERCISE of the powers conferred upon me under section 93 of Public Procurement and Disposal of Public Assets Act, No.11 of 2016, **I HON. JAMAL KASSIMALI**, Minister of State, President's Office, Finance and Planning do hereby make the following Regulations:

**PART ONE
PRELIMINARY PROVISIONS**

1. These Regulations may be cited as the Public Procurement Regulations, 2020 and shall come into operation on such date as the Minister, by notice published in the Gazette, appoint.

Short
title and
commen-
cement.

2. These Regulations shall apply to all public procurement of goods, works, consultancy and non - consultancy services undertaken by a Procuring and Disposing Entity except where the context provides otherwise in which the provisions of that Act shall prevail.

Application.

3. In these Regulations, unless the context requires otherwise:

Interpretation.

“Accounting Officer” means a government officer appointed in Public Procurement and disposal in accordance with the provisions of the Public Finance Act or a public officer statutorily appointed to hold a vote or subvention and accounts for all monies expended from that vote or subvention;

“Act” means the Public Procurement and Disposal of Public Asset Act;

“Annual Procurement Plan” means a process of identifying and consolidating requirement and determining the time frame for their procurement with the aim of having them as and when they are required using financial resources allocated in the budget of respective financial year;

“Approving authority” means an Accounting Officer or a Tender Board of a public body;

“Authority” means the Public Procurement and Disposal of Public Assets Authority established under section 4 of the Act;

“Bid” means a response to invitation to bid issued by Procuring and Disposing Entity including bid, proposal, quotation and bid from bidder;

“Company” means a company or firm constituted under civil or commercial law, including corporations, whether public or otherwise, co-operative societies and other legal persons and partnerships governed by public or private law;

“Contract” means a contract or agreement made between a procuring and disposing entity and a bidder as a result of procurement proceedings;

“Contractor” means a firm, company, corporation, organisation, partnership or an individual person who provide civil works or other technical expert such as Engaged in civil, electrical or mechanical engineering or in construction or building work of any kind including repairs and renovations, 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 anything of value to influence the action of a public officer in the procurement process or contract execution;

“Counter proposal” means the offer given by other interested bidders to counter-march with the original project proponent’s proposal;

“Foreign consultant” means an individual consultant whose nationality is that of a foreign country or a consulting firm whose majority of its share capital, as far as the ownership thereof is or can be publicly known, is owned by citizens of foreign countries;

“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 bidders (prior to or after submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Government of the benefits of free and open competition;

“Journal” means the Zanzibar Procurement Journal issued by Authority;

“Micro procurement” means acquisition of standard and low value goods, works or services of the aggregate amount of which does not exceed the micro procurement threshold specified in these Regulations;

“Minor value” means an amount of money up to a maximum limit for the procurement of goods, works or consultancy of a minor nature;

“Zanzibar Provider” means a provider as defined under Section 3 of the Act;

“Parastatal organisation” means:

- (a) a body corporate established by or under any Act other than the Companies Act;
- (b) any corporation registered under the Companies Act, in which not less than fifty percent of the share capital is owned by the Government or by another parastatal organisation 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
- (c) any company, management, board, association or statutory body in which the Government has a majority or controlling interest and includes a government agency established under the Executive Agencies Act;

“Performance security” means a guarantee or a bond from a successful bidder’s bank or an Insurance Company, which should be provided by the successful bidder to the procuring and disposing entity with the aim of compensation for any loss resulting from the bidder’s failure to complete its obligations under the contract;

“Post qualification” means a formal procedure applied after bids have been evaluated prior to award of contract, to determine whether or not the best +evaluated bid has the experience, capability and resources to carry out the contract effectively;

“Procurement plan” means preparation of procurement activities using approved budget of Procuring and Disposing Entity for the purpose of achieving target objectives.

“Public asset” means any property owned by a public body tangible and intangible, including but not limited to

physical property, land, shares or proprietary rights;

“Public Officers” means all Public Officers engage in Procurement proceedings which include Procuring and Disposing Management Unit staff, member of Evaluation Committee and staff from User Department.

“Service provider” means a natural person, an incorporated body or a duly registered body licensed by a competent authority to provide the services and who is, according to the contract, a potential party or the party to a procurement contract with the procuring and disposing entity;

“Bidding for expression of interest” means the process whereby consultants are invited to submit details of their resources and capabilities so that a procuring and disposing entity can determine which consultants meet the minimum criteria necessary for being considered for competitive selection of consultants;

“Tender Board” means a Tender Board established under section 27 of the Act;

“Bidding or bidding document” means a written or electronic document or request for proposal inviting bidders to participate in procuring or disposal by bid proceeding and includes document inviting potential bidders for pre-qualification;

“Bid period” means the period between the date of the first publication of the invitation to bid or the date of the mailing of the invitation to bid and the closing date for the submission of bids;

“Bid price” means the sum stated by a bidder in his bid for carrying out the contract;

“Bids Portal” means a web portal of the Authority containing all information relating to public bids;

“Bid security” means a guarantee or bond from a bidder’s bank or an insurance company which should be provided by the bidder as part of its bid with the aim of protecting the procuring disposing entity against the risk of bidder’s conduct during the bid period which would warrant the security’s forfeiture or otherwise returned to the bidder after bid process;

“Bid Securing Declaration” means a security by way of declaration provided by the bidder when the procurement is within the exclusive preference limits provided under the Fifth Schedule to these Regulations;

“Bid validity period” means the period of time subsequent to the closing date for submission of bids for which the bid price and the conditions of the bid shall not be subject to any change by the bidder;

“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 bided 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 TWO GENERAL PROVISIONS

Basic principles for undertaking or approving procurements.

4.-(1) The basic principles of public procurement shall be conducted to the best possible use of public funds with honesty and fairness.

(2) All public officers including Accounting Officers and members of Tender Boards shall, when undertaking or approving procurement be guided by the following basic considerations:

- (a) the need for economy and efficiency in the use of public funds in the implementation of projects;
- (b) the best interests of a public body in giving all eligible bidders equal opportunities to compete;
- (c) encouragement of national manufacturing, contracting and service industries; and
- (d) the importance of integrity, accountability, fairness and transparency in the procurement process.

Economic and efficiency.

5.-(1) Public officers, members of Tender Boards and Accounting officers, when undertaking or approving procurement shall choose appropriate procedures and cause the procurement to be carried out diligently and efficiently;

(2) In furtherance to sub-regulation (1) of this regulation, public officers, members of Tender Boards and Accounting Officers shall ensure that goods, works or services are:

- (a) appropriate to the public body requirements;
- (b) compatible with any similar goods or services already supplied or provided for use;
- (c) provided, or the works are completed in a timely manner; and
- (d) procured in satisfactory quality.

6.-(1) Public Officers and members of Tender Boards concerned with procurement shall be honest and ethical in dealing with bidders and the public; and

Probity and ethics in procurement.

(2) A Procuring and Disposing Entity shall not include in a bid document any condition, criteria or specification to favour any bidder.

7. In order to ensure widest possible participation by bidders on equal terms in inviting bids for goods, works, services or provision of consultancy services, Procuring and Disposing Entities shall take the necessary measures to:

Equality of participation.

- (a) ensure publication of invitations to bid or to submit expression of interest or proposal in the journal, bids portal, newspapers of wide circulation and other appropriate means as prescribed in the First Schedule to these Regulations;
- (b) eliminate discriminatory practices on technical specifications or description of services which may limit participation on equal terms;
- (c) ensure that all the selection criteria are specified in the bid documents or prequalification and request for proposal;
- (d) ensure that the bid or proposal selected conforms to the

requirements of the bid documents or request for proposal and meets the prescribed selection criteria; and

- (e) consider the Preference Schemes to the Zanzibar Providers when preparing standard bid documents or request for proposal.

Transparency
and fairness.

8.-(1) A Procuring and Disposing Entity shall maintain adequate written records of all procurement proceedings in which it is involved, and such records shall prescribe bidders who have responded to advertisements or were approached to bid or to submit expression of interest or proposal, the successful bidders, the unsuccessful bidders and the reasons.

Donor funded
procurement.

(2) Subject to sub regulation (1), the records shall be made accessible to any authorised person or body, and part of it, as specified in these Regulations, shall be published in the journal and bids portal.

(3) Without prejudice to sub-regulation (2), information relating to project particulars shall be made available to the general public in a manner and format as shall be prescribed in the guidelines issued by the Authority.

(4) A Procuring and Disposing Entity shall ensure that payments due to bidder are made properly and promptly in accordance with the terms of each procurement contract entered into, the Procuring and Disposing Entity shall ensure that all commitments are recorded before any contract is signed.

Form of
commitment.

Donor funded
procurement.

9.-(1) In dealing with donor funded procurement, the Procuring and Disposing Entity shall observe the provisions of section 96(4) of the Act.

(2) Public Officers shall not seek clearance of bid documents or award recommendations from a foreign government, agency or institution that extended the loan, credit or grant before obtaining internal clearance of the same from appropriate approving authority.

(3) To the extent that the clearance or approval of the appropriate internal approving authority conflicts with the external clearance or approval of an external approving authority arising out of the loan or credit or grant agreement, the clearance or approval of the external approving authority shall prevail.

10.-(1) Subject to the provisions of these Regulations, communication between bidders and a Procuring and Disposing Entity shall be in; Form of communication

- (a) writing; or
- (b) electronic form that provides a record of the content of the communication.

(2) Where communications is made by means of electronic that does not provide a record of the content of the communication, immediately thereafter, shall be confirmed in writing of the communication which provides a record of the confirmation.

(3) The Procuring and Disposing Entity shall not discriminate against or among bidders on the basis of the form in which they transmit or receive documents, notifications, decisions or other communications.

(4) All communications to a Tender Board shall be addressed to the secretary of Tender Board through the postal, physical or electronic means as indicated in bid document.

11.-(1) A bidder may request a clarification of the bidding documents from a Procuring and Disposing Entity, provided that such request is submitted to a Procuring and Disposing Entity at least in the case of: Clarification of bids documents.

- (a) Open International Bidding methods, fourteen days prior to the deadline for the submission of the bids; and

(b) Domestic Competitive Bidding methods, ten days prior to the deadline for the submission of the bids.

(2) The Procuring and Disposing Entity shall communicate in writing to all bidders, within three days from the date of receiving the request for clarification.

Modification
of bid
documents.

12.-(1) Seven days prior to the deadline for submission of bids, the Procuring and Disposing Entity may, for any reason, whether on its own initiative or as a result of a request for clarification by a bidder, modify the bidding documents by issuing an addendum.

(2) The addendum shall be communicated promptly to all bidders to which the Procuring and Disposing Entity has provided the bidding documents and shall be binding on those bidders.

(3) Procuring and Disposing Entity may extend the bid period if deemed necessary.

(4) Where it is decided to extend the submission date, the notice of any extension of the deadline shall be given promptly to bidders to which the Procuring and Disposing Entity provided the bidding documents.

Rules
concerning
documentary
evidence
provided by
bidders.

13. Where a Procuring and Disposing Entity requires the authentication of documentary evidence provided by bidders to demonstrate their qualifications in procurement proceedings, the Procuring and Disposing Entity shall not impose any requirements as to the authentication of the documentary evidence other than those provided for in the relevant written laws.

Record of
procurement
proceedings.

14.-(1) Subject to the provisions of the Act, Procuring and Disposing Entities shall maintain records in the manner prescribed in the guidelines made under these Regulations.

(2) The records under this regulation shall be kept for a period of not less than Seven years from the date of completion of

the contract.

(3) The Procuring and Disposing Entity shall not be liable to bidders for damages owing solely to a failure to maintain a record of the procurement proceedings in accordance with these Regulations.

(4) The Procuring and Disposing Entity shall not disclose information except when ordered by the Authority, or a competent court or other competent Authorities.

15. The Procuring and Disposing Entity shall, within fourteen days from the date of contract award, submit to the Authority a copy of awarded contract.

Submission
of awarded
contract

16. -(1) The Procuring and Disposing Entity may, prior to awarding the contract and notwithstanding the stage reached in the proceedings leading to the conclusion of the contract:

Rejection of
bid

- (a) either decide to reject or annul all bids at any time and order the proceedings be recommenced, if necessary, using another method; or
- (b) where the project is divided into lots, may award only certain lots and recommence the remaining bids, if necessary, using another method.

(2) The rejecting under sub-regulation (1) of this regulation shall be made on either of the following conditions:

- (a) the bid or proposal is not responsive to the bid documents or request for proposals;
- (b) bid or proposal does not satisfy the criteria for the award of the contract as set out in the bid documents or request for proposal;
- (c) the economic or technical data of the project have been altered;

- (d) exceptional circumstances render normal performance of the contract impossible;
- (e) the bids or proposals received contain serious irregularities resulting in interference with the normal play of market forces;
- (f) funds voted or earmarked for the procurement have been withheld, suspended or have otherwise not been made available; or
- (h) lack of competition.

(3) Subject to section 62(3) of the Act, lack of competition shall be determined solely on the basis of the number of bidders or persons who made proposal, the minimum of which is three.

(4) Upon rejection or annulment of any bid, within seven days the Procuring and Disposing Entity shall notify the bidder who submitted bids or proposals.

(5) The Accounting Officer shall inform Authority the reasons of rejection thereto within three working days from the date of rejection.

(6) The Procuring and Disposing Entity shall not incur any liability by rejection of bid or proposal under sub regulation (1) of this regulation.

(7) When the rejection or annulment of all bids is caused by circumstances which do not necessitate the opening of bids, the unopened and sealed envelopes containing the price proposals, where appropriate, and in any event, the other elements of the bid or proposal shall be returned to the bidders.

(8) Where all bids are rejected pursuant to this regulation Procuring and Disposing Entity shall consider:

- (a) revision to identify the causes justifying the rejection and consider whether revision of the specifications or terms of reference or modification in the project or method of procurement or both are required before inviting new bids;
- (b) to re advertise the bid; and
- (c) in case of re advertise bid is not successful, the Tender Board shall opt for another procurement method.

17.-(1) A Procuring and Disposing Entity may reject a bid if it has determined that the evaluated price is abnormally low. Rejection of abnormally low bid.

(2) Before rejecting bid of an abnormally low price, the Procuring and Disposing Entity shall:

- (a) request an explanation of the bid or of those parts which it considers contribute to the bid being abnormally low;
- (b) take account of the evidence provided in response to a request in writing; and
- (c) subsequently verify the bid or parts of the bid being abnormal.

(3) The decision of the Procuring and Disposing Entity to reject a bid in accordance with this regulation and reasons for the decision shall be recorded in the procurement proceedings and promptly communicated to the bidder concerned.

(4) The Accounting officer shall inform the Authority within three working days after rejection of bid under this regulation.

(5) The Procuring and Disposing Entity shall not incur any liability by rejection of bid or proposal under sub regulation (1) of this regulation.

(6) For purposes of this regulation “bid of an abnormally low price” means, in the light of the Procuring and Disposing Entity’s estimate and of all the bids submitted, the bid appears to be abnormally low by not providing a margin for normal levels of profit.

Publication
of General
Procurement
Notice.

18.-(1) A Procuring and Disposing Entity intending to procure goods, works or services shall prepare its General Procurement Notice based on its Annual Procurement Plan and submit it together with its summary to the Paymaster General and the Authority for publication in the Journal and Bids’ Portal.

(2) The summary shall indicate the name of the Procuring and Disposing Entity, the budget for all planned procurement, the number of bids and total estimated values in each category of works, goods, consultancy services, and non-consultancy services and where the full bid details should be obtained.

(3) A Procuring and Disposing Entity shall publish General Procurement Notice in the Newspapers and in the Bids’ Portal within twenty-eight days from the date of budget approval as prescribed in the guidelines made under this regulation.

(4) Any revisions made by the Procuring and Disposing Entity to the General Procurement Notice shall be posted in the Newspapers or, Journal and Bids Portal.

Publication
of Specific
Procurement
Notice.

19.-(1) Procuring and disposing entities shall prepare a bid notice for domestic and international bids and submit the same to the Authority for publication in the Journal and Bids Portal.

(2) Subject to sub-regulation (1), procuring and disposing entities shall advertise each approved bid notice in accordance with

the First Schedule to these Regulations.

(3) In the case of international bidding, procuring and disposing entities may publish a similar notice in appropriate foreign or international publications or professional or trade journals which are likely to be seen by the greatest number of potential bidders.

20.-(1) A Procuring and Disposing Entity shall submit contract award information in respect of all contracts relating to Tender Board to the Authority within fourteen days from the date of award for publication in the Journal and Bids Portal.

Publication of
Procurement
awards and
contract
execution.

(2) Subject to sub-regulation (1), the contract award information shall be in a prescribed form issued by the Authority and shall contain the:

- (a) names of participants of the bid in question;
- (b) read out bid price;
- (c) reasons for those eliminated in the bid;
- (d) name of the winner of the bid and the contract amount;
- (e) date when the award was made; and
- (f) contract period.

(3) After completion of the contract, the Accounting officer shall, within twenty one days from the date of completion of the contract, provide the Authority with complete information on contract implementation including the original contract period, the final contract period, original approved contract sum and the final contract amount paid to the bidder, and any deductions made by the Procuring and Disposing Entity.

Fee for
services
rendered
by the
Authority.

21.-(1) The Authority shall charge fees for services rendered from time to time as prescribed in the Second Schedule to these Regulations.

(2) The Minister may amend the Schedule of fee structure for services rendered to procurement's stakeholders.

Rules
concerning
pre-
qualification.

22.-(1) Any terms, specifications, plans, drawings and designs prescribing the:

- (a) technical or quality characteristics of the goods, works or services to be procured;
- (b) requirements concerning testing and test methods, packaging, marking or labelling or conformity certification;
- (c) symbols and terminology; or
- (d) description of services that create obstacles to participation, including obstacles based on nationality of bidders in the procurement proceedings, shall not be included or used in the pre-qualification documents, bidding documents or other documents for bidding of bids.

(2) Any terms, specifications, plans, drawings, designs and requirements or descriptions of goods, construction or services shall be based on the relevant objective, technical and quality characteristics of the goods, construction or services to be procured and no reference to a particular trade mark, name, patent, design, type, specific origin or producer shall be issued.

(3) Where no other sufficiently, precise or intangible way of describing the characteristics of the goods, works or services to be procured is provided, the words "or equivalent" shall be used.

(4) Standardized features, requirements, symbols and terminology relating to the technical and quality characteristics of the goods, works or services to be procured shall be used, where available, in formulating any statement of requirements, specifications, plans, drawings and designs to be included in the pre-qualification documents, bidding documents or other documents for bidding of proposals, offers or quotations.

(5) Due regard shall be made for the use of standardized trade terms, where available, in formulating the terms and conditions of the procurement contract to be entered into as a result of the procurement proceedings and in formulating other relevant aspects of the pre-qualification documents, bidding documents or other documents for bidding of bids.

23.-(1) Where the Procuring and Disposing Entity requires bidders to provide a bid security: Bid Security or bid securing declaration.

- (a) the requirement shall apply to all bidders;
- (b) the bidding documents shall stipulate that the issuer of the bid security, the form and terms of the bid security have to be acceptable to the Procuring and Disposing Entity;
- (c) the confirmation of the acceptability of a proposed issuer does not preclude the Procuring and Disposing Entity from rejecting the bid security if it appears that, the issuer has become insolvent or other reasonable grounds determined by Procuring and Disposing Entity.

(2) Notwithstanding the provision of sub-regulation (1) (b) and unless the acceptance by the Procuring and Disposing Entity of a bid security would be in violation of laws of Zanzibar, a Procuring and Disposing Entity shall not reject a bid security on the grounds

that the bid security was not issued by an issuer in Zanzibar if the bid security and the issuer otherwise conform to the requirements prescribed in the bidding documents.

