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S T A T U T O R Y I N S T R U M E N T S

2014 No. 8.

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS
(RULES AND METHODS FOR PROCUREMENT OF SUPPLIES, WORKS
AND NON- CONSULTANCY SERVICES) REGULATIONS, 2014**

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S T A T U T O R Y I N S T R U M E N T S

2014 No. 8.

The Public Procurement and Disposal of Public Assets (Rules and Methods for Procurement of Supplies, Works and Non-Consultancy Services) Regulations, 2014.

(Under section 96 of the Public Procurement and Disposal of Public Assets Act, 2003)

IN EXERCISE of the powers conferred upon the Minister responsible for finance by section 96 of the Public Procurement and Disposal of Public Assets Act, 2003, on the recommendation of the Authority and with the approval of Parliament, these Regulations are made this 6th day of February, 2014.

PART I—PRELIMINARY

1. Title and commencement.

(1) These Regulations may be cited as the Public Procurement and Disposal of Public Assets (Rules and Methods for Procurement of Supplies, Works and Non-Consultancy Services) Regulations, 2014.

(2) These Regulations shall come into force on the 3rd day of March, 2014.

2. Interpretation.

In these Regulations, unless the context otherwise requires—

“Act” means the Public Procurement and Disposal of Public Assets Act, 2003;

“single source provider” means a provider invited from among a number of providers who meet the requirements of a procurement;

“sole source provider” is where only one provider exists, who meets the requirements of a procurement, due to a patent, monopoly or other reason.

PART II—INITIATION OF PROCUREMENT REQUIREMENTS.

3. Initiation of procurement requirement and confirmation of funding.

(1) An initiation of a procurement requirement shall include—

- (a) a clear description of the works, non-consultancy services or supplies required;
- (b) the estimated value of the works, non-consultancy services or supplies;
- (c) confirmation of availability of funding; and
- (d) the approval of the procurement requirement as specified in sub regulation (4).

(2) In estimating the value of the works, non-consultancy services or supplies required and confirming the availability of funds, a procuring and disposing entity shall-

- (a) base the estimate on an assessment of the market price;
- (b) seek technical advice, where required; and
- (c) ascertain that the confirmation of availability of funding takes into account the total cost of acquiring the requirement.

(3) A specific reference number shall be allocated to each procurement requirement at the initiation stage, using the numbering system prescribed by the Authority in guidelines.

(4) Approval of procurement requirements shall be evidenced by the signature of the Accounting Officer.

(5) A procurement requirement shall be initiated using Part I of Form 5 in the Schedule.

4. Availability of funds.

(1) A procuring and disposing entity shall not initiate any procurement for which funds are not available or adequate, except where—

- (a) the delivery of works, non-consultancy services or supplies and the consequent payments to a provider are to be effected from subsequent financial years;
- (b) in the case of framework contracts, funds will be committed at the time of issue of each specific call off order; or
- (c) the Secretary to the Treasury confirms in writing that the required funding shall be made available.

(2) The availability of funds shall be evidenced by budgeted or supplementary funds for the current financial year or an allocation for subsequent years.

(3) The accounting officer or an officer authorised by the accounting officer shall confirm the availability of funds.

(4) Procurement may be initiated, in accordance with this regulation, before the receipt of funds, but a contract shall not be awarded before the availability of funds.

5. Assessment of market price.

(1) In order to determine the market price of a procurement requirement, the accounting officer shall use all appropriate sources of information, including—

- (a) prices obtained on previous similar bids or contracts, taking into account any difference in the quantities purchased;
- (b) prices published or advised by potential providers; and
- (c) a build-up of estimates of prices of components of the works, non-consultancy services or supplies.

(2) Where the accounting officer contacts potential providers in order to determine the market price, the accounting officer shall limit the information disclosed to the potential providers to that which is essential for obtaining the market price or which is already available to the public.

(3) Where the price of the best evaluated bidder is higher than the market price established at the commencement of the procurement, the accounting officer shall re-assess the market price to ascertain that the market price is still valid.

(4) Where the accounting officer ascertains that the market price established at the commencement of the procurement is still valid, the procurement shall be cancelled and re-tendered.

PART III—METHODS OF PROCUREMENT.

6. Choice of procurement method.

(1) A procuring and disposing entity shall use the procurement methods specified in Part VI of the Act for all procurement requirements.

(2) The choice of procurement method shall be in accordance with the Fourth Schedule to the Act, these Regulations and the guidelines issued by the Authority.

(3) The choice of procurement method shall be determined by—

(a) the estimated value of the requirement;

(b) the circumstances relating to the requirement; and

(c) the type of procurement, whether supplies, works or non-consultancy services .

(4) The choice of procurement method shall be in accordance with the thresholds specified in guidelines issued by the Authority.

(5) The circumstances relating to the requirement to be procured may be used as additional criteria in determining the choice of procurement method.

7. Use of micro procurement.

Micro procurement shall be used in accordance with regulation 16, for unforeseen requirements where the estimated value of the procurement does not exceed the threshold prescribed in guidelines issued by the Authority.

Circumstances relating to the procurement

8. Emergency situations.

(1) An emergency situation may be used to determine the procurement method regardless of the estimated value of the requirement.

(2) A recommendation by the procurement and disposal unit to use an emergency situation as the criterion for determining the choice of a procurement method shall include a comprehensive justification for its use and shall state the reasons giving rise to the emergency situation.