(3) Bidder may request the Procuring and Disposing Entity to confirm the acceptability of a proposed issuer of a bid security, or of a proposed confirmer and the Procuring and Disposing Entity shall respond promptly to such request.

(4) The bid security or bid securing declaration shall be in accordance with the form of the bid security or bid securing declaration included in the bidding documents as prescribed in the Fifth Schedule of these Regulations.

(5) The bid security shall be in the form of a banker's cheque, a bank guarantee from a reputable bank, bid securing declaration or other form acceptable by the law.

(6) The Procuring and Disposing Entity shall specify, in the bidding documents, any requirements with respect to the issuer and the nature, form, amount and other principal terms and conditions of the required bid security.

(7) The Procuring and Disposing Entity may confirm the bid security by issuer during the evaluation process.

Validity
of bid
security or
declaration.

24. The bid security or bid securing declaration shall remain valid for a period of not less than twenty eight days beyond the validity period of the bid, in order to provide the Procuring and Disposing Entity time to act if the security is called for.

Release of bid
security for
unsuccessful
bidders.

25. The bid securities of unsuccessful bidders shall be released after signing the contract to the successful bidder.

Discharge of
bid security or
bid securing
declaration.

26. The bid security or bid securing declaration of the successful bidder shall be discharged when the bidder has signed the contract.

27. Bid securing declaration shall apply for procurement of the value which does not exceed the threshold for Open Quotation in the forms as provided under Fifth Schedules to these Regulations.

Application of
bid securing
declaration.

28. The Procuring and Disposing Entity shall make no claim to the amount of the bid security, and shall promptly return the bid security, after whichever of the following that occurs earliest:

Procuring and
Disposing
Entity not
claim amount
to bid security

- (a) the expiry of the bid security;
- (b) the entry into force of a procurement contract and the provision of a security for the performance of the contract if such a security is required by the bidding documents;
- (c) the rejection by the Procuring and Disposing Entity of all bids pursuant to these Regulations; or
- (d) the withdrawal of the bid before the deadline for the submission of bids, unless the bidding documents stipulate that no such withdrawal is permitted.

29.-(1) The Procuring and Disposing Entity shall require the successful bidder to submit a performance security to guarantee the faithful performance of the contract in a form as prescribed in the Fifth Schedule of these Regulations.

Performance
security.

(2) The Procuring and Disposing Entity shall specify in the bidding documents any requirements with respect to the issuer and the nature, form, amount and other principal terms and conditions of the required performance security.

(3) Within a period prescribed in the bid documents, the successful bidder shall, after receipt of the letter of acceptance, furnish the Procuring and Disposing Entity with the performance security in accordance with conditions of contract and in the form prescribed in the bid documents.

(4) The Procuring and Disposing Entity may require the successful bidder to submit the performance security in any of the following forms:

- (a) certified banker's cheque;
 - (b) bank guarantee confirmed by a reputable local bank or, in the case of a successful foreign bidder, bonded by a foreign bank;
 - (c) irrevocable letter of credit issued by a reputable commercial bank or in the case of an irrevocable letter of credit issued by a foreign bank, the letter shall be confirmed or authenticated by a reputable local bank;
 - (d) surety bond callable upon demand issued by any reputable surety or insurance company; or
- any other forms acceptable by Procuring and Disposing Entity.

(5) Where circumstances necessitate the amendment of the contract after signing, and such amendment is effected, the Procuring and Disposing Entity shall require the successful bidder or consultant to provide additional performance security to cover any cumulative increase of more than ten percent of the contract price.

(6) The performance security shall be kept by the Procuring and Disposing Entity until the final completion of the contract and shall be released after issuance of the certificate of acceptance of the final report or certificate of completion of works or services if there is no claim filed against the bidder, contract guarantor or the surety company.

Preference
schemes.

30.-(1) Subject to the section 44 of the Act, the Procuring and Disposing Entity shall apply procedures of formula for preference schemes as prescribed in the guidelines issued by the Authority.

(2) The margin of preference shall only be applied in the cost comparison of the submitted bids and the calculation of the margin of preference in the course of evaluating bids, and shall, in addition, be in accordance with the conditions and methods prescribed under sub regulation (1) of this regulation.

(3) Authority shall issue guidelines for procedures of formula and selection on preference scheme.

31.-(1) Procuring and Disposing Entity may reserve works, goods, consultancy or non -consultancy services with a value not exceeding the amount prescribed in the guideline issued under this regulation for reservation schemes. Preferences to local communities.

(2) Bid securities shall not be required from bidders participating in the reservation scheme.

(3) Notwithstanding sub-regulation (2), of this Regulation, bidders shall be required to complete and sign the Bid Securing Declaration Form.

(4) A Procuring and Disposing Entity may, for the purpose of ensuring maximum participation of Zanzibar providers in public procurement, split bids in practicable size and quantities.

(5) A Procuring and Disposing Entity shall divide a bid into several lots of the same size and invite firms to bid for a single or several lots, but shall limit the award of contract to a number of lots that will allow many firms to participate.

(6) The size of the packages shall depend on the capability of Zanzibar providers targeted to benefit from the exercise.

(7) A Procuring and Disposing Entity shall submit to the Authority details of the bid that is targeted for splitting, and the Authority shall, within seven days, give its approval to the Procuring

and Disposing Entity to proceed with the bid process.

Capacity
building of
Zanzibar
providers.

32.-(1) The Authority shall be responsible for the capacity building for the Zanzibar providers.

(2) Where individual firms lack the capacity to execute the contracts, the firms may form joint ventures with a view to enhancing their capacity.

(3) Reserved contracts for capacity building shall not be subjected to competitive bidding and in such case then Procuring and Disposing Entity shall use negotiated procurement methods stipulated in the guidelines made under these regulations.

(4) The relevant statutory bodies shall ensure that necessary support is provided to the Zanzibar providers involved in the capacity building scheme to enable them perform in accordance with the terms of contract.

Timely payment
of certificates
or invoices.

33.-(1) For the purposes of supporting the growth of Zanzibar providers and enabling such firms to meet their contractual obligations, procuring and disposing entities shall ensure that timely payments are made to the bidders.

(2) A Procuring and Disposing Entity shall, before signing a contract under the preference or reservation scheme, ensure that commitments are recorded as stipulated in regulation 8(4) of these Regulations.

Monitoring
of
Compliance.

34.-(1) Application of the preference or reservation schemes by procuring and disposing entities shall be monitored by the Authority through procurement audits.

(2) All procurement awards by procuring and disposing entities where preference or reservation schemes was applied shall be reported to the Authority.

(3) The Authority shall maintain a database of all contract awards under preference or reservation schemes and shall publish it in the Journal and Bid Portal.

35.-(1) Subject to the provisions of the Act and these Regulations, an Accounting officer may:

Delegation
and
contracting
out
procurement
functions.

- (a) delegate certain procurement functions of the Accounting officer to a staff of that entity;
- (b) delegate certain procurement functions of the Tender Board or Procurement and Disposal Management Unit to a sub-division of that entity; and
- (c) contract out certain procurement functions of the Tender Board, Procurement and Disposal Management Unit or user department to another Procuring and Disposing Entity.

(2) Delegation of functions referred to under paragraphs (a) and (b) of sub-regulation (1) shall be within the Procuring and Disposing Entity and contracting out of functions referred to under paragraphs (c) of sub-regulation (1) shall be made to another Procuring and Disposing Entity.

(3) Notwithstanding delegation under sub-regulation (1), the Accounting officer shall remain accountable for all decisions taken under the delegated authority.

(4) Where a function is delegated or contracted out, an Accounting officer shall ensure the independence of functions and powers in accordance with section 33 of the Act.

(5) A function may be delegated or contracted out where it is cost effective because of the work load or nature of work or lack of technical capacity or where the structure of the Procuring and

Disposing Entity does not allow the formation of the Tender Board or a procurement management unit.

(6) Delegation shall not be used for the purpose of avoiding responsibilities and accountability under the Act, these Regulations or guidelines issued under the Act.

(7) A person to whom a procurement function is delegated or a firm or Procuring and Disposing Entity to which the procurement functions has been contracted out shall, at all times, comply with the Act, these Regulations, guidelines issued under the Act and any conditions of the delegation or contracting.

Delegation
of the
Accounting
Officer own
functions.

36.-(1) An Accounting officer may delegate functions in writing to the competent staff of his Procuring and Disposing Entity except for the following functions:

- (a) establishment of and appointment of members of a Tender Board;
- (b) establishment of a procurement and disposal management unit;
- (c) investigation of a complaint by a bidder; and
- (d) submission of reports of findings in respect of complaints to the Authority.

(2) Where the functions of Accounting officer of a Procuring and Disposing Entity are delegated to a member of Tender Board or a staff of a procurement management unit, such member or staff, as the case may be, shall not be involved in the activities of the respective Tender Board or Procurement and Disposal Management Unit while exercising the delegated authority.

(3) An Accounting officer shall not appoint a person to a Tender Board if he delegates to that person his functions on a regular basis.

37.-(1) An Accounting officer may delegate any procurement functions of the Tender Board or Procurement and Disposal Management Unit to a sub-division of the Procuring and Disposing Entity subject to any value limitations or other exceptions where:

Delegations of the functions of Tender Boards or Procurement and Disposal Management Unit.

- (a) the Procuring and Disposing Entity has a large procurement workload which would be more effectively managed by the sub-division;
- (b) the Procuring and Disposing Entity has a specialized procurement workload which would be more effectively managed by the sub-division;
- (c) the sub-division is geographically distant from the head office of the Procuring and Disposing Entity and a delegation would reduce practical and logistical problems or reduce costs;
- (d) the sub-division operates in practical terms as an independent entity and would operate more effectively under delegated authority; and
- (e) any other reasonable circumstances arises.

(2) Where an Accounting officer delegates to a subdivision, he shall:

- (a) appoint a delegated Tender Board for the respective sub-division; and
- (b) cause to be established a delegated Procurement and Disposal Management Unit for the respective sub-division.

(3) When procurement functions are delegated to a sub-division of the Procuring and Disposing Entity, the Tender Board and

Procurement and Disposal Management Unit of the Procuring and Disposing Entity shall:

- (a) ensure the process is in compliance to the provisions of the Act and remain responsible for work and decisions of the bodies to whom the procurement function by bid is delegated;
- (b) submit consolidated reports covering all the procurement activities of the Procuring and Disposing Entity to the Authority or any other body;
- (c) liaise with the Authority or any other body on behalf of the body to whom the procurement functions are delegated; and
- (d) advise the body to whom the procurement functions are delegated.

(4) A delegated Tender Board and Procurement and Disposal Management Unit shall:

- (a) submit such reports to the main Tender Board of the Procuring and Disposing Entity as may be required;
 - (b) give a copy of the minutes of all its meetings to the main Tender Board of the Procuring and Disposing Entity;
 - (c) seek advice from the main Tender Board and Procurement and Disposal Management Unit on all matters relating to public procurement;
 - (d) request the main Tender Board and Procurement and Disposal Management Unit to act on its behalf on matters requiring liaison with the Authority or any other body.
- (5) An Accounting officer shall not delegate any of the

following functions of Procurement and Disposal Management Unit to a sub-division of the Procuring and Disposing Entity:

- (a) preparing reports required for submission to the Tender Board or Accounting officer;
- (b) providing overall guidance on procurement development within the Procuring and Disposing Entity;
- (c) making recommendations to the Accounting officer in respect to delegation of functions;
- (d) coordinating the procurement activities of all the departments of the Procuring and Disposing Entity;
- (e) maintaining a list or register of all awarded contracts;
- (f) planning and managing all procurement process of the Procuring and Disposing Entity.

(6) An Accounting officer may revoke the delegation of the authority through written instructions to the holder of the delegated function in the case:

- (a) the holder of the delegated functions is not complying with the Act, these Regulations, guidelines made under the Act and conditions of the delegation;
- (b) the circumstances prompting the delegation have changed;
- (c) a malpractice is alleged, proved or suspected; or
- (d) of any other justifiable reason.

Procurement
procedures of
the Authority
and
Appointment
of the
Agent.

38.-(1) Subject to the section 25(2) of the Act, the agent shall undertake any or all of those procurement activities which would otherwise be carried out by the Authority.

(2) The agent shall:

- (a) consult and advise user department of the Authority on appropriate procurement methods;
- (b) prepare:
 - (i) a statement of requirements or terms of reference;
 - (ii) bidding documents and any clarifications or amendments;
 - (iii) contract documents;
 - (iv) contract amendments;
 - (v) receiving bids;
 - (vi) coordinating bid openings; and
 - (vii) managing the bid evaluation process.

(3) Agent may, contract out the following contract management functions:

- (a) administering and managing contracts;
- (b) reporting to the Procurement and Disposal Management Unit any departure from the terms and conditions of the awarded contract;
- (c) preparing change orders in accordance with the terms and conditions of the contract; or

- (d) certifying invoices for payment to consultants.

(4) Without prejudice provisions of this regulation, the Authority shall exercise powers and functions conferred under the Act.

(5) The Agent shall, on behalf of the Authority, comply with the procurement procedures prescribed in these Regulations including the use of standard bid documents and guidelines issued by the Authority.

(6) Where the procurement or contract management function is contracted out to an Agent, the Accounting officer and the Agent shall agree and specify the following:

- (a) type of requirements or projects to be subject of the contract;
- (b) the mechanism for implementation of a procurement or contract management functions;
- (c) the mechanism for reporting, monitoring procedures and responsibilities;
- (d) any limitations or exceptions to the contract; and
- (e) the payment conditions for any costs involved.

(7) An agreement for contracting out shall be confirmed in writing and signed by the Accounting officers of a Procuring and Disposing Entity and the procurement agent or their duly authorized representatives.

(8) An Agent shall not contract out both the procurement functions and the contract management functions to the same Procuring and Disposing Entity where potential conflict of interest is likely to arise.

Disagreements between the Procurement and Disposal Management Unit and the User department.

39. Where a Procurement and Disposal Management Unit disagrees with the User Department concerning any decision pertaining to the application or interpretation of any procurement method, process or practice, the two parties may jointly consult Accounting officer for guidance in resolving the disagreement.

Disagreements between the Procurement and Disposal Management Unit and the Evaluation Committee.

40.- (1) Where the evaluation and preparation of the report is not conducted in accordance with evaluation guidelines, the Procurement and Disposal Management Unit shall return the evaluation report to the Evaluation Committee for re-evaluation.

(2) Where the re-evaluation fails to resolve the disagreement or, where Procurement and Disposal Management Unit disagrees with the Evaluation Committee on any other matter pertaining to the evaluation report, the procuring and disposing management unit shall refer the matter to the Tender Board for decision.

Disagreements between the Tender Board and the Procurement and Disposal Management Unit.

41.-(1) Where a Tender Board disagrees with the recommendations of the procurement and disposal management unit, the Tender Board shall return the submission to the procurement and disposal management unit for review and shall, in addition, give reasons, in writing, for such decision.

(2) Where the Tender Board is dissatisfied with an outcome of the review, the Tender Board shall refer the matter to the Accounting officer for directive.

(3) All directives of Accounting officer in respect of sub regulation (2) of this Regulation shall be communicated to the Authority.

Disagreement between the Accounting Officer and the Tender Board.

42. Where the Accounting officer disagrees with the decision of the Tender Board regarding application or interpretation of any procurement method, process or practice by bid under these Regulations, the Accounting officer shall:

- (a) return the decision to the Tender Board for review giving written reasons for the dissatisfaction; and
- (b) where the Accounting officer is not satisfied with the outcome of the review, request for an independent review by the Authority stating the reasons for disagreement.
- (c) the Authority shall review the request from Accounting officer and issue the final decision for their differences.

43.-(1) Any procurement by a Procuring and Disposing Entity shall be authorised by an Accounting officer. Approval of procurement.

(2) The Procurement and Disposal Management Unit shall, before inviting bids, furnish to the Tender Board for its approval:

- (a) the invitation letter to bid;
- (b) bidding document including specifications or the expression of interest and terms of reference, other bid or proposal;
- (c) draft contract documents together with a description of the advertising procedure to be followed for the bid or proposal;
- (d) bill of quantities, drawings and any other solicitation documents.

(3) The procurement and disposal management Unit shall make such modifications in the said documents or procedures as the Tender Board shall direct.

(4) Any further modification of the bid or proposal documents shall require the Tender Board's approval before it is issued to the prospective bidders.

(5) Where bids are received and evaluated, the procurement and disposal management unit shall furnish to the Tender Board, within fourteen days, a detailed report on the evaluation and comparison of the bids or proposals received together with the recommendations for award and such information as the Tender Board may request.

Bid
opening.

44.-(1) The opening ceremony shall be conducted on the same day, not exceeding thirty minutes after bids submission deadline.

(2) The bid shall be opened publicly by the Tender board and may be witness by bidder or representative of the bidder and an invitee who choose to attend the opening ceremony.

(3) Notwithstanding section 28(1)(a) of the Act, the Tender Board may delegate it's functions where the quorum is not formed.

(4) The delegation under sub regulation (3) of this regulation, shall be made as follows:

(a) where a Tender Board member is present:

- (i) a member of Tender Board shall be a chairperson;
- (ii) not more than two staff from the Procurement and Disposal Management Unit one of whom shall be secretary;
- (iii) one co-opted member from any user department within a procuring entity;
- (iv) the Bidders or their representatives.

(b) where no Tender Board member is present:

- (i) one co-opted member from any user department within a procuring entity who shall be a chairperson;

(ii) two members from Procurement and Disposal Management Unit one of whom shall be secretary;

(iii) the Bidders or their representatives.

(5) During the opening ceremony the following items of the bid shall be read out loudly:

- (a) full names and address of the bidder;
- (b) bid price;
- (c) bid security and its amount;
- (d) bid valid period; and
- (e) any other items cited by Procuring and Disposing Entity.

(6) The bid form, bill of quantities or price schedules shall be signed by both representatives of the Procurement and Disposal Entity and Bidders attending bid opening.

(7) No any other agenda shall be discussed after opening ceremony made under sub regulations (3) and (4) of this regulation.

45.-(1) Bid documents shall be issued with the approval of the appropriate Tender Board, which shall examine the draft bid documents before approving the issue of the bid. Approval by
Tender Boards.

(2) A Tender Board shall establish a time and place for submission of bids which shall be specified in the bid documents.

(3) The Tender Board shall review the evaluation and recommendation submitted by the Procurement and Disposal Management Unit and may either:

- (a) approve the recommendation;
- (b) recommend award of contract to Accounting officer; or
- (c) refuse to authorise recommendation for award of the bids and refer the evaluation back to the Procurement and Disposal Management Unit with the reasons for re-evaluation of the bids, re-bidding or other action.

Approval
through
circular
resolution

46.-(1) A decision of the Tender Board may be made through a circular resolution without convening a meeting pursuant to the guidelines issued by the Authority.

(2) For purpose of this regulation, “a circular resolution” means issuance of the Tender Board’s decision without a meeting by circulation of the relevant documents among members of the Tender Board for approval, and the expression of the views of the majority in writing.

(3) Half of the members of the Tender Board shall form a quorum of the decision of the Tender Board through circular resolution.

(4) Notwithstanding sub-regulation (1), any member of a Tender Board is entitled to require the decision be deferred and the subject matter be considered at a meeting of the Tender Board.

(5) Notwithstanding sub-regulation (1) circular resolution shall not apply to-

- (a) approval of evaluation report and award recommendation;
- (b) receiving and opening of bids; or
- (c) Approving of procurement plan and methods.

47.-(1) Any agreement relating to procurement whose value is above minor in accordance with the procurement methods or threshold shall be ratified by the Office of Attorney-General before being signed by the parties. Ratification by the Attorney General.

(2) The Accounting officer shall, within seven (7) days after awarding decision, submit to the Attorney General the draft contract for ratification.