(3) Where an emergency situation is used as the criterion for determining the choice of a procurement method, competition shall not automatically be excluded from the procurement process solely on the basis of the emergency situation.

(4) A procuring and disposing entity shall obtain maximum competition to the extent practicable in the procurement under an emergency situation.

(5) A procuring and disposing entity shall, before using the direct procurement method in an emergency situation, give priority to other competitive procurement methods in accordance with subregulations (6), (7), (8) and (9).

(6) Where the value of a procurement requirement requires the use of open bidding method, a procuring and disposing entity shall, before deciding to use the direct procurement method, in descending order, consider to use—

- (a) the restricted bidding method;
- (b) the quotations method; or
- (c) any other competitive method, with the appropriate modifications, in accordance with subregulation (9).

(7) Where the value of a procurement requirement requires the use of restricted bidding or restricted selection, a procuring and disposing entity shall, before deciding to use the direct procurement method, in descending order, consider to use—

- (a) the quotations method; or
- (b) any other competitive method, with appropriate modifications, in accordance with subregulation (9).

(8) Where the value of a procurement requirement requires the use of the quotations method, a procuring and disposing entity shall, before deciding to use the direct procurement method, consider the use of the quotations method, with appropriate modifications, in accordance with subregulation (9).

(9) In an emergency situation, where a procuring and disposing entity is unable to comply with all the provisions in the Act, these Regulations or guidelines, relating to a competitive method of procurement, the procuring and disposing entity shall, before deciding to use the direct procurement method, consider using any other competitive method, where that other method requires -

- (a) a bidding period which is less than the minimum bidding period specified in these Regulations;
- (b) a shortlist of at least two bidders;
- (c) simplified documentation;
- (d) a simplified bid submission method;
- (e) a simplified evaluation methodology; or
- (f) any other modification which would make the use of the competitive method possible.

9. Limited number of providers.

(1) The choice of procurement method may be determined by the availability of works, non-consultancy services or supplies from only a limited number of providers or a sole provider, regardless of the estimated value of the requirement.

(2) The number of providers may be limited by—

- (a) the existence of copyrights, intellectual property rights, patent or proprietary rights;
- (b) the existence of a monopoly, prevailing government regulations or legislation;
- (c) an approved standardisation policy;
- (d) the need for compatibility or interchangeability with existing works, non-consultancy services or supplies;
- (e) the existence of exclusive rights given to a provider for the servicing and maintenance of objects of procurement; or
- (f) any other justified circumstances.

(3) A recommendation by the procurement and disposal unit to use the availability of works, non-consultancy services, or supplies from a limited number of providers as the criterion for determining the choice of a procurement method shall include—

- (a) a comprehensive analysis of the market for the required works, non-consultancy services or supplies made at the level of manufacturer and not at the level of distributor or local agent and the number of potential providers in the market;
- (b) full details of the relevant circumstances in subregulation (1);
- (c) a clear statement as to why other sources cannot be used to open the requirement to a competitive procurement method; and

- (d) an analysis of the statement of requirements, with justification for any parts of the statement of requirements that restrict the number of potential providers.

(4) The use of availability of works, non-consultancy services or supplies from a limited number of providers as a criterion to determine the choice of a procurement method shall not be based on a brand name, make or model, unless the use of the brand name, make or model has been authorised under a standardisation policy or where the use is for reasons of compatibility or continuity.

10. Compatibility and continuity.

(1) A procuring and disposal entity may in accordance with the Fourth Schedule to the Act, use direct procurement for compatibility with the existing works, non-consultancy services or supplies or for continuity with an existing provider.

(2) A procurement and disposal unit shall in the recommendation to use direct procurement on grounds of compatibility or continuity include a comprehensive justification of the need for compatibility or continuity.

(3) The recommendation to use direct procurement on grounds of compatibility or continuity shall contain—

- (a) an analysis of the statement of requirements explaining the need for or the benefits of compatibility or continuity, which may include—
 - (i) technical reasons;
 - (ii) legal reasons, including continued liability or preservation of warranties;
 - (iii) measures taken to achieve efficiency and value for money; and
 - (iv) other reasons, including the use of experience acquired or savings in mobilisation costs; and

- (b) a clear statement as to why other items or providers cannot be reasonably used to open the requirement up to a more competitive method.

(4) The need for compatibility or continuity shall not be used to recommend direct procurement solely for reasons of convenience or due to a lack of an adequate statement of requirements.

Rules for use of procurement methods

11. Rules for use of each procurement method.

The procurement process under each method of procurement shall follow—

- (a) the general procurement rules in this Part;
- (b) the procurement rules specific to the type of procurement; and
- (c) the rules for awarding contracts.

12. Open domestic bidding.

(1) Procurement using the open domestic bidding method shall be open to all bidders and shall be by public advertisement of a bid notice in at least one newspaper of wide national circulation.

(2) Notwithstanding subregulation (1), a bidder may be selected through a pre-qualification process, following publication of a pre-qualification notice in at least one newspaper of wide national circulation.

(3) The procurement and disposal unit shall make a submission to the contracts committee in respect of procurement under open international bidding using Part II of Form 5 in the Schedule.

(4) For the avoidance of doubt, the pre – qualification process referred to in subregulation (2) is not the pre-qualification process referred to in regulation 22.

13. Open international bidding.

(1) Procurement using the open international bidding shall be open to all bidders and shall be by public advertisement of a bid notice in at least one publication of wide international circulation.