(3) The Attorney General shall, within fourteen (14) days upon receiving the draft contract from the Accounting officer, ratify the draft contract and provide comments to the Accounting officer, if any.

(4) The Accounting officer shall, upon receiving the comments on the draft contract from the Attorney General, incorporate them in the draft contract.

48.-(1) Any agreement arising out of the acceptance of bid shall be vetted by a legal officer of a Procuring and Disposing Entity before being sent to Attorney General. Vetting by Procuring and Disposing Entity.

(2) Without prejudice sub regulation (1), the agreements whose value is minor shall be vetted and ratified by the legal Officer of the Procuring and Disposing Entity respectively.

49.-(1) Any amendment to the contract that may change the original terms and conditions of such contract shall be prepared by the Procuring and Disposing Management Unit in consultation with the user department before submitting to the Tender Board for approval. Contract alteration and amendment.

(2) A contract amendment shall not be issued to a bidder prior to:

(a) obtaining approval from a Tender Board;

(b) obtaining approval from Accounting officer and commitment of the full amount of funding of the amended contract price over the required period of the revised contract; and

(c) obtaining approval from the Attorney General.

(3) A contract amendments for additional quantities of the same items shall use the same unit prices as the original contract.

(4) A contract amendments shall not increase the total contract price by more than fifteen percent of the original contract price without approval of Paymaster General or appropriate budgetary approving authority.

(5) Subject to sub regulation (4) of this regulation a copy of the contract amended and approval from Paymaster General shall be served to the Authority.

Validity of
procurement
authorisation.

50.-(1) Where an approval to award a contract is issued but the Procuring and Disposing Entity is unable to conclude the contract, the approval given shall be valid for ninety days and the Procuring and Disposing Entity may, after ensuring that the value of the product or the scope of service or works is not varied significantly with the original submission, extend the validity period for ninety days without changing the terms and conditions of the original contract.

(2) The provision of sub-regulation (1) shall apply where the approved bidder has:

(a) agreed to extend the bid validity period; and

(b) not been notified of the award of contract.

(3) Where the approval granted by a Tender Board expires and the approved bidder has not been notified of the award of contract:

- (a) all bids or proposals received shall be rejected; and
- (b) the procurement proceedings shall be annulled and new bids or proposals shall be invited from at least all who submitted bids or proposals in the first instance and the new ones.

51.-(1) Subject to the provisions of the Act, where there is situation arise for the emergency procurement of any goods, services or works, the Accounting officer shall:

Emergency
Procurement
under
impracticable
application.

- (a) evaluate the needs for the emergency procurement and decide the preferred procurement method in order to guarantee economy and efficiency;
- (b) ensure the criteria prescribed under section 67 of the Act are complied with;
- (c) identify, specify and prioritize the immediate procurement activities which may be used in the period of the emergency;
- (d) where possible, identify other government bodies that can provide immediate assistance; and
- (e) specify the timeframe within which the emergency procurement will be undertaken.

(2) In a situation where an application for approval for emergency procurement is impracticable, the Accounting officer may proceed with the emergency procurement in accordance with the chosen procurement method and shall immediately report to the Paymaster General and the Authority.

(3) Upon receipt of the report from the Accounting officer, the Paymaster General shall appoint an advisory technical committee to analyse the reasons for the emergency

(4) Within seven days from the date of the appointment, the advisory technical committee in collaboration with the Department responsible for government assets management or where necessary, with any other competent body, shall prepare a report and advise the Paymaster General on the appropriateness of that emergency procurement.

(5) After consideration of report under sub regulation (4) of this regulation, the Paymaster General may approve retrospectively.

(6) Where Paymaster General does not approve, consequences under section 67(2) of the Act shall prevail.

Emergency
Procurement
under
practicable
application.

52.-(1) In the situation where an application for approval for emergency procurement is practicable, the Accounting officer shall submit to the Paymaster General an application before proceeding with the emergency procurement in accordance with the chosen procurement method.

(2) After receiving an application from the Accounting officer pursuant to sub regulation (1), the Paymaster General shall consider the merits of the application and grant approval in writing within three days.

(3) Once the approval is obtained, the Accounting officer shall proceed to procure the goods, works or services in accordance with the procurement method as prescribed in the guidelines made under this regulation.

Report on
Emergency
Procurement.

53. The Accounting officer shall, within fourteen days after completion of the procurement process, prepare and submit a report on emergency procurement to the Paymaster General, Tender Board and the Authority.

Prohibition to
Tender Board

54. A Tender Board shall not grant approval for any emergency procurement.

55.-(1) In considering how a project may be carried out, account shall be taken of the advantage, for economic and technical reasons, of dividing the project into homogeneous lots or packages which are as large as possible.

Procedures for
submitting bid
for packages
or lots.

(2) Where procurement is divided into packages, the size of the package should be appropriate so as to foster maximum competition and obtaining the most economic contract.

(3) Where similar items of equipment are to be procured for several sub-components in a project or for several projects, it may be convenient to combine them all into one procurement package in order to achieve economies of scale.

(4) Where a project is divided into lots or packages, the instructions to bidders shall state:

- (a) the number of lots or packages;
- (b) the nature, location and size of each lot; and
- (c) where appropriate, the minimum and maximum number of lots or packages for which a bidder may bid.

(5) The procedure for submitting a bid for package bids shall be as follows:

- (a) bidder may submit a bid for each lot or package;
- (b) unless the instructions to bidders provide otherwise, a bidder may include, in his bid, the overall rebate he would grant in the event of amalgamation on some or all of the lots or packages for which he has submitted individual bids;
- (c) unless the instructions to bidders state that lots or

packages apportioned to the same bidder shall form a single contract, each lot shall form a separate contract;

- (d) where lots or packages are to be apportioned to different bidders, the invitation to bid document or the instructions to bidders may provide that the bidder for a particular lot or packages shall ensure the coordination of the execution of all the lots or packages.

(6) For purposes of maximising participation in such bids, bidders may be permitted to submit bid in separate lots but required to bid for all items in a lot, or individual contracts or a combination of contracts for works or services.

Aggregation
of
requirements

56.-(1) For the purposes of maximizing economy and efficiency procurement, similar, related nature or pool assets combined into a single bid or number of bids of a size and type that may be likely to attract a reasonable number of bidders if such grouping is practicable and may not cause unreasonable delay in the procurement process.

(2) Where several services to be procured require coordination or collective responsibility of the consultants, a Procuring and Disposing Entity shall group these services and seek to employ a single consultant for the performance of those services.

Prohibition of
splitting bids.

57.-(1) A Procuring and Disposing Entity shall not divide its procurement into separate bids for the purpose of avoiding domestic or Open International Bidding or quotation.

(2) The Accounting officer of a Procuring and Disposing Entity proved to have divided its procurement in contravention of sub-regulation (1) shall be personally liable.

(3) Notwithstanding the provisions of sub-regulations (1) and (2) of this regulation, a Procuring and Disposing Entity shall be allowed, with prior approval of the Authority, to split contracts to

enable participation of Zanzibar providers or persons.

58.-(1) The contract period allowed shall be a realistic assessment of the time in which a reasonable bidder could be expected to complete delivery of the goods, complete the works, or complete providing the services, having regard to the desired completion date and the locality. Establishment of contract period.

(2) Where the circumstances dictate a shorter than desirable contract period, the prospective bidders shall be notified of this requirement in the documents.

(3) For particular types of contracts and particular weather conditions, sufficient time shall be allowed for seasonal changes.

59. Subject to section 43 of the Act, where by Procuring and Disposing Entity enters into a contract that extends over several years, an allocation of funds may be issued annually so that the total amount issued does not exceed the contract price. Commitment of funds.

60.-(1) Procuring and Disposing entities, bidders and Public officers shall proceed in a transparent and accountable manner during the procurement process and execution of contracts. Fraud and corruption

(2) A Procuring and Disposing Entity and a bidder shall, in any bid for public contracts, not engage in fraud or corruption including bribery in competing for and executing a contract as per memorandum provided in the Third Schedule to these Regulations and shall abide with the laws of Zanzibar.

61.-(1) Subject to the provision of section 89 of the Act, no person, whether such person has made a submission or not, with intent to gaining any advantage or concession for himself or any other person shall: Code of conduct and declaration of compliance.

- (a) offer any member or 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, 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) A member of the Tender Board or its committee or any Public officer or any other Government Authorities shall not accept a gratuity in any form, any offer of employment or any other thing services or value at an inducement with respect to any act or decision by the Tender Board or by other approving Authority in connection with any Authority approving procurement proceeding or bid, and Procuring and Disposing Entity or by the approving Authority in connexion with any procurement or bid; and a Tender Board shall promptly reject a bid of any supplier, contractor or consultant who give, agree to give or offers, directly or indirectly, any such inducement.

General
notices and
recording
of disclosure
information.

62. General notice given in writing to the Accounting officer, in case of an employee of the Procuring and Disposing Entity to the effect that he or his spouse is a member or is in the employment of a specified company or other body, or that he or his spouse is a partner or in the employment of a specified person, shall, unless the notice is withdrawn, be considered to be a sufficient disclosure of his interest in any contract, proposed contract or other matter relating to that company or other body, or to that person which may be the subject of consideration after the date of the notice.

Tampering
with
submitted
bids.

63.-(1) A person shall not-

- (a) open an envelope or other container in which a bid is contained, other than in the due and proper execution of

his duties under the Act and these Regulations;

- (b) burn, tear or otherwise destroy any bid; or
- (c) erase or do any other act which falsifies or renders incomplete or misleading any bid.

(2) A person who is proved to have contravened sub-regulation (1) shall be personally liable in accordance with the Act and these Regulations.

64.-(1) The Procuring and Disposing Entities shall submit to the Authority annual procurement plans, information on bid notices, invitations for quotations, request for proposals, contract award, contract termination and quarterly and annual procurement implementation reports in the prescribed format and through systems developed by the Authority. Continuous monitoring.

(2) Procuring and Disposing Entities shall submit to the Authority-

- (a) annual procurement plans not later than fourteen days after their approval by appropriate budget approving authorities;
- (b) information on bid, quotation invitations and request for proposals within seven days after the invitation or request;
- (c) quarterly procurement implementation reports within seven days after the end of the respective month or quarter; and
- (d) Annual Procurement Implementation Reports within thirty days after the end of the respective financial year.

(3) The Accounting officer shall:

- (a) not later than seven days after the award of contract resulting from direct or single source method, submit a detailed report to the Authority of the procurement process in the format prescribed by the Authority;
- (b) within thirty days from the date of award, notify the Authority the name of the person or body to whom the contract is awarded, the amount of bid or proposal and the date on which the award was made;
- (c) inform the Authority, not later than fourteen days from the date of terminating any contract, giving details of measures taken by the Procuring and Disposing Entity before terminating the contract;

Procurement,
contract and
performance
audits.

65.-(1) The procedure and criteria for conducting procurement audit shall be prescribed in the audit manual issued by the Authority.

(2) The Authority in each financial year shall conduct procurement audit to all Procuring and Disposing Entities.

(3) Before the audit, the Authority shall inform the relevant Procuring and Disposing Entity on the intention, objectives and compliance indicators to be used for the audit.

(4) For the purpose of enabling the Authority to efficiently carry out the audit, Procuring and Disposing Entities shall make available all the documents required for the audit in a timely manner.

(5) For ease of procurement information retrieval, Procuring and Disposing Entities shall be required to keep procurement records in a proper manner as prescribed in the Procurement Records Guideline prepared by the Authority.

(6) Upon completion of the audit and before issuing the final

audit report, the Authority shall submit, in writing, the audit findings to the audited Procuring and Disposing Entity.

(7) A Procuring and Disposing Entity shall submit to the Authority detailed responses to the audit findings within fourteen days of receiving the audit findings.

(8) After receiving responses from Procuring and Disposing Entity, the Authority shall prepare and submit the report to the Board for the deliberation.

(9) After deliberation, the Board shall direct the Management to prepare final report and submit it to the Minister and Controller and Auditor General.

(10) In case of audit findings revealing any suspicious fraud, misrepresentation, malpractice as the case maybe, the Minister shall immediately either report such matter to the Institution dealing with anticorruption or to the Minister responsible for Public Services.

66.-(1) The Authority shall on its initiatives or by application made by any person or competent authority, shall conduct investigation on any matter that it considers necessary or desirable as stipulated in the Act. Procurement investigation

(2) Any person or competent authority may submit to the Authority a request to carry out investigation on any procurement proceeding where it is satisfied with the implementation of any procurement in the organization.

(3) Subject to the provisions of the Act, the Authority may require any Public officer or member of a public body or any other person, who, in its opinion, is able to give any assistance in relation to the investigation of any matter, to furnish information or produce any document under his control and such information shall be submitted within seven days from the date of the request.

(4) In the course of, or after conducting an investigation, or procurement, contract and performance audit, the Authority may cooperate with the law enforcement organs, and for that purpose the Authority may establish a mechanism for sharing of information relating to the investigation on procurement proceedings, contract and performance audit, or enforcing the findings.

Actions to be taken in the course of monitoring procurement activities.

67.-(1) Subject to section 7 of the Act, the Authority shall, after conducting an investigation or procurement, contract and performance audit, produce a written report containing its findings and recommendations to the competent authority.

Response and implementation of Authority's recommendations.

68. The competent authority shall respond in writing to the recommendations of the Authority within fourteen days from the date of receipt of the recommendations indicating the actions to be taken and shall, in addition, prepare and submit to the Authority a report on implementation status within two months from the date of receiving the recommendations.

Procedures for debarment.

69.-(1) A person who wishes to submit a proposal for debarment of a bidder to the Authority shall do so immediately after becoming aware of the circumstances or grounds which give rise to the debarment.

(2) Where a procurement proceeding is in progress, a proposal for debarment may include a recommendation that the potential bidder be suspended from participating in procurement pending the determination of debarment proposal.

(3) A recommendation for debarment as a result of audit or investigation by the Authority or a debarment proposal submitted pursuant to sub-regulation (1) shall specify:

- (a) the name and address of the potential bidder recommended for debarment;

- (b) the grounds for the proposed action;
- (c) factual record which include all evidences, information and documents; and
- (d) any other information or documents in the possession of, or known to, the person submitting the debarment proposal.

70. Where a bidder is debarred from participating in public procurement on grounds specified under Section 90 of the Act, the period of debarment shall be determined by the Authority under the guidelines made under this regulation. Period for debarment.

71.-(1) Where the Authority determines that there are grounds for debarment on the basis of the produced information, documents and evidences, the Authority shall, within twenty one days from the date of receiving the evidence, issue to the respective bidder a notice of debarment with a right to be heard. Notice of debarment.

(2) The notice of debarment shall inform the bidder of the facts constituting grounds for the proposed debarment.

(3) The notice shall require the bidder to make written representation showing reasons why he should not be debarred from participating in public procurement for a period specified pursuant to the Act and these Regulations.

(4) The bidder shall respond to the notice referred to in sub-regulation (3) of this regulation within fourteen days from the date of receiving the notice.

(5) Any representation made under sub-regulation (3) shall contain a certificate signed by the bidder, in a form issued by the Authority, which the information contained in the representation is true to the best of the knowledge of such bidder.

Issuance of
notice of
debarment

72.-(1) The Authority shall determine whether the bidder should be suspended after receipt of respond by the bidder made under regulation 71 of this Regulations.

(2) Where the Authority satisfies that the bidder is to be debarred, within thirty days shall issue a letter of suspension and be sent to the bidder, and where applicable, a copy to the person or competent authority who proposed the debarment and such decision shall be published.

(3) The Authority may terminate the suspension where it considers that the grounds for the suspension are no longer valid.

(4) Any suspension made under this regulation shall remain in effect until a decision on the proposed debarment is taken or where a suspension is terminated pursuant to sub-regulation (3).

Register of
debarred and
suspended
bidders.

73.-(1) The Authority shall maintain a register of all suspended or debarred bidders which shall, among other things, specify the name and address of each bidder under suspension or debarment, grounds for suspension or debarment and the period of time under which the bidder is on suspension or debarment, as the case may be.

(2) The register shall, at all times be made available to the public.

Effect of
suspension
or
debarment.

74.-(1) A bidder who is debarred under these Regulations shall not be permitted to start a new supplies, contracting or consulting firm during that period.

(2) Procuring and disposing entities shall not procure from, contract with, or engage a bidder who is blacklisted from participating in public procurement proceedings pursuant to the Act and these Regulations.

(3) Where a bidder is debarred under the provisions of these regulations, any person who, at the time of debarment, was concerned

with the management of the affairs of the debarred company or firm as director, partner, agent or an officer, shall be barred from participating in public procurement in the same period.

(4) The Authority shall inform the relevant statutory bodies upon debarring a bidder.

75. Any suspension or debarment of a potential bidder under these regulations shall not affect any existing contracts entered into between the bidder and any Procuring and Disposing Entity before the debarment decision except where fraud and corruption is established.

Effect on existing contracts.

76.-(1) Any application for administrative review shall be submitted by a bidder in writing or electronically to the Accounting officer of a Procuring and Disposing Entity and a copy shall be served to the Authority within ten working days from the date of communication of the decision by the Accounting officer.

Submission of applications for review to the Accounting Officer.

(2) The application for administrative review shall contain:

- (a) the name and contact details of the bidder or the person representing the bidder;
- (b) details of the procurement requirements to which the complaint relates;
- (c) details and an explanation on how the provisions of the Act, Regulations or guidelines issued by the Authority that have been breached or omitted;
- (d) documentary or other evidence supporting the complaint where available;
- (e) the corrective measures requested by the bidder; and
- (f) any other information relevant to the complaint.

(3) The Accounting Officer of a Procuring and Disposing Entity shall not entertain a complaint or dispute or continue to do so after the procurement or disposal contract has entered into force.

Administrative
review by
Accounting
Officer.

77.-(1) An Accounting Officer shall, upon receipt of an application for administrative review:

- (a) notify all bidders who participated in the bid, of the complaint and of its substance within three working days upon the receipt of such application;
- (b) invite all bidders who opt to join in the proceeding to submit written responses within three working days upon the receipt of such notification.

(2) Accounting Officer shall institute an investigation by appointing a review panel to consider the information:

- (a) and evidence contained in the application;
- (b) in the records kept by a Procuring and Disposing Entity;
- (c) provided by the bidders and staff of the Procuring and Disposing Entity, if any; and
- (d) any other relevant information.

(3) In appointing members of a review panel, the Accounting Officer shall consider their expertise and experience on the subject matter of the bid minimum of which shall be three.

(4) The Accounting Officer shall dismiss complaint where the requirements of these Regulations are not complied by the Complainant.

(5) The decision of Accounting Officer shall address fully

the bidder's grounds of complaints and shall indicate whether the application is upheld in whole, in part or rejected.

(6) The suspension by the Accounting officer under section 84 (3) (a) of the Act, shall continue until the date for application of administration review to the Authority expiry in accordance with section 85 of the Act.

78.-(1) Procuring and Disposing Entity shall apply the standard bidding documents prepared and issued by the Authority.

Standard bid documents.

(2) Any deviation from the use of standard bid documents shall obtain prior written approval of the Authority.

79. Every Accounting Officer shall ensure that copies of all contracts are sent to the Authority, Attorney General and Treasury Registrar as the case may be, within fourteen (14) days from the date of signing a contract.

Submission of contract documents.

80.-(1) An order for extension of time may be issued only by the Accounting officer, and that the reasons for granting such an order shall be fully documented in the contract implementation records.

Time extension orders.

(2) The order shall state the section of the general conditions of contract under which it is issued, the duration of the extension and the special circumstances which have been taken into account.

(3) Where, for any special circumstances, an extension of time is claimed by a bidder, the claim for such extension shall be submitted in accordance with the conditions of contract.