(2) Notwithstanding subregulation (1), a bidder may be selected through a pre-qualification process, following publication of a pre-qualification notice in at least one publication of wide international circulation.

(3) The procurement and disposal unit shall make a submission to the contracts committee in respect of procurement under open international bidding using Part II of Form 5 in **the Schedule**.

(4) For the avoidance of doubt, the pre – qualification process referred to in subregulation (2) is not the pre-qualification process referred to in regulation 22.

14. Restricted domestic bidding and restricted international bidding.

(1) Procurement using the restricted domestic and restricted international bidding method shall be by selection of a bidder using a shortlist.

(2) Where the restricted domestic bidding or restricted international bidding method is used on the ground that the supplies, works or non-consultancy services are available only from a limited number of providers, the procuring and disposing entity shall—

- (a) include all the potential providers on the shortlist; and
- (b) before issuing the bidding documents, publish a notice of restricted bidding on the website of the Authority indicating—
 - (i) the subject matter of the procurement;
 - (ii) that restricted bidding is being used on the ground that the supplies, works or non-consultancy services are available from a limited number of providers;

(iii) the proposed shortlist; and

(iv) that any other providers who are able to offer the required works, non-consultancy services or supplies may write to the procuring and disposing entity requesting to participate.

(3) The notice for restricted bidding shall be prepared using the standard format in Schedule 2 and shall be published prior to the issue of the bidding documents.

(4) The procurement and disposal unit shall make a submission to the contracts committee in respect of procurement under restricted domestic bidding using Part II of Form 5 in **the Schedule**.

15. Quotations.

(1) Procurement using the quotations method shall be by selection of bidders using a shortlist.

(2) A procuring and disposing entity shall obtain at least three quotations.

(3) A procurement process under the quotation method shall not require the opening of quotations to be held in public.

(4) The procurement and disposal unit shall make a submission to the contracts committee in respect of procurement under quotations method using Part II of Form 5 in **the Schedule**.

16. Micro procurement.

(1) A micro procurement process shall not require—

- (a) issuance of a bidding document;
- (b) submission of a bid;
- (c) a public bid opening session;
- (d) the use of an evaluation committee;

- (e) issue of a notice of best evaluated bidder; and
- (f) issue of a notice of award of contract.

(2) A procuring and disposing entity may delegate to a user department, the authority to undertake micro procurement of the value specified in the guidelines or a limit set by the contracts committee, which shall be lower than the value in the guidelines.

17. Direct procurement.

(1) A procuring and disposing entity shall use the appropriate documents from the standard documentation, with the necessary modifications, for the requirements of the procurement under the direct procurement method.

(2) The procurement and disposal unit shall make a submission to the contracts committee in respect of procurement under the direct procurement method using Part II of Form 5 in **the Schedule**.

(3) A bid for direct procurement shall be in writing.

PART IV—PUBLIC PROCUREMENT RULES AND PROCESSES FOR SUPPLIES FOR SUPPLIES AND NON-CONSULTANCY SERVICES.

Pre-qualification

18. Use of pre-qualification.

(1) Subject to subregulation (3), a procuring and disposing entity may use pre-qualification under open domestic or open international bidding to obtain a shortlist of bidders.

(2) The procurement and disposal unit shall make a submission to the contracts committee to use pre-qualification using Form 6 in **the Schedule**.

(3) The list of pre-qualified bidders shall be developed using the criteria for evaluation prescribed by the procuring and disposing entity.

(4) Pre-qualification shall be used under this regulation, where—

- (a) the non-consultancy services or supplies are highly complex, specialised or require detailed design or methodology;
- (b) the costs of preparing a detailed bid would discourage competition;
- (c) the evaluation is particularly detailed and the evaluation of a large number of bids would require excessive time and resources from a procuring and disposing entity; or
- (d) the bidding is for a group of similar contracts, for the purposes of facilitating the preparation of a shortlist.

(4) The procuring and disposing entity shall display the list of pre-qualified bidders on the notice board of the entity for at least ten working days.

(5) A procuring and disposing entity shall after the pre-qualification process, at the request of a bidder, debrief the bidder.

19. Pre-qualification notices and documents.

(1) A procuring and disposing entity shall by public advertisement of a pre-qualification notice, invite potential bidders to obtain the pre-qualification documents from the procuring and disposing entity.

(2) A pre-qualification notice shall be published in at least one newspaper of wide circulation.

(3) A procuring and disposing entity shall, for a pre-qualification exercise, use—

- (a) the standard format of the pre-qualification notice issued by the Authority; and
- (b) the pre-qualification documents issued by the Authority.

(4) A pre-qualification notice shall contain—

- (a) a summary of the scope of the procurement;
- (b) any key requirements and criteria for pre-qualification;

- (c) instructions on obtaining the pre-qualification document;
 - (d) the deadline for submission of pre-qualification applications; and
 - (e) the physical address for submission of documents.
- (5) Pre-qualification documents shall contain—
- (a) details of the scope of the procurement;
 - (b) a statement of the requirements and criteria for pre-qualification;
 - (c) a statement of the information required from a provider;
 - (d) instructions on the location and deadline for submission of pre-qualification applications; and
 - (e) instructions on the sealing and labelling of pre-qualification applications.

(6) The information required from a provider under subregulation (5) (c) shall be the minimum information required to make a judgment on the suitability of the provider and not to discourage a provider from applying for pre-qualification.

(7) The contracts committee shall approve all prequalification notices and documents before they are issued.