(4) The order for extension of time shall be treated strictly and fairly if the Procuring and Disposing Entity is to have reasonable prospects of enforcing liquidated damages and if the bidder resort to arbitration.

(5) For purposes of avoiding invalidation of the Procuring and Disposing Entity's right to impose liquidated damages and claims for time extensions, a bidder shall not be requested to carry out further work on the contract where the contract completion certificate is issued.

(6) A Procuring and Disposing Entity shall ensure that any extra work required is arranged independently of the original contract after the contract is accepted and complete.

Liquidated
damages.

81.-(1) A procurement and disposal entity shall impose on a bidder, a liquidated damages for undelivered materials, goods or delayed services or works.

(2) The liquidated damages rates shall be specified in the request for proposals or bid documents and in the contract, and the maximum amount of the liquidated damages shall be equal to the amount of the performance bond or guarantee established in the contract.

Termination
of contract
on failing to
execute.

82.-(1). The Procuring and Disposing Entity shall terminate the contract where a successful bidder fails to execute the contract or agreement within the specified time or fails to comply with the contract or agreement without a justifiable and acceptable reasons which result into the termination of such contract or agreement.

(2) Upon termination of the contract, the Procuring and Disposing Entity shall submit the information of contract terminated to the Authority and Attorney General for appropriate action.

(3) Except with the prior written approval of the Authority, a Procuring and Disposing Entity shall not procure from, contract with, or engage a bidder or firm whose contract is terminated pursuant to sub-regulation (1) of this Regulation.

83. -(1) A Procuring and Disposing Entity shall be responsible for the effective contract management of any procurement of goods, services or works. Contents of invitation for pre-qualification.

(2) The Authority shall issue guidelines on choice of type of contract and procedure for managing contract made under provisions of the Act.

84.-(1) Where a Procuring and Disposing Entity enters into an agreement with a competent institution under section 73A of the Act, shall furnish such agreement to the Paymaster General and Authority for monitoring and compliance. Award to competent institutions

(2) Notwithstanding sub-regulation (1) of this regulation, the competent institutions which are not registered under the Company Act, shall not employ subcontract when executing the tasks.

PART THREE

PROCEDURES FOR PROCUREMENT OF GOODS, WORKS AND NON-CONSULTANCY SERVICES

85.-(1) For the purpose of qualifying to participate in procurement proceedings, a bidder shall: Qualification of bidders.

- (a) possess the necessary professional and technical qualifications, competence, experience, financial resources, equipment and other physical facilities, managerial capability and the personnel to perform the assignment;
- (b) have legal capacity to enter into the procurement contract;
- (c) not be insolvent, in receivership, bankrupt or wound up;
- (d) fulfill their obligations to pay taxes, levies, fees and social security contributions and that they abide to employment,

environmental, health and safety requirements in Zanzibar; and

- (e) have not been convicted of any criminal offences relating to their profession, or making false statements or misrepresentations to their qualifications to enter into a procurement contract within a period of ten years preceding the commencement of the procurement proceedings, or have not been disqualified pursuant to administrative suspension or disbarment proceedings.

(2) Subject to the right of bidders to protect their intellectual property or trade secrets, a Procuring and Disposing Entity may require bidders participating in procurement to provide such appropriate documentary evidence or other information as it may consider useful to satisfy itself that the bidders are qualified in accordance with the provisions of sub-regulation (1) of this Regulation.

(3) Any requirement established pursuant to this regulation shall be set out in the pre-qualification documents, if any, and in the bidding documents or other documents for bidding of proposals, offers or quotations, and shall apply equally to all bidders.

(4) A Procuring and Disposing Entity shall not impose criterion, requirement or procedure with respect to the qualifications of bidders other than those provided for in these regulations, guidelines or bidding documents.

(5) The Procuring and Disposing Entity shall evaluate the qualifications of bidders in accordance with the qualification criteria and procedures prescribed in the pre-qualification documents, if any, and in the bidding documents or other documents for bidding of proposals or quotations.

86. The Procuring and Disposing Entity shall not establish criterion, requirement or procedure that discriminates bidders on the basis of their nationality, brands or others that are not objectively justifiable.

Criterion,
requirement,
procedure
not to be
discriminatory.

87.-(1) Any bidder who wishes to participate in domestic competitive bidding shall comply with all relevant requirements for registration required by appropriate statutory bodies.

Participation
of local and
foreign
bidders
procurement
proceeding

(2) Subject to section 23 of the Act, form for registration shall be prescribed in the guidelines issued under these Regulations.

(3) Where, as a result of the procurement proceedings, a foreign bidder is selected as the best evaluated responsive bidder under Open International Bidding before signing a contract, shall comply with all relevant requirements for registration by appropriate statutory bodies.

88.-(1) Before inviting open bids, a Procuring and Disposing Entity may consider pre-qualifying bidders so as to identify those who possess the necessary resources and competence for completion of the eventual contract.

Pre-
qualification
proceedings.

(2) The pre-qualification proceedings may be conducted if:

- (a) an invitation to bid requires a short list of capable bidders to carry out large or complex contracts or turnkey contracts or build, own and transfer contracts; or
- (b) the quality and performance is primary importance for supply of goods or equipment or suppliers' back up and maintenance services are critical.

(3) The provisions of regulation 86 shall apply to pre-qualification proceedings.

(4) Where a Procuring and Disposing Entity engages pre-qualification proceedings, it shall provide an invitation through pre-qualification documents.

(5) In the case of major and complex services, the short list shall be prepared by invitations to renowned consultant for their experience and skills or by means of an announcement to consultants to express the interest in the assignment.

Contents of
invitation
for pre-
qualification.

89.-(1) An invitation to pre-qualify shall contain:

- (a) the name and address of the Procuring and Disposing Entity;
- (b) the nature, quantity and place of delivery of the goods to be supplied or the nature, quantity and location of the works to be effected or the nature of the services and the location where they are to be provided;
- (c) the desired or required time for the supply of the goods or for the completion of the works or the timetable for the provision of the services;
- (d) the criteria and procedures to be used for evaluating the qualification of suppliers, service providers or contractors;
- (e) a declaration which may not later be altered that bidders may participate in the procurement proceedings regardless of nationality or declaration that participation is limited on the basis of nationality;
- (f) the price, currency and terms of payment for the pre-qualification documents;
- (g) the means of obtaining the pre-qualification documents

and the place from which they may be obtained;

- (h) the language in which the pre-qualification documents are available;
- (i) the place and deadline for the submission of application to pre-qualify; and
- (j) any other information as the Authority consider necessary and as prescribed in the standard pre-qualification document.

(2) The invitation to pre-qualify shall be prepared by the Procurement and Disposal Management Unit and approved by the Tender Board, and shall be advertised in accordance with the method of procurement prescribed in the First Schedule to these Regulations.

(3) A minimum period for national and Open International Bidding shall be allowed for the preparation and submission of prequalification applications.

(4) The pre-qualification documents shall be prepared by the Procurement and Disposal Management Unit in consultation with the user department and shall be approved by the Tender Board before issued to bidders.

(5) Invitations to pre-qualify issued contrary to the requirement of these Regulations shall not be valid.

90.-(1) The pre-qualification documents shall contain:

- (a) instructions for preparing and submitting prequalification applications;
- (b) a summary of the principal required terms and conditions of the procurement contract to be entered into as a result of the procurement proceedings;

Contents
of pre-
qualification
document.

- (c) any documentary evidence or other information that must be submitted by bidders to demonstrate their qualifications;
- (d) the manner, place the deadline for the submission of applications to pre-qualify and expressed as a specific date and time;
- (e) sufficient time for suppliers, service providers or contractors to prepare and submit their applications, taking into account the reasonable needs of the procuring and disposing entity; and
- (f) any other requirements that may be established by the Procuring and Disposing Entity in conformity with these Regulations.

(2) Pre-qualification undertaken by Procuring and Disposing Entity shall be based on the legal capacity, capability and resources of the applicants to perform the particular contract and consider:

- (a) experience and past performance on similar contracts;
- (b) current commitments;
- (c) capabilities with respect to personnel, equipment and construction or manufacturing facilities;
- (d) financial position;
- (e) knowledge of local working conditions; and
- (f) compliance with required statutory obligations.

91. The Procuring and Disposing Entity may verify information provided in the bid submission before the notice of intention to award

is communicated to the bidders, and award may be denied to a bidder who is assessed to have no capability and resources to successfully perform a contract.

92.-(1) In a situation where all firms fail to qualify in the preliminary stage of the evaluation on the basis of the prescribed requirements that does not affect the procurement proceedings, the Procuring and Disposing Entity may revise some of the requirements and evaluate all firms on the basis of the revised requirements. Waiver of certain requirements

(2) Notwithstanding sub regulation (1) of this Regulation, the Procuring and Disposing Entity shall not revise requirements establishing the bidder's experience in carrying out of similar assignments and capability to undertake or finance the assignment.

93. Where the contract involves access to confidential information: Bid relating to public security.

- (a) a Procuring and Disposing Entity shall notify the bidder of the security classification of the contract, elements of the contract and any subsequent revisions in such security classification;
- (b) the bidder shall, prior to the commencement of the contract, safeguard all classified elements of the contract and shall provide and maintain a system within his own organisation; and
- (c) an authorised representative of the Authority, security, immigration, armed, or police force shall have the right to inspect the procedures, methods and facilities utilised by the bidder or the compliance by the bidder with the security requirements under the contract.

94.-(1) Where the appointment of a consultant is considered necessary for the effective procurement of works, which has not already been undertaken, a Procuring and Disposing Entity shall Appointment of a consultant for procurement of works.

complete selection proceedings and enter into a contract with the selected consultant in accordance with the provisions of these Regulations in sufficient time for that consultant to review the bid documents prior to the issue of bid.

(2) The responsibilities of a consultant in terms of their employment agreement may include the preparation of bidding documents.

(3) Subject to sub-regulation (2) the requirements affecting the Procuring and Disposing Entity shall be detailed in writing to the consultant, including the need to use standard bidding documents and associated forms in all bidding documents.

(4) The draft bidding documents prepared by a consultant shall be scrutinized by the Procurement and Disposal Management Unit to ensure compliance with sub-regulation (3) of this Regulation before they are submitted to the Tender Board for approval.

Types of
contracts and
accreditation
of alternative
methods.

95.-(1) Procuring and Disposing Entity shall use one among the types of contracts prescribed in the guidelines issued under these Regulations.

(2) Where the Procuring and Disposing Entity shall apply to the Authority in accordance to the procedures prescribed in the guidelines issued by the Authority.

PART FOUR

PROCUREMENT OF SECTOR SPECIFIC GOODS AND SERVICES

96.-(1) Subject to section 5(1) (k) of the Act, the Authority shall require Ministries for specific sector to prepare detailed and acceptable schedule of requirements and specifications which shall be made available to the Authority for use by procuring and disposing entities when procuring such items. Preparation of specification.

(2) The acceptable schedule shall determine the type, make and size to be procured for use by the Government.

(3) The preferred items under sub-regulation (2) of this regulation shall be procured directly from the manufacturer through competitive methods from reputable authorised local or international suppliers or dealers of the specified items.

(4) Notwithstanding the provisions of sub regulation (3) of this regulation, the Procuring and Disposing Entities shall not specify the make of such requirement when procured through competitive bidding.

(5) The Authority shall publish in the Journal and tender Portal the acceptable schedule of requirements and specifications.

PART FIVE

METHODS OF PROCUREMENT AND THEIR CONDITIONS FOR USE

97.-(1) The procurement of goods, works and non-consultancy services through domestic and international bidding shall consider methods of bidding prescribed in the Act and these Regulations. Methods of procurement.

(2) In recommending procurement procedures to the Tender Board, the Procurement and Disposal Management Unit shall submit

a written justification in accordance to the guidelines issued by the Authority;

(3) Procuring and Disposing Entity, when inviting bidders shall provide sufficient time to enable prospective bidders to prepare and submit their responses.

Open
International
bidding.

98.-(1) In opening international bidding, a Procuring and Disposing Entity shall, through a notice advertised domestically and internationally, invite bidders regardless of their nationality, to submit priced bids for goods, works or services.

(2) The Opening International Bidding shall be used if:

- (a) it is desired to attract bids from the widest range of bidders regardless of the estimated value of the goods or works to be procured.
- (b) the estimated cost of the goods, works or services is beyond the threshold for open Domestic bidding prescribed in the Fifth Schedule of the Act;

(3) A Procuring and Disposing Entity shall advertise bids under opening international bidding in accordance with the First Schedule to these Regulations.

(4) For large or specialised contracts, the appropriate Tender Board may, in addition, require the invitation to bid to be advertised in technical magazines, trade publications or in newspapers of wide international circulation.

Domestic
competitive
bidding.

99.-(1) In domestic competitive bidding, a Procuring and Disposing Entity shall, through a notice advertised on widely read national newspaper, invite bidders regardless of their nationality, to submit priced bids for goods, works or services.

- (2) The domestic competitive bidding may be used if-
- (a) the goods, works or services are available locally at prices below the international market;
 - (b) the estimated cost of the goods, works or services not beyond the threshold for open Domestic bidding as prescribed in the Fifth Schedule of the Act;
 - (c) works or services are scattered geographically.

PART SIX BIDDING PROCEEDINGS

100.-(1) A Procuring and Disposing Entity that wishes to commence competitive bidding proceedings shall prepare a bid notice in writing, inviting bidders to submit priced offers for the supply of goods, undertaking of works or provision of services required.

Invitation
to bid and
advertising.

(2) A procurement and Disposing management unit shall, within fourteen days prior to the issue of the bid, submit to the appropriate Tender Board a draft text of the invitation and the bid document for comments and approval, and shall, prior to publication of the invitation and issue of the bid document, incorporate into the final text of the invitation and the bid document any agreed amendments.

(3) Any invitation issued without prior approval of the Tender Board shall not be valid.

(4) The Procuring and Disposing Entity shall advertise the approved invitation to bid in accordance with the First Schedule to these Regulations and, in the case of an open international bidding, a similar notice shall be published once in the appropriate foreign or

international publications or, professional or trade journals.

Contents of
invitation to bid.

101. The invitation to bid shall contain the following information:

- (a) the name and address of the Procuring and Disposing Entity;
- (b) the nature, quantity and place of delivery of the goods to be supplied or the nature, quantity and location of the works to be effected or the nature of the services and the location where they are to be provided;
- (c) the desired or required time for the supply of the goods or for the completion of the works or for the provision of the services;
- (d) a declaration, which shall not later be altered, that bidders may participate in the procurement proceedings regardless of nationality or declaration that participation is limited on the basis of nationality;
- (e) the means or conditions of obtaining the bidding documents and the place from which they may be obtained;
- (f) fees if any, to be charged by the Procuring and Disposing Entity for the bid document;
- (g) the currency and means of payment for the bidding documents;
- (h) the language of the bidding documents;
- (i) the physical address for the submission of bids;
- (j) the deadline for the submission of bids;

- (k) the physical address, hour and date for opening of bids; and
- (l) the source of financing.
- (m) any other relevant information in which the Procuring and Disposing Entity may require.

102.-(1) The bidding documents shall contain the following information:

Contents
of bidding
documents.

- (a) the criteria and procedures relating to evaluation of the qualifications of bidders and further demonstration of qualification;
- (b) the requirements as to documentary evidence or other information that has to be submitted by a prospective bidder to demonstrate his qualifications;
- (c) the nature and required technical and quality characteristics, of the goods, works or services to be procured, including, but not limited to, technical specifications, plans, drawings and designs as appropriate;
- (d) the criteria to be used by a procuring and disposing entity in determining a successful bid, including any margin of preference;
- (e) the terms and conditions of the procurement contract, if they are known to the Procuring and Disposing Entity, and the contract form, if any, to be signed by the parties;
- (f) in the case the alternatives to the characteristic of the goods, works, services, contractual terms and conditions or other requirements set out in the bidding documents are permitted, a statement to that effect, and a description of

the manner in which alternative bids are to be evaluated and compared;

- (g) in the case the bidders are permitted to submit bids for only a portion of the goods, works or services to be procured, a description of the portion or portions for which such bids may be submitted;
- (h) the manner in which the bid price is to be formulated and expressed, including a statement as to whether the price is to cover elements other than the cost of the goods, works or services such as an applicable transportation and insurance charges, customs duties and taxes;
- (i) the currency or currencies in which the bid price is to be formulated and expressed;
- (j) the language in which bids are to be prepared;
- (k) any requirements of the Procuring and Disposing Entity with respect to the issuer and the nature, form, amount and other principal terms and conditions of any bid security to be provided by bidders, and any such requirements for any security for the performance of the procurement contract to be provided by the bidders who enters into the procurement contract, including securities such as labour and materials bonds;
- (l) in the case the bidders may not modify or withdraw its bid prior to the deadline for the submission of bids without forfeiting its bid security, a statement to that effect;
- (m) the manner, place and deadline for the submission of bids;

- (n) the means by which bidders may seek clarification of the bidding documents, and a statement as to whether or not the Procuring and Disposing Entity intends to convene a meeting of bidders;
- (o) the period of time during which bids shall be effective;
- (p) the place, date and time for the opening of bids;
- (q) the procedures to be followed for opening and examining bids;
- (r) the currency that will be used for the purpose of evaluating and comparing bids and in the case of foreign currency an exchange rate that will be used for the conversion of bids into that currency or a statement that the rate published by a specified financial institution prevailing on a specified date will be used;
- (s) the name, functional title and address of an officer or employee of a Procuring and Disposing Entity who is authorized to communicate directly with and to receive communications directly from bidders in connection with the procurement;
- (t) any commitments to be made by a bidder outside of the procurement contract, such as commitments relating to counter trade or to the transfer of technology;
- (u) notice of the right for review of an unlawful act, decision of, or procedure followed by, the Procuring and Disposing Entity in relation to the procurement proceedings;
- (v) in the case a Procuring and Disposing Entity reserves the right to reject all bids or part of, a statement to that effect;

- (w) any formalities required where a bid is accepted for a procurement contract to enter into force, including, where applicable, the execution of a written procurement contract, approval by a higher authority or the public authority and the estimated period of time following the dispatch of the letter of acceptance that requires the approval;
- (x) any other requirements established by a Procuring and Disposing Entity in conformity with the Act and the regulations relating to the preparation and submission of bids and to other aspects of the procurement proceedings.

(2) The bidding documents shall be prescribed to permit and encourage competition and such documents shall set out clearly and precisely all information necessary for a prospective bidder to prepare a bid.

(3) A Procuring and Disposing Entity shall use the appropriate standard bid documents issued by the Authority in accordance with guidelines issued by the Authority.

(4) Any changes to the standard bid documents shall be introduced only through bid data sheets, or through special conditions of contract.

Issue of
bidding
documents.

103.-(1) The Procuring and Disposing Entity shall, immediately after the first publication of the bid notice, issue the bidding documents to all bidders who have responded to the bid notice in accordance with the procedures and requirements specified in the invitation to bid.

(2) Before submission of the documents to the Tender Board for approval, the procurement and Disposing management unit shall, in respect of the documents, ensure that:

- (a) there is a checklist consisting of all essential requirements

to be met by prospective bidder;

- (b) questions covered by the general conditions and special conditions of contract or bid data sheet have not been duplicated in or qualified unintentionally by the specifications;
- (c) no departure from standard practice in regard to percentages and terms of payments have been incorporated without proper approval; and
- (d) the correct forms are included.

(3) A Procuring and Disposing Entity shall prepare enough copy before advertising bid documents for the use of prospective bidders at the places to be prescribed in the advertisement.

(4) The bidding documents may be sold in order to recover costs related to printing, copying and distribution.

(5) The price of bidding documents shall be approved by the Tender Board prior to issue of bid notice and shall not include any element of profit.

(6) The Authority shall issue guidelines relating to prices of bidding documents.