20. Bidding periods in pre-qualification.

(1) The bidding period for pre-qualification shall start from the date of first publication of the pre-qualification notice or the date of availability of the pre-qualification documents, whichever is later, and end on the deadline for submission of pre-qualification applications.

(2) In determining the bidding period for pre-qualification, a procuring and disposing entity shall take into account the factors in regulation 46.

- (3) The minimum bidding period for pre-qualification under—
 - (a) domestic bidding, shall be fifteen working days; and
 - (b) open international bidding, shall be twenty working days.

21. Criteria for evaluation for pre-qualification.

(1) The evaluation for pre-qualification shall be based on the capability and resources of a bidder, taking into account—

- (a) experience in executing similar contracts;
- (b) performance on similar contracts;
- (c) capabilities with respect to equipment and manufacturing facilities;
- (d) the qualifications and experience of the personnel of the bidder;
- (e) financial capability of the bidder to perform the proposed contract;
- (f) facilities or representation at or near the location for performance of the contract;
- (g) the available capacity to undertake the assignment; and
- (h) any other relevant criteria.

(2) The criteria for the evaluation for pre-qualification shall be limited to that necessary for performance of the intended contract and shall not be unduly restrictive.

(3) The assessment of pre-qualification applications shall be in accordance with the requirements and criteria stated in the pre-qualification document and shall be recorded using Form 7 in **the Schedule**.

22. Pre-qualification for a group of contracts.

(1) The pre-qualification process for a group of contracts shall follow the process stated in regulations 19 to 21.

(2) The pre-qualification notice and document, shall contain an estimate of the period of time to be covered by the pre-qualification and an estimate of the number of contracts to be awarded and their respective value.

(3) The list of pre-qualified providers shall be updated periodically, where pre-qualification is for a group of contracts.

(4) The pre-qualification information submitted by a provider shall be verified before a contract is awarded.

PART V—BIDDING DOCUMENTS

23. Rules for preparing bidding documents.

(1) A procuring and disposing entity shall use the appropriate standard bidding documents issued by the Authority for each procurement requirement.

(2) The selection of the appropriate document shall depend on the type, value and relative complexity of the procurement requirement.

(3) The following basic rules shall apply in the preparation of bidding documents for each procurement—

- (a) changes to the instructions to bidders shall be effected only by an entry in the bid data sheet;
- (b) changes to the general conditions of contract shall be effected only by an entry to the special conditions of contract;
- (c) the statement of requirements shall be modified as may be required; and

(d) the evaluation and qualification criteria shall be modified in accordance with the options available on the documents and these Regulations.

(4) Textual or other changes shall not be made to the instructions to bidders section, general conditions of contract section or bidding forms section except in accordance with subregulation (3).

(5) A procuring and disposing entity shall apply for a deviation from the use of standard documents in accordance with the procedure specified in the Public Procurement and Disposal of Public Assets Regulations, 2013.

24. Statement of requirements.

(1) A procuring and disposing entity shall state the supplies, works or non consultancy services required in a statement of requirements.

(2) A procuring and disposing entity shall in the statement of requirements inform a bidder how closely and effectively a bidder can meet these requirements.

(3) A procuring and disposing entity shall prepare the description in the statement of requirements in a manner that determines that the supplies, works or non consultancy services are fit for the purpose for which they are being procured and are of the appropriate quality.

25. Statement of requirements for supplies.

(1) A procuring and disposing entity shall include in the statement of requirements for supplies—

- (a) a list of the supplies and the quantities of the supplies;
- (b) generic, functional or performance specifications;
- (c) drawings;
- (d) a delivery and completion schedule; and
- (e) a description of any incidental works or non-consultancy services required.

(2) A specification shall contain a complete, precise and unambiguous description of the supplies required and shall include—

- (a) a clear definition of the scope of the supplies;
- (b) the purpose and objectives of the proposed purchase;
- (c) a full description of the requirement;
- (d) a generic specification to an appropriate level of detail;
- (e) a functional description of the qualities, including any environmental or safety features required of the subject of the procurement;
- (f) the performance parameters, including outputs, timescales, and any indicators or criteria by which the satisfactory performance of the specification can be judged;
- (g) process and materials descriptions;
- (h) dimensions, symbols, terminology, language, packaging, marking and labeling requirements;
- (i) the common specification standard relating to the supplies; and
- (j) the relevant industry standard.

26. Statement of requirements for non-consultancy services.

A procuring and disposing entity shall include in the statement of requirements for non-consultancy services—

- (a) any relevant background and the purpose of the required non-consultancy services;
- (b) a list of the specific tasks or duties to be performed;
- (c) a completion schedule or period of performance;

- (d) any schedule of deliverables, outputs or targets to be achieved by the provider;
- (e) the management and reporting lines to the procuring and disposing entity and the specific administrative arrangements and reporting requirements that shall apply to the non-consultancy services;
- (f) the industry standards applicable to the assignment; and
- (g) a description of the incidental supplies or works required.

27. Statement of requirements for works.

(1) A procuring and disposing entity shall include in the statement of requirements for works—

- (a) a clear description of the scope and location of the works;
- (b) the specifications;
- (c) the drawings;
- (d) bills of quantities or activity schedules; and
- (e) a completion schedule.