104.-(1) An approval of the bid documents by the Tender Board shall be required before the bid is advertised.

Approval
of bid
documents.

(2) A bidding document shall be signed by chairman and one member of Tender Board and sealed with the seal of the Procuring and Disposing Entity before issued.

105.-(1) The time allowed for preparation of bids shall depend on the magnitude and complexity of the intended procurement and in any case, shall not be shorter than the time prescribed in the Fourth

Bid period.

Schedule of these Regulations.

(2) The bid period shall be approved by the Tender Board and shall be prescribed in the invitation to bid or in the notification of qualification.

(3) Once the bid period is prescribed and advertised, such period shall not be altered.

(4) Notwithstanding sub-regulation (3) of this Regulation, the bid period may be altered, upon the approval of a Tender Board, only by extending such period if the alteration is intended to foster fair competition amongst bidders, fairness in the treatment of potential bidders and enhancing the economy of the Procuring and Disposing Entity.

(5) Any extension of the bid period shall be done reasonably in advance of the closing date and promptly communicated to all who have collected the bid documents.

Price
adjustment
formula.

106.-(1) In the event of inflation, a price adjustment formula shall be used to obtain a reasonable price.

(2) The price adjustment formula shall only be used if such formula is specified in the bidding documents or request for proposal and shall accommodate both rises and falls in price levels.

(3) The price adjustment formula or amount obtained by the use of an adjustment formula shall not be taken into account during the evaluation and comparison of bids.

Pre-bid
meeting.

107.-(1) A Procuring and Disposing Entity shall conduct a pre-bid meeting where it is necessary to provide specific project information, to explain any unusual aspects of the project and to address any question of a bidder.

(2) A pre-bid meeting shall be conducted in accordance with the procedures stipulated in the bidding document.

(3) Where a Procuring and Disposing Entity convenes a pre-bid meeting or any meeting of bidders, it shall prepare minutes of the meeting containing the requests submitted at the meeting for clarification of the bidding documents, and its responses to the requests, without identifying the source of the requests.

(4) The Procuring and Disposing Entity shall, within three days from the date of a pre-bid meeting, submit the minutes of the meeting to all bidders who acquired the bidding documents.

108.-(1) A Procuring and Disposing Entity shall prescribe a place and a specific date and time for the submission of bids. Submission of bids.

(2) A bidder shall, within the prescribed form, time and manner, deliver the bid by hand to the offices of a Procuring and Disposing Entity or by mail to the prescribed address of the Procuring and Disposing Entity.

(3) Every bid shall be in writing, signed and in a sealed envelope.

(4) Notwithstanding sub-regulation (3) of this Regulation, where bidding documents provide for an alternative method of submitting a bid, a bidder may submit his bid in that other form as prescribed in the bidding documents.

(5) Except for bids received through a bid box, a Procuring and Disposing Entity shall, on request, issue to a bidder a receipt prescribing the date and time in which the bid was received.

(6) Where requirements for bid security or other securities are prescribed in the bid documents, a bidder shall, before the deadline for submitting the bids, deliver to the Procuring and Disposing

Entity, such securities in the prescribed amount, form and manner.

(7) Only bids received within the time limit prescribed in the invitation to bid shall be eligible for consideration.

Period of
effectiveness
of bid.

109.-(1) The validity period required for bids shall be specified in the bid document.

(2) Any bid which purport to be valid for a shorter period shall be rejected by a Procuring and Disposing Entity as being substantially non- responsive.

(3) The period fixed by a Procuring and Disposing Entity shall be sufficient to permit evaluation and comparison of bids, for obtaining all necessary clearances and approvals, and for the notification of the award of contracts and sign a contract but the period shall not exceed one hundred and twenty days from the final date fixed for submission of bids.

(4) In exceptional circumstances, prior to the expiry of the original period of effectiveness of bids, a Procuring and Disposing Entity may request bidders to extend the period for an additional specified period of time.

(5) A bidder may refuse the request under sub regulation (4) of this Regulation without forfeiting its bid security and the effectiveness of its bid shall be terminated upon the expiry of the un-extended period of effectiveness.

(6) The request and the responses shall be made in writing or by any other means that provide a record of the information contained therein.

Extension of
the period of
effectiveness
of bid.

110.-(1) Bidders who agree to an extension of the period of effectiveness of their bids shall extend or seek an extension of the period of effectiveness of their bid securities provided by them,

or provide new bid securities to cover the extended period of effectiveness of their bids.

(2) A bidder whose bid security is not extended or, who has not provided a new bid security shall be considered to have refused the request to extend the period of effectiveness of its bid.

(3) The successful bidder shall remain bound by his bid for a further period of thirty days following the receipt of communication notifying him of his selection.

111.-(1) Unless otherwise stipulated in the bidding documents, a bidder may modify, or withdraw the bid prior to the deadline for the submission of bids without forfeiting its bid security. Modification or withdrawal of bids.

(2) The modification or notice of withdrawal shall be effective if it is received by the Procuring and Disposing Entity prior to the deadline for submission of bids.

112.-(1) Where a sample is required by a Procuring and Disposing Entity and such requirement is specified in the bidding documents, the sample shall be: Modification or withdrawal of bids.

- (a) submitted as part of the bid, in the quantities, sizes and other details requested in the bidding document;
- (b) carriage paid;
- (c) received on, or before, the closing time and date for the submission of bids; and
- (d) evaluated to determine compliance with all characteristics listed in the bidding document.

(2) The Procuring and Disposing Entity shall retain the sample of the successful bidder.

(3) A Procuring and Disposing Entity shall reject the bid if the sample:

- (a) does not conform to all characteristics prescribed in the bidding documents; and
- (b) are not submitted within the specified time.

(4) Where it is not possible to avoid using a propriety article as a sample, a bidder shall make it clear that the propriety article is displayed only as an example of the type or quality of the goods being bided for and that competition shall not thereby be limited to that article only.

(5) Samples made up from materials supplied by a Procuring and Disposing Entity shall not be returned to a bidder nor shall a Procuring and Disposing Entity be liable for the cost of making them.

(6) All samples produced from materials belonging to an unsuccessful bidder which are not claimed by the bidder within a period of thirty days from the date of award of contract shall be the property of the Procuring and Disposing Entity and shall dispose them in such a manner as may be directed by the Accounting officer.

(7) Arrangements for the inspection of the sample shall be included in the invitation notice or bidding documents, where appropriate.

Bid sample
or inspection of
goods.

113.-(1) On behalf of the Tender Board the secretary shall-

- (a) receive, record and keep the bids in a locked bid box or in a secure office space;
- (b) give each bidder a receipt showing the time and date that the bids were received, particularly when the envelopes containing the bids are too large to be placed in the bid

box, or if no such box is available, all bids that are not placed in a bid box shall be kept unopened in a secure place until the deadline of the received; and

- (c) be responsible for holding securely envelopes or packages containing any bids which cannot be placed in a locked bid box.

(2) On receipt of bids, in case where the bid box is not used, the envelopes shall be recorded in a special register in sequence as they arrived.

(3) The registration number, the date and time of arrival shall be recorded on the envelope and shall remain sealed and be kept in a safe place until they are opened.

(4) Bid received after the deadline for the submission of bids stipulated in the bid documents shall neither be opened nor be considered and shall be marked late bid and returned unopened to the bidder who submitted it.

114.-(1) The Tender Board shall convene a meeting for the purpose of opening the bids which are submitted. Bid opening

(2) The time for the bid opening shall be the same as the time set for the deadline for receipt of bids and shall be announced, together with the place for the bid opening, in the invitation to bid.

(3) All bids submitted before the deadline for submission shall be opened in public, in the presence of the bidders or their representatives and invitees with a legitimate interest in the bid proceedings and the names of all those present at the bid opening and the organisations they represent shall be recorded by the secretary of the respective Tender Board.

(4) At a public bid opening the following information shall be announced:

- (a) the bidders' names;
- (b) the bid prices and the total amount of each bid, save for bids for common used items and services, where unit price may not be read out due to the absence of a bid sum;
- (c) written notifications of bid modifications and withdrawals;
- (d) any alternative bids, if they have been requested or permitted;
- (e) any discounts;
- (f) the presence of the bid security or bid securing declaration as the case may be; and
- (g) such other details as specified in the bid document.

(5) The information under sub-regulation (4) of this Regulation may, on request, be communicated to all bidders who have submitted their bids.

(6) In the case of a "two envelope" system, the announcement shall include the fact that no price envelope has been opened.

(7) For the purpose of this regulation, two envelope means where bidders are required to submit two sealed envelopes simultaneously, one containing the technical proposal and the other financial proposal enclosed together in an outer single envelope.

Records
of the bid
opening.

115.-(1) While the bid opening proceedings are in progress, bids shall be numbered consecutively, the last one being endorsed 'and last' and initialled by the members of the Tender Board in the presence of bidders or their representatives.

(2) The secretary of the Tender Board shall prepare, for its own records, minutes of the bid opening, including the information disclosed to those present in the bid opening.

(3) The signed minutes including attendance sheet of the bid opening shall be provided to bidders who submitted bids.

(4) All bids that are accepted and opened shall be passed promptly, with a copy of the record of the bids received and those persons attending the meeting, to the respective Evaluation Committee for evaluation.

116.-(1) An information relating to the examination, tabulation, clarification, evaluation and comparison of bids and recommendations concerning the intention to award of the contract shall not, before the announcement of the award of contract to the successful bidder, be disclosed or communicated to bidders or any person not officially concerned with such process.

Restriction
for
disclosure
to bidders.

(2) The request for clarification referred to in this regulation and the bidders' responses shall be made in writing.

117. Any attempt by a bidder or his representatives or any person to influence the Procuring and Disposing Entity in the process of examination, clarification, evaluation and comparison of bids, and in decisions concerning the award of the contract, shall result in the rejection of his bid.

Influence by
bidder.

118.-(1) Procurement and Disposal Management Unit shall propose members of Evaluation Committee to be approved by the Tender Board.

Evaluation
Committee.

(2) Without prejudice section 32(4) of the Act, Evaluation Committee shall be an ad hoc Committee which include members with skills, knowledge and experience relevant to the procurement requirements and may include:

- (a) relevant technical expertise;
- (b) procurement expertise;
- (c) financial management analysis expertise;
- (d) legal expertise; or
- (e) representative from user department.

(3) Staff from the Procurement and Disposal Management Unit shall not be appointed as member of Evaluation Committee.

(4) The following officers shall not be eligible to be a member of Evaluation Committee of their respective Procuring and Disposing Entity:

- (i) a member of the Board of Directors;
- (ii) an Accounting officer;
- (iii) a staff from department of internal audit;
- (iv) a Tender Board member; and
- (v) officer from the Authority.

(5) Notwithstanding with the sub regulation (4) of this regulation, Public officer from the Attorney General Chamber and the Authority shall not be allowed to participate in procurement proceedings other than their respective Procuring and Disposing Entity.

(6) Subject to the section 32(7) of the Act, the code of ethics to be signed by the Evaluation Committee is prescribed under Sixth

Schedule of these Regulations.

(7) The Evaluation Committee shall evaluate on a common basis opened bids in order to determine the cost or price to the Procuring and Disposing Entity of each bid in a manner that permits a comparison to be made between the bids on the basis of the evaluated costs or prices.

(8) Prior to the detailed evaluation of bids, the Evaluation Committee shall carry out a preliminary examination of the bids to determine whether or not:

- (a) each bid is substantially responsive to the requirements of the bid documents;
- (b) the required securities have been provided if any;
- (c) the documents have been properly signed;
- (d) the bids are otherwise generally in order; and
- (e) the copies of registration for conducting business have been provided.

(9) For the purpose of this regulation, a bid is considered to be substantially responsive if it conforms to all the terms, conditions and specifications of the bid document without material deviation or reservations.

119. When examining the best evaluated bid, evaluation shall be consistent with the terms and conditions prescribed in the bid documents.

Examination,
evaluation and
comparison of
bids.

120.-(1) All bids shall be checked for substantial responsiveness to the commercial terms and conditions of the bidding documents.

Checking
of
substantial
responsiveness
to commercial
terms and
conditions.

(2) Material deviations to commercial terms and conditions, which justify rejection of a bid shall include failure to:

- (a) sign the bid form and price schedules by the authorized person(s);
- (b) satisfy eligibility requirements;
- (c) submit required bid security;
- (d) satisfy the bid validity period;
- (e) comply with the required minimum experience;
- (f) inability to meet the critical delivery schedule or work schedule clearly specified in the bidding documents, where such schedule is a crucial condition with which bidders must comply;
- (g) submit major supporting documents required;
- (h) conditional bids such as conditions in a bid which limit the bidder's responsibility to accept an award;
- (i) inability to accept the price adjustment formulae of the bidding documents;
- (j) stipulating price adjustment when fixed price bids were invited; and
- (k) sub-contracting in a substantially different amount or manner than that permitted.

Checking of
substantial
responsiveness
to technical
requirements.

121. All bids shall be checked for substantial responsiveness or non-conformity to the technical requirements, the justifiable grounds for rejection shall include failure to:

- (a) bid in a scope of work as instructed in the bidding documents;
- (b) quote for an important item;
- (c) meet major technical requirements, such as offering different types of equipment or materials, plant capacity below the minimum specified; and
- (d) presentation of absolutely unrealistic and inadequate implementation plans and schedules regarding performance, technical or service factors.

122.-(1) The Procuring and Disposing Entity in determination of a bid's responsiveness shall be based on the contents of the bid itself without recourse to extrinsic evidence. Determination of bid responsiveness.

(2) Where a bid is not responsive to the bid document, it shall be rejected by the Procuring and Disposing Entity, and may not subsequently be made responsive by correction or withdrawal of the deviation or reservation.

123.-(1) A Procuring and Disposing Entity may request a bidder to clarify his bid in order to assist in the examination, evaluation and comparison of bids but no advantage shall be sought, offered or permitted to change any matter of substance in the bid, including changes in price and changes aimed at making an unresponsive bid responsive. Request for clarification of bid after opening.

(2) Procuring and Disposing Entity shall correct purely arithmetical errors that are discovered during the evaluation of bids and the Procuring and Disposing Entity shall give prompt notice of any such correction to a bidder who submitted the bid;

(3) a Procuring and Disposing Entity may regard a bid as responsive even if it contains minor deviations that do not materially

alter or depart from the characteristics, terms, conditions and other requirements set forth in the bidding documents or it contains errors or oversights that are capable of being corrected without touching on the substance of the bid;

(4) any such deviations shall be quantified to the extent possible, and appropriately taken account of in the evaluation and comparison of bids.

Expressing
other factors
in monetary
terms.

124.-(1) Any factors other than price that may be used in determining the lowest or highest evaluated bid shall, as far as is practicable, be expressed in monetary terms.

(2) Penalties for non-material deviation from the bid requirements shall be expressed as a monetary addition to the bid price which may include the cost of making good deficiencies in compliance with the bid specifications.

Over and
above the
estimated
value of the
procurement.

125.-(1) There shall be an estimated value which is the bases of procuring and disposing of goods, works or services.

(2) Any bid evaluated and is above or below an estimated value of the procurement, as the case may be, shall not be approved unless it satisfies the conditions as prescribed in the guidelines issued by the Authority.

Evaluation and
acceptance of
bids.

126. A Procuring and Disposing Entity shall evaluate and compare all bids that are accepted in order to ascertain the successful bid, in accordance with the procedures, guidelines and criteria prescribed in the documents issued by the Authority.

Successful
bid.

127. The responsive bid shall be:

- (a) the bid with the best evaluated bid in case of goods or works or services, but not necessarily the lowest

or highest submitted price subject to any margin of preference applied;

- (b) where the Procuring and Disposing Entity has stipulated in the bidding documents, the lowest or highest evaluated bid ascertained on the basis of criteria specified in the bidding documents shall, to the extent practicable, be objective and quantifiable, and shall be given a relative weight in the evaluation procedure or be expressed in monetary terms;

128. In determining the best evaluated bid, the Procuring and Disposing Entity may consider the following:

Determination
of best
evaluated
bid.

- (a) the bid price, subject to any margin of preference applied;
- (b) the time for delivery of the goods, completion of construction or provision of the services;
- (c) the functional characteristics of the goods or construction; and
- (d) the terms of payment and guarantees in respect of the goods, construction or services.

129. Where bid prices are expressed in two or more currencies, the bid prices of all bids shall be converted to the same currency, and according to the rates specified in the bidding documents, for the purpose of evaluating and comparing bids.

Conversion of
currency.

130. The exchange rates to be used in evaluation shall be the selling rates published by Bank of Tanzania:

Exchange
rates in
evaluation.

- (a) on a date selected in advance and specified in the bidding documents provided that such date should not be earlier

than fifteen days prior to the date specified for the opening of bids nor later than the original date prescribed in the bid document for expiry of the period of bid validity; or

- (b) on the date of decision to award the contract or on the original date prescribed in the bidding documents for the expiry of the period of bid validity, whichever is earlier.

Use of incoterms in procurement proceedings.

131. The evaluation and comparison of bids for the supply of goods shall be on INCOTERMS for imported goods as stipulated in the bidding document.

Evaluation report and comparison of bids.

132. A detailed report on the evaluation and comparison of bids, setting out the specific reasons upon which the determination of the best evaluated cost bid or highest evaluated price bid is based, shall be prepared by the Evaluation Committee.

Post qualification and denial of award in a case if limited resources.

133.-(1) Where appropriate Procuring and Disposing Entity, may undertake post-qualification to determine the best evaluated bid's presented experience and capability.

(2) The criteria for post-qualification shall be set out in the bidding documents and shall include:

- (a) experience and past performance on similar contracts;
- (b) capabilities with respect to personnel;
- (c) equipment and construction or manufacturing facilities where applicable;
- (d) financial capability to perform the contract;
- (e) current commitments;
- (f) legal capacity to make binding decisions on its rights,

duties and obligations;

- (g) compliance with tax, employment, health and safety laws where applicable;
- (h) litigation record; or
- (i) any other relevant criteria.

(3) A Procuring and Disposing Entity may seek independent references of a bidder and the results of reference checks may be used in determining award of contract.

(4) In case of a foreign bidder recommended by Evaluation Committee to be awarded a contract, a Procuring and Disposing Entity may seek independent reference of legal existence and capabilities of a bidder through Tanzania diplomatic missions abroad or from any other reliable source.

(5) The criteria for post-qualification shall be limited to that which is necessary for performance of the intended contract and shall not be unjustifiably restrictive.

(6) Where the bidder recommended by Evaluation Committee to be awarded a contract does not meet the post qualification criteria:

- (a) the recommendation of award of contract to that bidder shall be rejected; and
- (b) a post-qualification may be conducted to the next bidder.

(7) The procurement and Disposal management unit shall obtain approval from the Tender Board prior to rejecting any bid or undertaking another post-qualification to the second ranked bidder.

(8) Where a bidder has been pre-qualified, a full post-

qualification may not be necessary, but the prequalification information submitted shall be verified and an award may be denied to the bidder recommended by Evaluation Committee to be awarded a contract, as the case may be, if he is judged to no longer meet the pre-qualification requirements and criteria.

(9) Subject to sub regulation (8) of this regulation, the Procuring and Disposing Entity shall consider:

- (a) any material change in circumstances since submission of the pre-qualification information; and
- (b) any information which has become available since the pre-qualification submission, which, in the Procuring and Disposing Entity's judgement, materially affects the capacity of the bidder to perform the contract.

(10) A Procuring and Disposing Entity may seek to limit the number or total value of awards made to any bidder in cases where the bidder's resources are known to be, or are likely to be insufficient for the additional commitments that would result from the proposed contract.

(11) In the cases specified in sub-regulation (10) of this Regulation, a Procuring and Disposing Entity may recommend that an award be denied to a bidder that is considered no longer to have the capability or resources to perform the contract successfully.

(12) Subject to the provisions of this regulation, post qualification shall be undertaken by members of the evaluation committee.

Negotiations.

134.-(1) Notwithstanding the provisions of Section 60 of the Act, negotiations may be undertaken with the best evaluated bidder relating to:

- (a) a minor alteration to the technical details of the statement

of requirements;

- (b) reduction of quantities for budgetary reasons, where the reduction is in excess of any provided for in the bidding documents;
- (c) a minor amendment to the special conditions of contract;
- (d) finalising payment arrangements;
- (e) mobilisation arrangements;
- (f) agreeing final delivery or work schedule to accommodate any changes required by the Procuring and Disposing Entity;
- (g) the methodology or staffing; or
- (h) clarifying details that were not apparent or could not be finalised at the time of bidding.

(2) Negotiations shall not be conducted to:

- (a) substantially change the specification or details of the requirement, including tasks or responsibilities of the bidder;
- (b) materially alter the terms and conditions of contract stated in the bidding document;
- (c) substantially alter anything which formed a crucial or deciding factor in the evaluation of bid.
- (d) availability of proposed key staff.

(3) Negotiations with a bidder are not permitted until after

the Tender Board has approved the Evaluation Committee's recommendations.

- (4) Negotiations shall only be held with the best evaluated bidder for goods, services or works, for national and Open International Bidding.

Negotiation
Team.

135.-(1) In recommending negotiation team, the procurement and disposal management unit shall consider appropriate skills, seniority and experience of Public Officers depending on the value and complexity of the procurement.

(2) Subject to the value and complexity of the procurement, the negotiation team shall be in minimum of three members, including those in the Evaluation Committee.

(3) Tender Board members and internal audit officers shall not be eligible for nomination in the negotiation team.

(4) Where the required skill or experience is not available within the Procuring and Disposing Entity or where there is a conflict of interest, a member of negotiation team may be external to the Procuring and Disposing Entity.

(5) Function of the negotiation team shall be to:

- (a) prepare negotiations plan and arrange for negotiation meetings;
- (b) conduct negotiation in accordance with all legal requirements;
- (c) prepare and submit negotiation report to the Tender Board.

136.-(1) The negotiation team shall produce minutes of the meeting which shall be agreed, signed by both parties and shall be maintained by procurement and disposal management.

Minutes and recommendations of negotiation team.

(2) The negotiation team shall submit the negotiation report to the Tender Board.

(3) The results of any approved negotiations shall be specified in a letter of bid of acceptance and incorporated into the contract document.

(4) Tender Board shall reject the bid where the proposed negotiation terms were not agreed and writing inform that bidder the reasons for termination of the negotiations.

(5) Procuring and Disposing Entity shall commenced with the next ranked bidder.

137.-(1) Tender Board shall, in accordance with section 63 of the Act, approve the recommendations of the evaluation team and inform the Accounting officer of its award decision within three working days of making the decision.

Approval of award of contract.

(2) Upon receipt of the recommendation of award decision from the Tender Board, the Accounting officer shall, having satisfied himself that proper procedures have been followed and within working three days, issue a notice of intention to award the contract to all bidders who participated in the bid in question giving them ten days within which to submit a complaint, if any.

(3) The notice referred to in sub-regulation (2) of this Regulation shall contain-

- (a) name of the successful bidder;
- (b) the contract sum and completion or delivery period;
- (c) reasons as to why the bidders were not successful.

(4) Where complaint is lodged pursuant to sub regulation (2) of this regulation, the Accounting officer shall proceed to determine the matter in accordance with section 84 (1) of the Act.

(5) Where no complaint is lodged pursuant to sub regulation (2) of this Regulation, the Accounting officer shall issue a letter of acceptance to the successful bidder.

(6) All notification under this regulation shall be communicated in written or electronic form as prescribed in the bid document and signed by the Accounting officer.

(7) The notification is considered to be dispatched if it is properly addressed or otherwise directed and transmitted to the successful bidder, or conveyed to an appropriate authority for transmission to such bidder.

(8) A bidder who is duly served with the notice of intention to award a contract pursuant to section 63(3) of the Act, but does not submit a complaint to the Accounting officer within the prescribed time shall be considered to have waived his right to appeal.

Award of
contract.

138.-(1) The award shall be made within the period of bid validity to the bidder whose bid has been determined to be the best evaluated bid.

(2) The Accounting officer shall send a copy of the letter of acceptance to the Authority within three working days.

Acceptance
of bid
and entry into
force
of
procurement
contract

139.-(1) Within twenty eight calendar days after fulfilling all conditions the Accounting officer and the bidder shall enter into a formal contract for supply of goods, provision of services or undertaking of works prior to the signing of contract.

(2) A formal contract shall be in a prescribed form and shall contain terms, conditions and provisions set out in the bid document.

(3) An award shall be confirmed by a written contract signed

by both the Accounting officer and the bidder only after the conditions set out and shall enter into force when a written acceptance of a bid is communicated to the successful bidder.

(4) Where a successful bidder fails to sign a written contract as required by sub regulation one (1) of this regulation, or to provide any required security for the performance of the contract, the Procuring and Disposing Entity shall, on the recommendation of the Tender Board, appoint the second best evaluated bidder.

140. The Accounting officer shall, within thirty days from the date of award prepare and submit report to the Authority, in accordance with guidelines for reporting procurement information issued by the Authority, a summary indicating the following. Submission
of
procurement
report

- (a) the names of the person or body to whom the contract is awarded;
- (b) the amount of bid and the date on which the award was made;
- (c) description of the contract, bidding process including bid invitation, issuing of bid documents, pre-bid clarifications, if any and bid opening and evaluation;
- (d) complaints received during bid process and decision, if any.

141.-(1) The Accounting officer shall, within thirty days after signing the contract, notify unsuccessful bidders the name of the person to whom the contract is awarded and the contract amount. Publication
of award

(2) Notwithstanding the generality of sub-regulation (1) of this Regulation, for the purpose of enabling information on bid award to be published, early all relevant information in summary on this procurement proceedings shall be submitted to the Authority within fourteen days of sending an acceptance notice to the bidder.

(3) The results of bid award shall be published in the newspaper in wide range of newspapers used during advisement of the bid.

Selection
of sub-
contractors.

142.-(1) The Procuring and Disposing Entity shall decide the manner in which the works or services shall be executed or provided where a provisional or prime cost sum has been provided for in the schedule or contract.

(2) Where work is to be carried out by subcontractor and the value under sub regulation (1) of this regulation are for competitive bids, shall be:

- (a) procured by main supplier, contractor or service provider;
- (b) evaluation conducted by consultant or any other person;
and
- (c) approved by the Tender Board.

(3) The bid selected by the Procuring and Disposing Entity shall first be referred to the main supplier, contractor or service provider for his perusal before instructions to accept it as a subcontract are issued.

(4) Bids for provisional sums must not be invited prior to the main contract being entered with main supplier, contractor or service provider.

(5) The Procuring and Disposing Entity shall not invite bids for works unless drawings and specifications are complete and firm estimates of cost have been prepared.

Process
to be
confidential.

143. Information relating to the examination, clarification sought by the Procuring and Disposing Entity after the bid opening, evaluation and comparison of bids and recommendations for the award of a contract shall not, prior to communication of intention to

award a bid, be disclosed to bidders or to any other person who is not involved officially in the examination, evaluation or comparison of bids or in the decision on which bid should be accepted.

144.-(1) A Procuring and Disposing Entity shall avoid wherever possible the procurement of chemicals, pesticides or other goods which are known to have or suspected to have harmful effects on the health of the population, the environment, domestic animals, wildlife and flora. Environmental issues.

(2) Where procurement of goods by a Procuring and Disposing Entity is necessary, the Ministry or Department concerned shall ensure that the use of those goods is restricted so that any harmful effect are avoided or limited.

(3) A Procuring and Disposing Entity shall assess the impact on the environment of any works at the planning stage of the project and in any case before procurement proceedings are commenced.

(4) A Procuring and Disposing Entity shall pay due regard to repair and re-use of goods wherever practicable and economically viable before disposing them by bid and procuring new replacements.

PART SEVEN

PROCEDURES FOR SELECTION AND EMPLOYMENT OF CONSULTANTS

145.-(1) In Open international bidding, a Procuring and Disposing Entity shall invite consultants regardless of their nationality, by means of an expression of interest notice. Open International bidding

(2) The Open international bidding shall be used if it is desired to attract expression of interest from the widest range of consultants as prescribe in the firth schedule of the Act.

(3) Under the Open international bidding, the Procuring and Disposing Entity shall advertise, in the Journal and Bid Portal,

the request for expression of interest in the form of the specific procurement notice for any particular contract and in accordance with the fifth schedule of the Act.

Domestic competitive bidding.

146. Under Domestic competitive bidding, Procuring and Disposing Entity shall invite consultants to submit expression of interest for the required services, by means of an expression of interest notice advertised in the local newspaper and Bid Portal in accordance with the threshold as prescribed in the fifth schedule of the Act.

Restricted bidding.

147.-(1) A Procuring and Disposing Entity may restrict the issue of request for proposal to a limited number of specified consultants.

(2) Except where consultants are pre-qualified, a Procuring and Disposing Entity using a restricted competitive bidding shall seek proposals from a wider list of potential consultants to ensure competitive prices.

(3) In all respects other than advertisement and issue of the request for proposal, the procedures for competitive bidding as set out in these Regulations shall apply.

Selection methods and procedures.

148.-(1) A Procuring and Disposing Entity may choose from a range of selection methods specified in the Act in order to provide a wide range of services, promote streamlining and harmonization, and reduce administrative complexities and transaction costs.

(2) The selection method, procedure and evaluation criteria to be adopted, for all assignments, shall be determined and recommended by the Procuring and Disposing Management Unit in consultation with User department to the Tender Board.

(3) Tender Board shall verify suitability and approve, prior to the invitation of consultants to submit proposals.

(4) Subject to the provisions of the Act, the circumstances to

be used on each selection method shall be prescribed in the guidelines issued by Authority.

149. The selection process shall comprise of:

Selection
process.

- (a) Preparation of the terms of reference;
- (b) Preparation of cost estimate and budget;
- (c) Advertising the request for expression of interest or prequalification of the consultancy services;
- (d) Preparation of the short list of consultants;
- (e) Determination of the selection procedures and criteria for selection;
- (f) Preparation and issuance of the request for proposals;
- (g) Inviting the consultants to submit proposals;
- (h) Receipt of proposals;
- (i) Evaluation of technical proposals;
- (j) Evaluation of financial proposal;
- (k) Final evaluation of quality and cost;
- (l) Post qualification where necessary;
- (m) Negotiations;
- (n) Award of the contract to the selected consultant; and
- (o) Signing the contract.

Terms of
reference.

150.-(1) The Procuring and Disposing Entity shall be responsible for the preparing of the terms of reference for the assignment with a view to ensuring compatibility between the scope of the services described in the terms of reference and the availability of budget.

(2) The terms of reference shall include the following components-

- (a) a precise statement of the objectives and goals sought;
- (b) a clear description of nature and scope of the services required, their context and the time interval in which they are provided;
- (c) a description of the duties and responsibilities of the consultant;
- (d) a description of the duties and responsibilities of the Procuring and Disposing Entity;
- (e) information on any counterpart staff and its role;
- (f) information on training and the transfer of technology, where necessary;
- (g) a summary of the data, a list of all available studies and information on the assignment, facilities and services which the Procuring and Disposing Entity will provide to the consultant; and
- (h) a clear statement of the criteria to be used in the selection procedure.

(3) Where the assignment involves joint venture, consortium, or sub consultant or any other arrangement, the terms of agreement between the parties, shall be required to be included in the submission to the Procuring and Disposing Entity.

151.-(1) The contributions which the Procuring and Disposing Entity is in a position to make to the consultant's assignment shall be defined in the terms of reference, indicated in the requests for proposals and finalized in the contract. Procuring and Disposing Entity's contributions.

(2) The nature and type of the contributions shall be reviewed during negotiations and shall not be included in the cost of the services.

(3) The type of the Procuring and Disposing Entity's contributions shall be finally concluded during the negotiations.

152.-(1) A qualified counterpart staff employed by the Procuring and Disposing Entity or its executing agency may be involved in the assignment with a view to build in-house capacity. Counterpart staff.

(2) The number of counterparts shall be determined on an individual basis depending on the importance of the assignment, and the requirements of the executing agency or the Procuring and Disposing Entity.

(3) The counterpart staff shall:

- (a) through a day-to-day contact with the consultant's experts, benefit from a transfer of skills and thus receive on-the-job training; and
- (b) liaise between the organs of the Procuring and Disposing Entity and the consultant and assist the latter with data collection, providing it with all available information documentation and studies on the assignment.

(4) Prior to any final decision regarding the level of qualifications, number and responsibilities of each counterpart, discussions shall be held during the negotiations to determine the:

- (a) number and responsibilities of the counterpart staff co-operating with the consultant's team.
- (b) extent to which counterpart staff are released from their normal duties;
- (c) extent to which counterpart staff can fit into the consultants' proposed work schedule;
- (d) arrangements made to cover field and travel expenses of the counterpart staff; and
- (e) arrangements for replacement of unsuitable counterpart staff.

Association
between
consultants.

153.-(1) Consultant may associate with each other to complement their respective areas of expertise, or for other reasons in which case such association may be for the long term independent of any particular assignment or for a specific assignment and may take the form of a joint venture or of a sub-consultancy.

(2) In the case of a joint venture, all members of the joint venture shall be jointly and severally liable for the entire assignment.

(3) A joint venture of firms may pre-qualify by combining the capabilities and past experience of each firm.

(4) A firm shall not associate with more than one partner in the same pre-qualification proceedings.

(5) A firm which is individually pre-qualified may form a joint venture in order to submit a technical proposal.

(6) Firms which are pre-qualified as partners in a joint venture shall not submit individual technical proposals.

154. -(1) The cost estimate shall be made on the basis of the cost of the consulting assignment on the assessment of the resources needed to carry out the assignment, staff time, logistical support, and physical inputs. Cost estimate and budget.

(2) The cost estimate and budget shall be based on the terms of reference, in which case the budget shall be as detailed and accurate as possible, and shall be broken down into foreign and local currency where applicable.

(3) The principal cost estimate, categories and characteristics may be based on the:

- (a) consultants' staff, time spent at headquarters and in the field;
- (b) direct costs such as travel, transport and per diem;
- (c) the cost of physical inputs and materials such as equipment, vehicles and office supplies;
- (d) costs for special services,;
- (e) other expenditure such as offices, communications, services; and
- (f) other professional and support staff.

(4) Where the project is financed by external sources which do not finance local taxes any taxes and customs duties component of the cost estimate shall be identified and handled by the Procuring and Disposing Entity.

155. (1) The Procuring and Disposing Entity shall include, in the general procurement notice, a list of expected consulting assignments which shall be updated as the Procuring and Disposing Entity considers necessary for all outstanding procurement. Advertisement for request of expression of interest.

(2) The Procurement and Disposal Management Unit shall prepare the invitation for expression of interest and table before the Tender Board for comments and approval.

(3) The invitation for expression of interest shall be advertised by the Procuring and Disposing Entity in the newspaper and Bid Portal in accordance with the First Schedule of these Regulations.

(4) In the advertisement, the Procuring and Disposing Entity shall request the applicants to submit adequate information for the Procuring and Disposing Entity to make decision on the firm's suitability and the advertisement shall not be complex as to discourage consultants from expressing interest.

(5) A consultant who wishes to provide the requested services may express his desire in writing to be short-listed to the Procuring and Disposing Entity concerned.

(6) Notwithstanding sub-regulation (5) of this Regulation, an expression of interest to participate in the provision of services shall not oblige the Procuring and Disposing Entity to include the applicant in the short list.

(7) In evaluating the expression of interest, a Procuring and Disposing Entity shall accord first consideration to firms that possess the relevant qualifications.

Preparation
of short list.

156.-(1) The short list shall be made up of consultants who, in the view of a Procuring and Disposing Entity, possess the required capabilities and experience to provide the specific services.

(2) A new shortlist shall be prepared for every new request for proposals and shall comprise of six to ten firms.

(3) Where there are no qualified firms from Zanzibar and for the purposes of establishing the short list, the nationality of a firm shall be the country in which the firm is registered or incorporated.

(4) Subject to sub-regulation (2) of this Regulation, the Procurement and Disposal Management Unit shall, with the Tender Board's consent, replace firms that have communicated to the Procuring and Disposing Entity in writing that they will not participate or firms which did not confirm their participation.

157. Without prejudice provision of Section 79 of the Act, a Procuring and Disposing Entity that has not invited expression of interest, it may use of the following sources when drawing up the short list of consultants:

Criteria to be used where no expression of interest is provided.

- (a) Procuring and Disposing Entity's own experience of consulting firms and individual consultants;
- (b) soliciting interest directly from qualified firms based on its own knowledge; or
- (c) established standard list of consultants who have performed similar services in other procuring and disposing entities or donor funded assignments, where available.

158. A short list may entirely comprise of local consultants if:

Elements of shortlist.

- (a) a sufficient number of qualified resident firms is available for having a short list of firms with competitive costs;
- (b) a competition that include foreign consultants is prima facie not justified; or
- (c) Foreign consultants have not expressed interest.

159.-(1) Before inviting proposals, a Procurement and Disposal Management Unit shall furnish to the Tender Board for its review, the short list and the draft request for proposal and shall make modifications to the short list and the documents as the Tender Board shall reasonably direct.

Preparation and issuance of the request for proposals.

(2) Any further modification shall require the Tender Board's prior approval before the request for proposal is issued to the short-listed consultants.

(3) The Procuring and Disposing Entity shall invite proposals shortlisted qualified and experienced consultants, and shall, through a suitable selection procedure, choose the consultant most qualified for the assignment.

(4) Procuring and disposing entities shall use standard request for proposals documents issued by the Authority and shall list all the documents included in the request for proposals.

(5) The request for proposals shall include the followings components-

- (a) a letter of invitation;
- (b) instructions to consultants, including a data sheet and evaluation criteria;
- (c) terms of reference;
- (d) proposed contract;
- (e) technical and financial proposal standard forms; and
- (f) anti-bribery pledge.

(6) The Procuring and Disposing Entity may use electronic system for issuing request proposals if the Authority is satisfied with the adequacy of such system and the system to avoid modifications to the request for proposals and shall not restrict the access of short listed consultants to the request for proposals.

Letter of
invitation.

160. The letter of invitation shall state the intention of the Procuring and Disposing Entity to enter into a contract for the

provision of consulting services, the source of funds, the full details of the client, the date, time, and address for submission of proposals.

161.- (1) The instruction to consultants shall:

Instruction to
consultants

- (a) contain all necessary information to help consultants to prepare responsive proposals, and shall manifest the transparency in the selection procedure by providing information on the evaluation process and by indicating the evaluation criteria and factors and their respective weights and the minimum passing quality score;
- (b) indicate the expected input of key professional staff, time and the consultants shall be free to prepare their own estimates of staff and time necessary to carry out the assignment;
- (c) specify the proposal validity period which shall not be less than sixty days and not exceeding one hundred and twenty days.