(2) The statement of requirements shall also include, where appropriate—

- (a) a background narrative to the required works;
- (b) the objectives of the required works;
- (c) a list of specific tasks to be performed;
- (d) the supervision requirements, working relationships and specific administrative arrangements to be applied;
- (e) a common specification or standard relating to the works;
- (f) the relevant industry standard;

- (g) a description of any incidental supplies or non-consultancy services required;
- (h) a delivery schedule for supplies associated with or to be incorporated into the works; and
- (i) any other information relevant to the procurement.

28. Use of brand names.

(1) Specifications shall not be issued with reference to a particular trademark, brand name, patent, design, type, specific origin, producer, manufacturer, catalogue or numbered item.

(2) Where there is no other sufficiently precise or intelligible way of characterising a requirement except by the use of a reference in subregulation (1), the description shall be used, followed by the words “or equivalent”, and shall only serve as a benchmark during the evaluation process.

(3) Notwithstanding subregulation (1), where a standardisation policy is adopted by a competent authority, the corresponding trademark, brand name, patent, design, type, specific origin, manufacturer, producer, catalogue or numbered item may be used in the statement of requirements.

29. Standardisation.

Where a standardisation policy is adopted by a competent authority, the accounting officer of a procuring and disposing entity shall submit the following information to the Authority—

- (a) the technical, economic and logistical justification for the standardization policy;
- (b) a copy of the correspondence with a competent authority or technical expert consulted in relation to the specification;
- (c) the justification for the selection of the proposed standardised supplies, including their advantages over alternative supplies;

- (d) projections for future procurement of the object of standardisation;
- (e) plans to ensure transparency and value for money in the procurement of the standardised supplies; and
- (f) any other information relevant to the standardisation policy relevant to the procurement.

30. Common specification standard in statements of requirements.

(1) A statement of requirements shall use common specification standards issued by the competent authority to support specifications and other definitions of the procurement requirement.

(2) A procuring and disposing entity shall select a common specification standard taking into account the nature of the procurement requirement and the anticipated location or region of use of the procurement requirement.

(3) Before issuing the common specification standards, a competent authority shall, in order of priority, take into account—

- (a) national standards set by the Uganda National Bureau of Standards or other competent authority;
- (b) international standards set by the International Standards Organisation, where appropriate standards exist;
- (c) standards set by specialised agencies or bodies such as WHO, UN or IATA;
- (d) internationally-recognised standards set by the competent authority of another country, that are used extensively and are appropriate for use in Uganda, such as BS (UK), AS (USA), or SAS (RSA); and
- (e) standards or particular specifications used by a trade or profession and obtained from the association of the trade or profession.

31. Procedure for obtaining the approval of a competent authority for alternative specification standards.

(1) Where a competent authority has not issued specification standards, a procuring and disposing entity shall identify a suitable standard using the order of priority stated in regulation 30 and apply to the competent authority to adopt it as a common specification standard.

(2) The application by a procuring and disposing entity to the competent authority to adopt a common specification standard for future use shall include—

- (a) a full description of the subject of the procurement, including the proposed statement of requirements;
- (b) a statement of any similar specification standard already issued by the competent authority and the reason why it is unsuitable or the modifications required;
- (c) any appropriate existing standard known to the procuring and disposing entity;
- (d) an indication of whether the requirement is a one-off or a regular requirement and if it is regular, the estimated number and value of similar future requirements; and
- (e) any other relevant information.

(3) The competent authority shall, within fifteen working days after receipt of the application, advise on the appropriate specification standard.

Preparing bidding documents

32. Preparing bidding documents.

A procuring and disposing entity shall when preparing each bidding document ascertain that—

- (a) the statement of requirements defines the requirement precisely and in a manner that leaves no doubt or assumption by a bidder;

- (b) the evaluation criterion considers all appropriate factors and that their method of application is clear;
- (c) the most appropriate type of contract shall result from the procurement proceedings in terms of contractual protection to the procuring and disposing entity, structure of payment, payment terms and method of payment;
- (d) the basis of the prices and costs required are adequately defined so that they can be meaningfully compared and later inserted into any resulting contract to represent the full cost of the procurement requirement; and
- (e) a practical method of achieving the objectives of the procurement requirements is detailed to meet any logistics and supply requirements.

33. Bidding documents for supplies.

(1) A procuring and disposing entity shall specify in the bidding documents for supplies—

- (a) the instructions to bidders which shall state—
 - (i) the amount and form of bid security, if required;
 - (ii) the amount and form of performance security, if required;
 - (iii) the bid format;
 - (iv) the bid submission methodology;
 - (v) the currency in which a bid is to be submitted;
 - (vi) the procedure for conversion of prices into a single currency for evaluation purposes, including the source and date of exchange rates to be used for conversion;
 - (vii) the currency in which a contract shall be paid; and
 - (viii) the evaluation methodology and criteria;

- (b) the standard bidding forms to be used;
- (c) the schedule of requirements, which shall include—
 - (i) the specification and list of supplies;
 - (ii) a sample of the supplies where required; and
 - (iii) the required delivery terms;
- (d) the draft contract, which shall include—
 - (i) the currency in which the contract shall be paid;
 - (ii) the amount and form of performance security, if required;
 - (iii) the payment terms, including any advance payment, stage payments, payment retentions and payment securities;
 - (iv) the basis for fixed or variable prices, and the method for calculating variations in variable prices, if required;
 - (v) the method of payment;
 - (vi) the documentation required for payment;
 - (vii) the required delivery terms;
 - (viii) any special requirements for packaging, marking and labeling;
 - (ix) the delivery documentation required;
 - (x) any inspection or tests required;
 - (xi) any insurance requirements;
 - (xii) any required warranty; and
 - (xiii) the type of contract to be placed;
- (e) any other terms or conditions which shall be consistent with these Regulations.