(2) The instructions to consultants shall include:

- (a) a brief description of the assignment;
- (b) the names and contact information of officials to whom clarifications shall be addressed and with whom the consultants' representative shall meet, if necessary;
- (c) details of the selection procedure includes:
 - (i) a listing of the technical evaluation criteria and weights given to each criterion;
 - (ii) the details of the financial evaluation;
 - (iii) the relative weights for quality and cost in the case of quality and cost based selection;

- (iv) the minimum pass score for quality;
 - (v) the details on the public opening of financial proposals; and
 - (vi) available budget in the case of fixed budget selection.
- (d) an estimate of the level of key staff inputs (in staff-months) required of the consultants; and indication of minimum experience, academic achievement, expected of key staff or the total budget, if a given figure cannot be exceeded;
 - (e) details and status of any external and internal financing;
 - (f) information on negotiations; and financial and other information that shall be required of the selected firm during negotiation of the contract;
 - (g) the deadline for the submission of proposals;
 - (h) currency in which the costs of services shall be expressed, compared, and paid;
 - (i) reference to any laws in Zanzibar that may be particularly relevant to the proposed consultants' contract;
 - (j) a statement that the firm and any of its affiliates shall be disqualified from providing downstream goods, works, or services under the project if, in the Procuring and Disposing Entity judgement, such activities constitute a conflict of interest with the services provided under the assignment;
 - (k) the method in which the proposal shall be submitted, including the requirement that the technical proposals

and price proposals be sealed and submitted separately in a manner that shall ensure that the technical evaluation is not influenced by price;

- (l) a request that the invited firm:
 - (i) acknowledges receipt of the request for proposal; and
 - (ii) informs the Procuring and Disposing Entity whether or not it will be submitting a proposal;
- (m) the short list of consultants being invited to submit proposals, and whether or not associations between short-listed consultants;
- (n) the anticipated date on which the selected consultant shall be expected to commence the assignment;
- (o) any requirements of the Procuring and Disposing Entity with respect to the issuer and the nature, form, amount and other principal terms and conditions for the performance security for the procurement contract to be provided by the consultants who enters into the contract;
- (p) a statement indicating:
 - (i) whether or not the consultants' contract and personnel shall be tax-free; and
 - (ii) the likely tax burden or where this information can be obtained, and a statement requiring that the consultant shall include in its financial proposal a separate amount clearly identified, to cover taxes;
- (q) if not included in the terms of reference or in the draft contract, details of the services, facilities, equipment, and staff to be provided by the Procuring and Disposing Entity;

- (r) phasing of the assignment, if appropriate; and likelihood of follow-up assignments;
- (s) the procedure to handle clarifications about the information given in the request for proposals; and
- (t) any conditions for subcontracting part of the assignment.

Contract.

162.-(1) A Procuring and Disposing Entity shall use the appropriate standard form of contract issued by the Authority with minimum and necessary alterations to address specific project issues.

(2) The alterations in the standard contract shall be introduced through the special conditions of contract.

(3) Where the forms are not available for a specific service, a procuring and disposing entities shall use other contract forms acceptable to the Authority.

Role of the Consultant.

163.-(1) Where a consultant receives the prequalification or request for proposals document, the consultant shall study the documents carefully to decide if it can meet the technical, financial and contractual conditions, and if so, proceed to prepare its offer.

(2) The consultant shall review the documents to determine whether or not there is any ambiguity, omission or internal contradiction, or any feature of the terms of reference or other conditions which are unclear or appear discriminatory or restrictive.

(3) The consultant shall, where the consultant determines any ambiguity or omission, request the Procuring and Disposing Entity, in writing and within the time period specified in the request for proposals documents, to clarify the ambiguity or contradiction.

(4) The criteria and methodology for selection of the successful consultant shall be outlined in the request for proposals

documents, generally known as “Information to Consultants” and where the documents are not clear, clarification shall be sought from the Procuring and Disposing Entity.

(5) The specific requests for proposals documents issued by the Procuring and Disposing Entity shall govern each procurement and where any of the provisions in the documents are inconsistent with these Regulations, the consultant shall inform the Procuring and Disposing Entity.

164. It shall be essential to ensure accuracy in the curriculum vitae of key staff submitted with the proposal and such curriculum vitae shall be currently signed and dated by the consultant and the individual staff, and shall, where academic transcripts are required, be certified by a Commissioner for Oath. Curriculum vitae of staff.

165. Where a consultant intends to propose deviations to a basic requirement, or propose an alternative solution, the consultant shall quote the price for the fully compliant proposal and then separately indicate the adjustment in price that can be offered if the deviation or alternative solution is accepted. Deviations from basic requirement.

166. Where the proposals are received and opened, consultants will not be required or permitted to change the price or substance of their proposals. No change of price or substance of proposal once opened.

167.- (1) The Procuring and Disposing Entity shall allow enough time prior to submission deadline for the consultants to prepare their proposals depending on the assignment, but shall not be less than the time prescribed in the Twelfth Schedule of these Regulations depending on the nature of the assignment. Receipt and opening of proposals.

(2) During the period prescribed under sub-regulation (1), firms may request clarifications about the information provided in the request for proposals and the Procuring and Disposing Entity shall provide the clarification in writing and copy them to all firms on the short list who intend to submit proposals.

(3) No amendments to the technical or financial proposal shall be accepted after the deadline.

(4) The technical and financial proposals shall be submitted in a manner specified in the request for proposal to safeguard the integrity of the process.

(5) The technical proposals shall be opened in public by the Tender Board immediately after the closure of the time for submission of proposals.

(6) The proposals shall be consecutively numbered and the last proposal shall be marked with words “and last”.

(7) The financial proposals shall remain sealed and shall be deposited with the secretary of the Tender Board until they are opened publicly.

(8) Any proposal received after the closing time for submission of proposals shall be returned unopened.

Minutes of
proposal
opening.

168.- (1) The secretary of the Tender Board shall prepare minutes of the opening ceremony giving all the details of the opening, such minutes shall be signed by chairman and the secretary of the opening ceremony.

(2) The signed minutes of the opening ceremony may be provided to consultants who submitted proposals.

Evaluation
of technical
proposals,
Approval or
rejection.

169.- (1) The evaluation of proposals shall comprise of the quality and cost stages.

(2) Evaluators of technical proposals shall not have access to financial proposals until technical evaluation report is approved by the Tender Board or donor in case of donor funded project.

(3) The evaluation shall be carried out in full conformity with the provisions of the request for proposals and in any case shall not deviate from the limit of weight prescribed in the guidelines issued under these Regulations.

(4) The evaluation process shall commence after the opening of the proposals.

(5) After the technical proposals are evaluated, the procurement and Disposal management unit shall furnish to the Tender Board, in a sufficient time for its review, a technical evaluation report and copies of the request for proposals.

(6) Where the Tender Board determines that the technical evaluation is inconsistent with the provisions of the request for proposals, it shall promptly reject and inform the procurement and disposal management unit and state the reason for its rejection.

(7) The procurement and disposal management unit shall inform the Evaluation Committee the decision of the Tender Board and the directives to rectify based on the findings given by the Tender Board.

(8) The Tender Board after approval of the technical evaluation, shall within fourteen days open the financial proposal.

(9) The combined evaluation report shall be submitted to the Tender Board for approval.

170.- (1) After the evaluation of technical quality is completed and approved, the Procuring and Disposing Entity shall notify consultants whose proposals have not met the minimum qualifying mark or were considered non-responsive to the request for proposals and terms of reference, indicating that their financial proposals shall be returned unopened after completing the selection process.

Notification
of results
of technical
evaluation.

(2) A Procuring and Disposing Entity shall notify the consultants who have secured the minimum qualifying mark, and indicate the date and prescribed time for opening the financial proposals.

Date of
opening of
Financial
Proposals.

171.-(1) The date of opening of financial proposals shall not less than two weeks after the notification date and the financial proposals shall be opened publicly in the presence of representatives of the consultants who choose to attend.

(2) Notwithstanding provisions of this Regulation, where all consultants are qualified to have their financial proposals opened in the case of quality and cost based selection or in the case of quality and least cost selection, the Procuring and Disposing Entity may fix shorter period for opening of financial proposal subject to obtaining confirmation of the attendance of all successful firms at the set date for opening. if they are not confirmed the period of ten days will continue.

Procedure at
the opening
of financial
proposals.

172.-(1) The opening of financial proposals shall take place on the date, time and place set for opening by the Procuring and Disposing Entity in the presence of firm's representatives who choose to attend.

(2) Before the opening of the financial proposals, the secretary of the Tender Board shall read out the results of the technical evaluation to the people attending the opening meeting.

(3) Envelopes containing financial proposals of the successful firms shall then be opened and the proposed prices shall be read aloud and recorded, and the secretary of the opening ceremony shall prepare the minutes of the public opening, including the information disclosed to those present at the opening.

(4) The signed minutes of the opening ceremony may be provided to consultants who submitted proposals.

173.-(1) Evaluation Committee shall first review the financial proposals for consistency with the technical proposals and if there are any inconsistencies they shall make the necessary adjustment. Evaluation of financial proposals.

(2) Evaluation Committee shall review the financial proposals and where there are any arithmetical errors, such errors shall be corrected and the procuring entity shall give prompt notice of any such correction to the consultants who submit the proposal.

(3) For the purpose of comparing proposals, the costs shall be converted to a common currency selected by the Procuring and Disposing Entity as stated in the request for proposals.

(4) The Evaluation Committee shall make the conversion by using the selling (exchange) rates determined by the Bank of Tanzania fifteen days before the date of submission.

(5) The request for proposals shall specify the source of the exchange rate to be used, and the date of that exchange rate.

(6) Notwithstanding sub-regulation (5) of this Regulation, the date shall not be earlier than fifteen days prior to the deadline for submission of proposals and not later than the original date of expiration of the period of validity of the proposals.

(7) For the purpose of evaluation, “cost” includes other reimbursable expenses, such as travel, translation, report printing, or secretarial expenses.

(8) In a situation where margin of preference is included, the financial proposals shall be evaluated:

- (a) after the financial proposals of the successful firms have been opened and reviewed by the Evaluation Committee,

the proposals which are responsive shall be classified into the following groups:

- (i) group A: financial proposals offered by resident consultants as well as association between resident consultants, eligible for the preference;
 - (ii) group B: financial proposals submitted by associations between resident and foreign consultants, eligible for the preference; and
 - (iii) group C: financial proposals offered by foreign Consultants;
- (b) for the purpose of evaluation and comparison of financial proposals:
- (i) an amount equal to the specified margin of preference for group A shall be added to financial proposals received from consultants in Group C; and
 - (ii) an amount equal to the difference between the margin of preference for group A and that of Group B shall be added to financial proposals received from consultants in group B.

Combined
quality
and cost
evaluation.

174.-(1) The proposal with the lowest cost shall be given a financial score of one hundred and other proposals given financial scores that are inversely proportional to their prices and in the alternative a directly proportional or other methodology may be used in allocating the marks for the cost.

(2) Subject to sub regulation (1) of this Regulation the methodology to be used shall be described in the request for proposals.

(3) The total score shall be obtained by weighting the quality and cost scores and adding them and the weight for the “cost” shall be chosen taking into account the complexity of the assignment and the relative importance of quality.

(4) Notwithstanding sub-regulation (2) of this Regulation, the weight for cost shall be in the range of ten to twenty points, but in no case shall exceed thirty points out of a total score of one hundred.

(5) The proposed weightings for quality and cost shall be specified in the request for proposals and the firm obtaining the highest total score shall be recommended for contract award and for negotiations.

175-(1) Where appropriate, post-qualification may be undertaken to determine whether the consultant with the best evaluated proposal has the capability, legal capacity and resources to carry out the contract. Post
qualification
of consultants.

(2) The post-qualification shall verify, validate, and ascertain all statements made and documents submitted by the first ranked consultant using non-discretionary criteria, as stated in the request for proposal.

(3) The criteria for post-qualification or due diligence shall be set out in the request for proposal and shall include-

- (a) legal requirements: to verify, validate, and ascertain licenses, certificates, permits, and agreements submitted by the consultant and the fact that it is not included in any “debarred”;
- (b) technical requirements: to determine compliance of the consulting services offered with the requirements specified in the request for proposal including, where

applicable verification and validation of the consultant's stated competence and experience on similar contracts, and the competence and experience of the consultant's key personnel to be assigned to the consulting services;

- (c) financial requirements: to verify, validate and ascertain the audited financial statements of the consultant and the financial proposal;
- (d) knowledge of local working conditions;
- (e) capabilities with respect to equipment and construction or manufacturing facilities;
- (f) current commitments;
- (g) litigation record; or
- (h) any other relevant criteria.

(4) Where the first ranked consultant does not meet the post qualification criteria-

- (a) the proposal shall be rejected; and
- (b) where applicable, post-qualification shall be conducted to the next ranked consultant.

Contract negotiations.

176.-(1) Subject to any provisions of these Regulations relating to contract negotiations, after Tender Board has approved the award recommendations, the Procuring and Disposing Entity shall invite the selected consultant to negotiate, in order to finalise the terms of the contract based on the model contract on one hand and the consultant's proposal on the other hand.

(2) In the invitation, the consultant shall be informed of any special problems found in the review of the proposal which may be discussed during the negotiation.

(3) Negotiations shall include discussions on:

- (a) the terms of reference;
- (b) comments made by the consultant on the scope of services;
- (c) the methodology;
- (d) staffing;
- (e) counterpart staff and training;
- (f) Procuring and Disposing Entity's inputs, and special conditions of the contract;
- (g) consultant's proposed work programme;
- (h) clarifying details that were not apparent or could not be finalised at the time of evaluation; and
- (i) any other relevant information which may be required.

(4) The discussions shall not substantially alter the original terms of reference or the terms of the contract, provided that the final terms of reference and the agreed methodology shall be incorporated in "Description of Services" which shall form part of the contract.

(5) The selected firm shall 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 and where that is not the

case and if it is established that key staff were offered in the proposal without confirming their availability, the firm may be disqualified and the process continued with the next ranked firm.

(6) The key staff proposed for substitution shall have qualifications equal to or better than the key staff initially proposed.

(7) Financial negotiations shall include clarification of the consultants' tax liability and how tax liability has been or would be reflected in the contract.

(8) Proposed unit rates for staff-months and reimbursable shall not be negotiated, since these have already been a factor of selection in the cost of the proposal, unless there are exceptional reasons.

(9) If the negotiations fail to result in an acceptable contract, the Procuring and Disposing Entity shall terminate the negotiations and invite the second ranked firm for negotiations in which case the Procuring and Disposing Entity shall consult with the Tender Board prior to taking this step.

(10) The consultant shall be informed of the reasons for termination of the negotiation and where negotiations are commenced with the second ranked firm, the Procuring and Disposing Entity shall not reopen the earlier negotiations.

(11) Upon receipt of recommendations of the negotiation team the Tender Board may-

- (a) approve the recommendations;
- (b) request further negotiations on specific points;
- (c) reject the recommendations with reasons; or
- (d) cancel the negotiations in their entirety.

177.- (1) The approval of any award of contract shall be subject to the provisions of these Regulations.

Approval
of award of
contract.

(2) Where a successful consultant fails to sign a written contract as required, or to provide any required security for the performance of the contract, the Procuring and Disposing Entity shall, on the recommendation of the Tender Board, select the second ranked consultant, subject to the right of the Procuring and Disposing Entity to reject all proposals.

(3) The approved consultant shall not be required, as a condition of award, to undertake responsibilities not stipulated in the request of proposal, or otherwise to modify the proposal as originally submitted.

(4) For the purpose of publishing recording and distributing the information concerning the award of the contract, procuring and disposing entities shall ensure that copies of award notices, suitably notated with the number of proposals received, the range of proposal and the estimates are forwarded and posted to the Authority within fourteen days of sending an acceptance notice to the consultant.

178.-(1) Individual consultant shall be employed on assignments for which:

- (a) teams of personnel are not required;
- (b) no additional outside professional support is required; and
- (c) the experience and qualifications of the individual are the paramount requirement.

Selection of
individual
consultants.

(2) Individual consultants are selected on the basis of their qualifications for the assignment and may be selected on the basis of references or through comparison of qualifications among those

expressing interest in the assignment or approached directly by the Procuring and Disposing Entity.

(3) Individual consultants employed by a Procuring and Disposing Entity shall meet all relevant qualifications and shall be fully capable of carrying out the assignment.

(4) Capability shall be judged on the basis of professional competence, experience and knowledge of the local conditions.

(5) The permanent staff or associates of a consulting firm may be available as individual consultants and in such cases, the provisions relating to conflict of interest prescribed in these Regulations shall apply to the parent firm.

Types of
services

179. The types of services for which a Procuring and Disposing Entity may require services of individual consultants including:

- (a) preparation of terms of reference;
- (b) evaluation of bids for works contracts and supplier and consultant's proposals;
- (c) preparation of the brief where architectural services are to be procured;
- (d) revision and updating of feasibility studies;
- (e) preliminary project or engineering design;
- (f) technical assistance for the planning of development, economic or sectoral planning, organization and management;
- (g) application of the recommendations formulated in a study;

- (h) training;
- (i) assistance of the Procuring and Disposing Entity with project implementation, and in particular for the monitoring and supervision of project implementation, as well as for investigations and technical advice;
- (j) preparation of project completion reports; and
- (k) all other necessary assistance decided upon by the Procuring and Disposing Entity and approved by the Tender Board.

180.-(1) the selection process for individual consultants shall comprise the following stages: Selection process.

- (a) preparation of the terms of reference and contract format;
- (b) advertisement of the consultancy services;
- (c) preparation of the estimated budget;
- (d) preparation of the short list;
- (e) evaluation of qualification and experience;
- (f) negotiation of fees and contract terms;
- (g) signing of contract;
- (h) supervision and evaluation of services; and
- (i) any other relevant stages required.

(2) For short-term assignments of a few weeks to one or two months, the Procuring and Disposing Entity may, after approval by the appropriate Tender Board, recruit a qualified individual consultant directly on the basis of information available to it.

(3) The Procuring and Disposing Entity shall consider the consultant's curriculum vitae and reference and if these are satisfactory and the latter is available, the fees and the contract terms may be negotiated.

(4) Subject to the provisions of sub-regulation (2) of this Regulation, for longer term assignments, the Procuring and Disposing Entity shall prepare a shortlist of three to seven consultants selected on the widest possible geographical base and including at least two residents' consultants using the Procuring and Disposing Entity's own sources of information.

(5) The individual consultant may also be recruited through governmental staff or international academic organizations or consulting firms.

(6) Where the shortlist is established, the Procuring and Disposing Entity shall, on the basis of the curriculum vitae and other relevant information available to it, evaluate the qualifications and experience of each consultant, particularly in the field of the assignment concerned and classify them by order of merit.

(7) The criteria to be used in the evaluation shall be those prescribed in Table (c) of the Fourteenth Schedule of these Regulations.

(8) A Procuring and Disposing Entity shall contact the first individual consultant on the ranking and if he is available, fees and contract terms shall be negotiated.

(9) The negotiations, which shall begin with interviews will continue until one of the short listed individual consultants is definitely retained for the assignment.

(10) Notwithstanding with the provisions of these Regulations, Public officers shall be eligible to apply for an individual consultancy.

181.-(1) The Lump sum contracts, shall be used mainly for assignments in which the content and the duration of the services and the required output of the consultants are clearly defined. Lump sum contract.

(2) The lump sum contracts may be used for simple planning and feasibility studies, environment studies, detailed design of standard or common structures, preparation of data processing systems, and training.

(3) Payments shall be linked to outputs (deliverables), such as reports, drawings, bill of quantities, bidding documents, and software programs

182.-(1) Time based contracts shall be used when it is difficult to define the scope and the length of services, either because the services are related to activities by others for which the completion period may vary, or because the input of the consultants required to attain the objectives of the assignment is difficult to assess. Time based contract.

(2) The contracts may be used for complex studies, supervision of construction, advisory services, and most training assignments and payments are based on agreed hourly, daily, weekly, or monthly rates for staff (who are normally named in the contract) and on reimbursable items using actual expenses and, or agreed unit prices and the rates for staff include salary, social costs, overhead, fee or profit, and, where appropriate, special allowances.

(3) Such contracts shall include a maximum amount of total payments to be made to the consultants and the ceiling amount should include a contingency allowance for unforeseen work and duration, and provision for price adjustments, where appropriate.

(4) The client shall closely monitor and administer time based contracts to ensure that the assignment is progressing satisfactorily, and payments claimed by the consultants are appropriate.

Retainer
and/or success
fee contract.

183.- (1) Retainer and success fee contracts may be used where consultants such as, banks or financial institutions, are required for preparation of companies for sale or merger of firms, notably in privatization operations.

(2) The remuneration of the consultant may include a retainer and a success fee, the latter being normally expressed as a percentage.

Percentage
contract.

184.- (1) The percentage based contracts may be used where it is appropriate to relate the fee paid directly to the estimated or actual cost of the contract.

(2) The percentage based contract shall clearly define the total cost from which the percentage is to be calculated and the consultant or service provider shall be required to indicate his cost as a percentage of the total cost of the assignment.

(3) The use of such a contract is recommended only if it is based on a fixed target cost and covers precisely defined services.

FIRST SCHEDULE
ADVERTISEMENT OF BIDS AND DISCLOSURE OF BID
AWARD INFORMATION
(Made under regulations 7(a), 19(2), 89(2), 98(3), 100(5), and 155(3).

Method of procurement	Mode of Advertisement
PREQUALIFICATION OR EXPRESSION OF INTEREST	
Open Open International Bidding / selection	Journal and Bid Portal; Procuring and Disposing Entity website and /or Notice Board; and At least one local newspaper and one international news paper.
Open domestic competitive bidding/ selection	Journal and Bid Portal; Procuring and Disposing Entity website, television, radio and/or Notice Board at least one local news paper.
BIDDING	
Open Open International Bidding	Journal and Bid Portal; Procuring and Disposing Entity website and/or Notice Board; and.
Open domestic competitive bidding	At least one local newspaper and one international news paper.
	Journal and Bid Portal
	Procuring and Disposing Entity website television, radio and /or Notice Board; at least one local news paper
BID AWARD DISCLOSURE INFORMATION	
All bids irrespective of the method used	Journal and Bid Portal.
	Procuring and Disposing Entity website and /or Notice Board.

SECOND SCHEDULE
FEES FOR SERVICES RENDERED BY THE AUTHORITY
(Made under regulations 21)

Fees for advertising in the Procurement and disposal Journal and Bid Portal		
A	Annual Procurement Plan	Fees in TZS
(i)	Procurement Volume up to TZS one hundred million	250,000
(ii)	Procurement Volume above TZS one hundred million up to one billion	500,000
(iii)	Procurement Volume above TZS one billion	750,000
B	Advertising of Bids	200,000
C	Posting Bid Disclosure Information	
(i)	Minor Value Procurement	15,000
(ii)	Quotations	25,000
(iii)	Single Source	150,000
(iv)	Restricted Bidding/Selection	150,000
(v)	Open Bidding/Selection	150,000
(vi)	Short list of Prequalified bidders/Consultants	150,000
(vii)	Shortlist of Suppliers for Framework Contracts	150,000

THIRD SCHEDULE
[Made under regulation 60 (2)]
Anti-Bribery Policy/Code of Conduct and a Compliance Program
MEMORANDUM

The Revolution Government of Zanzibar Procedures for bidding for public sector contracts.

The following procedures will apply to the letting of contracts for the public sector in addition to the standard legal and projects. These procedures are administrative requirements; they will form part of the terms and conditions of the contract and will be actionable, in the event of breach, by the Revolution Government of Zanzibar and any of the competing bids.

(1) Each bidder must submit a statement, as part of the bid documents, with the following text.

“This company places importance on competitive bidding taking place on a basis that is free fair, competitive and not open to abuse. It is pleased to confirm that it will not offer or facilitate, directly or indirectly, any improper inducement or reward to any public officer their relatives or business associates, in connection with its bid, or in the subsequent performance of the contract if it is successful.

This company has an Anti-Bribery Policy/Code of Conduct and a Compliance Program which includes all reasonable steps necessary to assure that the No bribery commitment given in this statement will be complied with by its managers and employees as well as by all third parties working with this company on the public sector projects, or contract including agents, consultants, consortium partners, sub-contractors and suppliers. Copies of our Anti-Bribery Policy/Code of Conduct and compliance Program are attached”

(Alternatively:

This company has issued, for the purposes of this bid, a Compliance Program copy attached -which includes all reasonable steps necessary to assure that

the No-bribery commitment given in this statement will be complied with by its managers and employees, as well as by all third parties working with this company on the public sector projects or contract including agents, consultants, consortium partners, subcontractors and suppliers’”.

- (2) (a) This statement must be signed personally by the Chief Executive Officer or other appropriate senior corporate officer of the bidding company and, where relevant, of its subsidiary in Zanzibar. If a bid is submitted by a subsidiary, a statement to this effect will also be required of the parent company, signed by its Chief Executive Officer or other appropriate senior corporate officer.
- (b) Bidders will also be required to submit similar No-bribery commitments from their subcontractors and consortium partners, the bidder may cover the subcontractors and consortium partners in its own statement, provided the bidder assumes full responsibility.
- (3) (a) Payment to agents and other third parties shall be limited to appropriate compensation for legitimate services.
- (b) Each bidder will make full disclosure in the bid documentation of the beneficiaries and amounts of all payments made, or intended to be made, to agents or other third parties (including political parties or electoral candidates) relating to the bid and, if successful, the implementation of the contract.
- (c) The successful bidder will also make full disclosure [quarterly or semi-annually] of all payments to agents and other third parties during the execution of the contract.
- (d) Within six months of the completion of the performance of the contract, the successful bidder will formally certify that no bribes or other illicit commissions have been paid. The final accounting shall include brief details of the goods and services provided that are sufficient to establish the legitimacy of the payments made.

(e) Statements required according to subparagraphs (b) and (d) of this paragraph will have to be certified by the company's Chief Executive Officer, or other appropriate senior corporate officer.

(4) Bids which do not conform to these requirements shall not be considered.

(5) If the successful bidder fails to comply with its No-bribery commitment, significant sanctions will apply.

The sanctions may include all or any of the following:

(i) Cancellation of the contract;

(ii) Liability for damages to the public authority and/or the unsuccessful competitors in the bidding possibly in the form of a lump sum representing a pre-set percentage of the contract value (liquidated damages), unsuccessful bidder would present their claims under international arbitration;

(iii) Forfeiture of the bid security, and

(iv) Debarment by the Government of Zanzibar from bidding for further public contracts for a period of ten years and as the Government may deem appropriate.

(6) Bidders shall make available, as part of their bid, copies of their anti-Bribery Policy/Code of Conduct, if any, and of their - general or project - specific -Compliance Program.

(7) The Revolution Government of Zanzibar has made special arrangements for adequate oversight of the procurement process and the execution of the contract, and has invited civil society and other competent Government Departments to participate in the oversight. Those charged with the oversight responsibility will have full access to all documentation submitted by bidders for this contract, and to which in turn all bidders and other parties involved or affected by the project shall have full access (provided, however. That no proprietary information concerning a bidder may be disclosed to another bidder or to the public).

FOURTH SCHEDULE
(Made under regulations 105)

PROCUREMENT PROCESSING TIME FOR BIDDERS

Method of procurement		Period (calendar days)
Pre-qualification Stage		
1.	Open Domestic Bidding:	
(a)	In case of consultancy, Inviting for expression of interest up to submission of the same; or	14 up to 21
(b)	In case of goods, works or non-consultancy	14 up to 21
2.	Open International Bidding:	
(a)	In case of consultancy, Inviting for expression of interest up to submission of the same; or	21 up to 30
(b)	In case of goods, works or non-consultancy	21 up to 30
Bidding Stage		
1.	Open Domestic Bidding	21 up to 30
2.	Open International Bidding	30 up to 45
3.	Restricted Open Domestic Bidding	14 up to 21
4.	Restricted Open International Bidding	21 up to 30
5.	Open Quotation	7 up to 14
6.	Micro/Minor value procurement	5 up to 7
7.	Large or Complex assignment	45 up to 60
8.	Direct procurement/Single source	-

FIFTH SCHEDULE
(Made under regulation 27)
BID SECURING DECLARATION FORM

1. Bid-Securing Declaration

Date: [insert date (as day, month and year)]

Bid No.: [insert number of bidding process]

Alternative No.: [insert identification No if this is a Bid for an alternative]

To: [insert complete name of Procuring and Disposing Entity]

We, the undersigned, declare that:

We understand that, according to your conditions, bids must be supported by a Bid- Securing Declaration.

We accept that we will automatically be suspended from being eligible for bidding in any contract with the Purchaser for the period of time of [insert number of months or years] starting on [insert date], if we are in breach of our obligation(s) under the bid conditions, because we:

- (a) have withdrawn our Bid during the period of bid validity specified in the Form of Bid; or
- (b) having been notified of the acceptance of our Bid by the Purchaser during the period of bid validity, (i) fail or refuse to execute the Contract, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the ITB.

We understand this Bid Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of (i) our receipt of your notification to us of the name of the successful Bidder; or (ii) twenty-eight days after the expiration of our Bid.

Signed: [insert signature of person whose name and capacity are shown] in the capacity of [insert legal capacity of person signing the Bid Securing Declaration]

Name: [insert complete name of person signing the Bid Securing Declaration]
Duly authorized to sign the bid for and on behalf of: [insert complete name of Bidder]

Dated on _____ day of _____, _____ [insert date of signing]

Corporate Seal (where appropriate)

2. Bid Security (Bank Guarantee)

[If required, the Bank/Bidder shall fill in this Bank Guarantee form in accordance with the instructions indicated in brackets.]

[insert bank's name, and address of issuing branch or office]

Beneficiary: [insert name and address of Employer]

Date: [insert date]

BID GUARANTEE No.: [insert number]

We have been informed that [insert name of the Bidder; if a joint venture, list complete legal names of partners] (hereinafter called "the Bidder") has submitted to you its bid dated [insert date] (hereinafter called "the Bid") for the execution of [insert name of Contract] under Invitation for Bids No. [insert IFB number] ("the IFB").

Furthermore, we understand that, according to your conditions, Bids must be supported by a Bid Guarantee.

At the request of the Bidder, we [insert name of bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [insert amount in figures expressed in the currency of the Purchaser's Country or the equivalent amount in an international freely convertible currency] ([insert amount

in words]) upon receipt by us of your first demand in writing accompanied by a written statement stating that the Bidder is in breach of its obligation(s) under the bid conditions, because the Bidder:

- (a) has withdrawn its Bid during the period of bid validity specified by the Bidder in the Form of Bid; or
- (b) does not accept the correction of errors in accordance with the Instructions to Bidders (hereinafter “the ITB”) of the IFB; or
- (c) having been notified of the acceptance of its Bid by the Employer during the period of bid validity, (i) fails or refuses to execute the Contract Form, if required, or (ii) fails or refuses to furnish the Performance Security, in accordance with the ITB.

This Guarantee shall expire: (a) if the Bidder is the successful bidder, upon our receipt of copies of the Contract signed by the Bidder and of the Performance Security issued to you by the Bidder; or (b) if the Bidder is not the successful bidder, upon the earlier of (i) our receipt of a copy of your notification to the Bidder that the Bidder was unsuccessful, or (ii) twenty-eight days after the expiration of the Bidder’s Bid.

Consequently, any demand for payment under this Guarantee must be received by us at the office on or before that date.

[signature(s) of authorized representative(s)]

3. Form of Bid Security (Bid Bond)

[If required, the Surety/Bidder shall fill in this Bid Bond Form in accordance with the instructions indicated in brackets.]

BOND NO. [insert Bond number]

BY THIS BOND [insert name of Bidder; if joint venture, insert complete legal names of partners] as Principal (hereinafter called “the Principal”), and [insert name, legal title, and address of Surety], authorized to transact business in [insert name of country of Employer], as Surety (hereinafter called “the Surety”), are held and firmly bound unto [insert name of Employer] as Obligee (hereinafter called “the Employer”) in the sum of [insert amount in figures expressed in the currency of the Purchaser’s Country or the equivalent amount in an international freely convertible currency] [insert amount in words], for the payment of which sum, well and truly to be made, we, the said Principal and Surety, bind ourselves, our successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Principal has submitted a written Bid to the Employer dated the [number] day of [month], [year], for the construction of [insert name of Contract] (hereinafter called the “Bid”).

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal:

(1) with draws its Bid during the period of bid validity specified in the Form of Bid; or

(2) refuses to accept the correction of its Bid Price, pursuant to ITB Sub-Clause 27.2; or

(3) having been notified of the acceptance of its Bid by the Employer during the period of Bid validity:

(a) fails or refuses to execute the Form of Agreement in accordance with the Instructions to Bidders, if required; or

(b) fails or refuses to furnish the Performance Security in accordance with the Instructions to Bidders;

then the Surety undertakes to immediately pay to the Employer up to the above amount upon receipt of the Employer’s first written demand, without the Employer having to substantiate its demand, provided that in its demand the Employer shall state that the demand arises from the occurrence of any of the above events, specifying which event(s) has occurred.

The Surety hereby agrees that its obligation shall remain in full force and affect up to and including the date 28 days after the date of expiration of the Bid validity as stated in the Invitation to Bid or extended by the Employer at any time prior to this date, notice of which extension(s) to the Surety being hereby waived.

IN TESTIMONY WHEREOF, the Principal and the Surety have caused these presents to be executed in their respective names this [insert number] day of [month], [year]

Principal: _____ Surety _____
Corporate Seal (where appropriate)

[insert signature(s) of authorized
representative(s)] representative(s)]

[insert signature(s) of authorized

_____[insert printed name and title]_____ [insert printed
name and title]

4. Performance Bank Guarantee [Unconditional]

[The bank/successful Bidder providing the Guarantee shall fill in this form in accordance with the instructions indicated in brackets, if the Employer requires this type of security.]

[insert bank's name, and address of issuing branch or office]

Beneficiary:[insert name and address of Employer]

Date:[insert date]

PERFORMANCE GUARANTEE No.: [insert Performance Guarantee number]

We have been informed that [insert name of Contractor] (hereinafter called "the Contractor") has entered into Contract No. [insert reference number of the Contract] dated with you, for the execution of [insert name of Contract and brief description of Works] (hereinafter called "the Contract"). Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required. At the request of the Contractor, we [insert name of Bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total

an amount of [insert amount in figures] ([insert amount in words]), such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation(s) under the Contract, without your needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire no later than twenty-eight days from the date of issuance of the Taking-Over Certificate, calculated based on a copy of such Certificate which shall be provided to us, or on the [insert number day of [insert month], [insert year], whichever occurs first. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

[signature(s) of an authorized representative(s) of the Bank]

5. Performance Bond

[The Surety/successful Bidder providing the Bond shall fill in this form in accordance with the instructions indicated in brackets, if the Employer requires this type of security]

By this Bond, [insert name and address of Contractor] as Principal (hereinafter called “the Contractor”) and [insert name, legal title, and address of surety, bonding company, or insurance company] as Surety (hereinafter called “the Surety”), are held and firmly bound unto [insert name and address of Employer] as Obligee (hereinafter called “the Employer”) in the amount of [insert amount of Bond] [insert amount of Bond in words], for the payment of which sum well and truly to be made in the types and proportions of currencies in which the Contract Price is payable, the Contractor and the Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Whereas the Contractor has entered into a Contract with the Employer dated the [insert number] day of [insert month], [insert year] for [insert name of Contract] in accordance with the documents, plans, specifications, and amendments thereto,

which to the extent herein provided for, are by reference made part hereof and are hereinafter referred to as the Contract.

Now, therefore, the Condition of this Obligation is such that, if the Contractor shall promptly and faithfully perform the said Contract (including any amendments thereto), then this obligation shall be null and void; otherwise it shall remain in full force and effect. Whenever the Contractor shall be, and declared by the Employer to be, in default under the Contract, the Employer having performed the Employer's obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

- (1) complete the Contract in accordance with its terms and conditions; or
- (2) obtain a Bid or bids from qualified bidders for submission to the Employer for completing the Contract in accordance with its terms and conditions, and upon determination by the Employer and the Surety of the lowest responsive Bidder, arrange for a Contract between such Bidder and

Employer and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term

"Balance of the Contract Price," as used in this paragraph, shall mean the total amount payable by the Employer to the Contractor under the Contract, less the amount properly paid by the Employer to the Contractor; or

- (3) pay the Employer the amount required by the Employer to complete the Contract in accordance with its terms and conditions up to a total not exceeding the amount of this Bond.

The Surety shall not be liable for a greater sum than the specified penalty of this Bond.

Any suit under this Bond must be instituted before the expiration of one year from the date of issuance of the Certificate of Completion.

No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Employer named herein or the heirs, executors, administrators, successors, and assigns of the Employer.

In testimony whereof, the Contractor has hereunto set its hand and affixed its seal, and the Surety has caused these presents to be sealed with its corporate seal duly attested by the signature of its legal representative, this [insert day] day of [insert month], [insert year].

Signed by [insert signature(s) of authorized representative(s)] on behalf of [name of Contractor] in the capacity of [insert title(s)]

In the presence of [insert name and signature of witness]
Date [insert date]

Signed by [insert signature(s) of authorized representative(s) of Surety] on behalf of [name of Surety] in the capacity of [insert title(s)]

In the presence of [insert name and signature of witness]
Date [insert date]

6. Bank Guarantee for Advance Payment
[Bank's Name, and Address of Issuing Branch or Office]

Beneficiary: _____ [Name and Address of Employer]

Date: _____

ADVANCE PAYMENT GUARANTEE No.: _____

We have been informed that [name of Contractor] (hereinafter called "the Contractor") has entered into Contract No. [reference number of the contract] dated _____ with you, for the execution of [name of contract and brief description of Works] (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum [amount in figures] () [amount in words] is to be

made against an advance payment guarantee.

At the request of the Contractor, we [name of Bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [amount in figures] () [amount in words] upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation under the Contract because the Contractor used the advance payment for purposes other than the costs of mobilization in respect of the Works.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Contractor on its account number _____ at _____ [name and address of Bank].

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Contractor as indicated in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that eighty (80) percent of the Contract Price has been certified for payment, or on the _____ day of _____, 2_____, whichever is earlier.

Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

Yours truly,

Signature and seal:

Name of Bank/Financial Institution:

Address:

Date:

SIXTH SCHEDULE
Personal Covenant for Members of the Evaluation
Committee

Made under Section 32 Act No. 11 of 2016

1. I (full name of member) (designation of member) of (name of institution) being a Member of the Evaluation Committee for Bid No.(insert Bid No) of (insert name of institution) for the (description of Bid) DO HEREBY state as follows:-

- (a) That, I do not have any interest, pecuniary or otherwise, directly or indirectly in any Bidder that have submitted for the above mentioned Bid, that is to say:-
 - (i) M/s
 - (ii) M/s
 - (iii) M/s
 - (iv) Etc
- (b) That, all knowledge, reports or any other materials not within the public domain which I may acquire from the evaluation process, by virtue of the performance of my duties as Member of the said Evaluation Committee, shall for all time and for all purposes be regarded by me as strictly confidential and I shall not divulge them to persons not officially concerned with this evaluation process.
- (c) That, as a Member of the Evaluation Committee shall at all times adhere fully with the terms and conditions contained in the Public Procurement and Disposal of Public Assets Act, 2016.

- (d) That, the breach of this Covenant or any provisions of the Public Procurement and Disposal of Public Assets Act, 2016 shall not preclude the institution of criminal proceedings pursuant to the Penal Code, the Prevention of Corruption or any other written law against me.

2. Signed by the said this day of
..... 20

3. Comments of Chairman of the Tender Board / Secretary of Tender Board
..... Signature date
...

SIGNED on this 19 day of January 2021.

(JAMAL KASSIM ALI)
MINISTER OF STATE, PRESIDENT’S OFFICE,
FINANCE AND PLANNING
ZANZIBAR