(2) Where a procurement is conditional upon the acceptance of a trade-in, the bidding documents shall include details of the asset to be traded in, in order that the cost of the asset is made to offset the cost of the new procurement requirement.

34. Bidding documents for works.

A procuring and disposing entity shall in the bidding documents for works specify the following information—

- (a) the instructions to bidder, which shall include—
 - (i) the amount and form of bid security or form of bid-securing declaration required;
 - (ii) the bid format;
 - (iii) the currency in which a bid is to be submitted;
 - (iv) the bid submission methodology;
 - (v) the evaluation methodology and criteria; and
 - (vi) the procedure for conversion of prices to a single currency for evaluation purposes, including the source and date of exchange rates to be used for conversion;
- (b) the statement of requirements including—
 - (i) design, specifications, drawings, bill of quantities or equivalent as may be applicable; and
 - (ii) the schedule for execution of the works;
- (c) the proposed form, terms and conditions of contract, including—
 - (i) the type of contract to be placed;
 - (ii) the amount and form performance security, if required;
 - (iii) the currency in which a contract shall be paid;

- (iv) the payment terms, including any advance payments, interim or stage payments or payment retentions and the required payment securities;
 - (v) the basis for fixed or variable prices, and the method for calculating variations, if required;
 - (vi) the method of payment;
 - (vii) the documentation required for payment;
 - (viii) the functions and authority of the technical representative of the procuring and disposing entity, if any;
 - (ix) any inspection or tests required, and the test methods;
 - (x) requirements relating to certification of conformity; and
 - (xi) the insurance cover or indemnity required; and
- (d) any other information, terms or conditions which shall be consistent with these Regulations.

35. Bidding documents for non-consultancy services.

A procuring and disposing entity shall include in the bidding documents for non-consultancy services—

- (a) instructions to bidders, which shall include—
 - (i) the amount and form of bid security required;
 - (ii) the amount and form of any performance security;
 - (iii) the bid format;
 - (iv) bid submission methodology;
 - (v) currency in which the bid is to be submitted;
 - (vi) the procedure for conversion of prices to a single currency for evaluation purposes, including the source and date of exchange rates to be used for conversion; and

- (vii) the evaluation methodology and criteria;
- (b) the standard bidding forms to be used;
- (c) the schedule of requirements, which shall specify—
 - (i) a description of the non-consultancy services required;
 - (ii) the duration, timing of inputs and completion schedule;
 - (iii) the required deliverables or outputs; and
 - (iv) any requirements with respect to the personnel to be used in the performance of the non-consultancy services;
- (d) the draft contract, which shall include—
 - (i) the currency in which a contract shall be paid;
 - (ii) the payment terms, including any advance payment, stage payments, payment retentions and payment securities;
 - (iii) the basis for fixed or variable prices, and the method for calculating variations in variable prices, where required;
 - (iv) the method of payment;
 - (v) the documentation required for payment;
 - (vi) any requirements for inspection or approvals of the non-consultancy services provided;
 - (vii) any insurance requirements;
 - (viii) the type of contract to be placed; and
- (e) any other information, terms or conditions which shall be consistent with these Regulations.

36. Alternative bids.

(1) A procuring and disposing entity shall specify in the bidding documents whether an alternative bid shall be considered.

(2) A procuring and disposing entity shall permit alternative bids where it is anticipated that a bidder shall be able to offer supplies, works or non consultancy services, which do not conform precisely to the statement of requirements, but which satisfy the objectives of the procurement in an alternative manner.

(3) An alternative bid shall be permitted in areas of rapidly changing technology or where a need may be satisfied in a number of different ways and the procuring and disposing entity wishes to encourage cost efficient and technically innovative approaches by bidders.

(4) The bidding document shall state whether—

- (a) alternative bids are invited for the complete works, supplies or non-consultancy services; specified parts of the works, supplies or non-consultancy services or for other factors, such as alternative completion schedules; and
- (b) a bidder shall be required to submit both a main bid which conforms precisely to the statement of requirements and an alternative bid or whether an alternative bid may be submitted without a main bid.

(5) Where the bidding document permits alternative bids, the bidding document shall state that the alternative bid does not need to conform precisely to the statement of requirements, but that the alternative bid shall—

- (a) meet the objectives or performance requirements prescribed in the statement of requirements;
- (b) be substantially within any delivery or completion schedule, budget or other performance parameters stated in the bidding document; and

(c) clearly state the benefits of the alternative bid over any solution which conforms precisely to the statement of requirements, in terms of technical performance, price, operating costs or any other benefit.

(6) Where the bidding document permits alternative bids, the procuring and disposing entity shall ascertain that—

(a) the statement of requirements contains a clear, accurate and comprehensive description of the objectives or performance requirements of the subject of the procurement; and

(b) the method for evaluating alternative technical solutions is specified.

37. Evaluation criteria.

(1) The evaluation criteria to be used shall be stated in the solicitation document and the evaluation shall be conducted in accordance with the criteria without any amendments to the criteria.

(2) The evaluation criteria shall be used to assess compliance with the statement of requirements, the ability to perform the proposed contract and the ability to meet the objectives of the procurement.

(3) The evaluation criteria which is not related to the statement of requirements, the proposed contract or the objectives of the procurement shall not be included in the solicitation document.

(4) The evaluation criteria shall not be drafted in a way which restricts competition, unless the criteria is required to meet the objectives of the procurement or in accordance with a preference or reservation scheme.

(5) Where criteria is given scores or is weighted, the maximum score or weight allocated shall be directly related to the importance of the criteria to the procurement.

38. Costs to be included in the financial comparison.

(1) The bidding document shall state the costs which shall be taken into account in the financial comparison and the costs which shall be excluded from the financial comparison.

(2) The costs may include—

- (a) fee rates or unit prices, based on either a fixed or estimated total quantity;
- (b) reimbursable costs, such as costs for travel, materials or consumables used in the performance of the services or similar costs;
- (c) costs for packing, packaging, freight and inland delivery;
- (d) costs for installation and commissioning of equipment;
- (e) costs for inspection and tests;
- (f) operating costs, which shall be for the period specified in the bidding document;
- (g) costs for the servicing and maintenance of equipment and costs for spare parts for equipment, which shall be for the period specified in the bidding document;
- (h) for works, the total bid price based on the bill of quantities or the schedule of prices and the cost of day work items;
- (i) duties, taxes or other levies; and
- (j) cost to cover contingencies.

(3) Where the evaluation of bids requires the consideration of factors other than cost, the bidding document may also state the way in which non-cost factors will be quantified and expressed in monetary terms for purposes of the financial comparison.

(4) The financial comparison may include an assessment of the whole life-cycle cost of the equipment which is expected to be in use for a long time or where maintenance and operating costs are a significant proportion of the overall cost.

(5) The factors referred to in this regulation shall relate to the terms and conditions or performance characteristics of the bid, such as the gain in value of early completion or a penalty for late completion.

39. Discounts in bidding documents and bids.

(1) The bidding document shall include specific areas in which a bidder can declare the level of discount applicable to the bid.

(2) A bidder shall be permitted to offer a cross discount that is conditional on the simultaneous award of a contract for other lots contained in the bidding document.

40. Considerations in respect of taxes, duties and levies.

(1) A bidding document shall state whether taxes, duties and levies shall be included in the evaluated price.

(2) Where taxes are included, in the case of supplies, a procuring and disposing entity shall—

- (a) use the delivery terms defined in INCOTERMS to state the export and import taxes, duties or levies that are the responsibility of the provider; and
- (b) state any other taxes, duties or levies that are the responsibility of the provider.

(3) Where taxes are included, in the case of non-consultancy services, a procuring and disposing entity shall state the liability to taxes and other charges for the duration of the proposed assignment or project for a provider.

(4) Unless otherwise stated in the bidding document, where a preference scheme applies, the cost of any taxes, duties or levies shall be included in the evaluated price prior to the application of any margin of preference.

PART VI—BIDDING.

41. Method of inviting bidders.

(1) A procuring and disposing entity shall invite a bidder to bid—

- (a) by publication of a bid notice;
- (b) through a pre-qualification exercise;
- (c) by development of a shortlist; or
- (d) by direct invitation of a sole or single provider.

(2) The method used shall be in accordance with the Act and these Regulations.

42. Bid notices.

(1) A bid notice shall be published in at least one newspaper of wide circulation.

(2) A bid notice shall be displayed on the website of the Authority and the notice board of the procuring and disposing entity not later than the date of publication of the bid notice and shall be displayed until the deadline for submission of bids.

(3) For the purposes of subregulation (2), a procuring and disposing entity shall publish an abridged version of the notice in at least one newspaper of wide circulation, indicating the website where the full version of the notice is published.

43. Shortlist of bidders.

(1) A shortlist shall include at least three bidders to ensure competition.

(2) Where it is not practicable for a procuring and disposing entity to obtain at least three bidders the contracts committee may approve a shortlist of less than three bidders.

(3) A procuring and disposing entity shall when developing a shortlist for procurement requirements use the list of providers pre-qualified by the procuring and disposing entity for a group of contracts under regulation 22 or—

- (a) the register of providers of the Authority;
- (b) the list of pre-qualified providers of another procuring and disposing entity; or
- (c) the knowledge of the market by the procuring and disposing entity.

(4) Where a procuring and disposing entity develops a shortlist, the following shall be taken into account—

- (a) a fair and equal opportunity shall be afforded to all bidders and there shall be no barrier created to deter competition;
- (b) a bidder shall not be included unless they are expected to fully satisfy the eligibility requirements; and
- (c) a bidder shall not be included unless they are expected to fully satisfy the qualification requirements of competence, capacity, resources and experience required for the execution of the procurement.

(5) The procuring and disposing unit shall before issuing the bidding document, using Part II of Form 5 in **the Schedule**, record the proposed shortlist, with reasons for the selection of each bidder, and submit it to the contracts committee for approval.

(6) The approved shortlist shall be displayed on the procurement and disposal notice board of the procuring and disposing entity, not later than the date of issue of the invitation and shall remain on display until the closing date for submission of bids.

44. Invitation of a single source provider or sole source provider.

(1) A procuring and disposing entity shall use the following information to identify a single source provider or a sole source provider of a procurement requirement—

- (a) the list of pre-qualified providers of the procuring and disposing entity;
- (b) the register of providers of the Authority;
- (c) the list of pre-qualified providers of any other procuring and disposing entity; or
- (d) the procuring and disposing entity's own knowledge of the market.

(2) When selecting a single source provider—

- (a) the procuring and disposing entity shall ascertain that the selected single source provider is eligible and qualified before recommending the source; and
- (b) where possible, the provider shall not be informed that the proposed procurement is based on a single source.

(3) Where a sole source provider exists, the procuring and disposing entity shall verify that only a sole source provider exists and ensure that the sole bidder is eligible and qualified before recommending the source.

(4) The procurement and disposal unit shall, before issuing the bidding document, using Part II of Form 5 in **the Schedule**, record the proposed single source provider or sole source provider, with reasons for the selection of a single source provider or reasons why there is only a sole source provider, and submitted to the contracts committee for approval.

(5) The approved single or sole source shall be displayed on the notice board of the procuring and disposing entity, not later than the date of issue of the invitation and shall remain on display until after the closing date for submission of bids.

45. How to determine the bidding period.

(1) The bidding period shall start on the date the bid notice is first published or on the date of availability of the bidding document to bidders, whichever is later and shall end on the deadline for submission of bids by bidders.

(2) The bidding period shall be determined taking into consideration—

- (a) the time required for the potential bidders to obtain the bidding document from the procuring and disposing entity;
- (b) the time required for the preparation of bids, taking into account the level of detail required and the complexity of the bidding;
- (c) the need for bidders to submit authenticated legal documents or similar documents as part of the bids and the time required to obtain the documents;
- (d) the location of shortlisted or potential bidders and the time required for obtaining bidding documents and for the delivery and submission of bids to the procuring and disposing entity;
- (e) the anticipated duration of the procurement process; and
- (f) the minimum bidding period.

46. Minimum bidding period.

(1) The minimum bidding period in respect of each procurement method is—

- (a) twenty working days for the open domestic bidding method;
- (b) thirty working days for the open international bidding method;

- (c) twelve working days for the restricted domestic bidding method;
- (d) twenty working days for the restricted international bidding method; and
- (e) five working days for the quotations method.

(2) The direct procurement method shall not have a minimum bidding period.

(3) Where the publication of a bid notice or the availability of the bidding document, is delayed, the deadline for submission of bids shall be extended appropriately so that the minimum bidding period is complied with.

47. Issue and sale of bidding documents.

(1) A procuring and disposing entity shall issue or sell bidding documents to—

- (a) a bidder who requests the documents, in the case of open bidding;
- (b) a single source provider or a sole source provider approved by the contracts committee, in the case of direct procurement; and
- (c) a bidder on the shortlist approved by the contracts committee, in the case of all other methods of procurement.

(2) Where bidding documents are sold, the procuring and disposing entity shall allow a potential bidder to inspect the bidding documents before purchase.

(3) A procuring and disposing entity shall record the issue or sale of all bidding documents using Form 8 in **the Schedule**.

(4) Bidding documents may be sold in order to recover the cost of printing, copying and distribution and the price shall be calculated to cover only these costs and shall not include any profit.

(5) The price of the bidding documents shall be approved by the contracts committee before issuing the bid notice or bidding documents and shall be included in the bid notice.

(6) Where bidding documents are sold, a procuring and disposing entity shall issue signed receipts for payment to bidders.

48. Bidding documents not obtained directly from a procuring and disposing entity.

A bid shall be rejected during the preliminary examination of bids, if the bid is received from a bidder who—

- (a) is not listed on Form 8 as having bought or obtained the bidding document directly from the procuring and disposing entity; or
- (b) is not included on the shortlist approved by the Contracts Committee.

49. Clarification and amendment of bidding documents.

(1) The bidding documents shall state that a bidder may seek clarification on the bidding documents and shall state the date by which the clarification shall be sought.

(2) In determining the date referred to in subregulation (1) a procuring and disposing entity shall provide adequate time for all bidders to receive and study the bidding documents.

(3) Where a request for clarification is received, the procuring and disposing entity shall promptly provide a clarification in writing and the clarification shall be copied to all bidders to whom the bidding documents were issued, and shall include a description of the request without identifying the source of the request.

(4) At any time before the deadline for submission of bids, the procuring and disposing entity may, at its own initiative or in response to a request for clarification from a bidder, amend the bidding documents by issuing an addendum.

(5) A clarification made by the procuring and disposing entity shall not be taken as an addendum to the bidding documents.

(6) To give a bidder reasonable time during which to take an addendum into account in preparing a bid, the procuring and disposing entity shall, where less than one third of the bidding period remains, extend the deadline for the submission of bids by a reasonable period.

(7) Where more than one third of the bidding period remains, the procuring and disposing entity may, at its discretion, extend the deadline for the submission of bids.

(8) The addendum, including any extension to the bidding period, shall be issued in writing and the same information shall be provided to all the bidders.

(9) A procuring and disposing entity shall obtain proof of receipt of the addendum by a bidder.

(10) All addenda to bidding documents shall be approved by the contracts committee before being issued to bidders and shall be numbered sequentially.

(11) All clarifications and addenda to the bidding documents shall be binding on all the bidders.

(12) The procurement and disposal unit shall seek approval of the addendum by the Contracts Committee using Form 9 in **the Schedule**.

50. Pre-bid meetings.

(1) A procuring and disposing entity may hold pre-bid meetings to allow potential bidders to seek clarification or access to project sites where applicable.

(2) Where holding a pre-bid meeting is required, the notice to attend the meeting shall be included in the bidding document and any bid notice and where the procurement is under the international bidding method, the period of the notice shall be extended.

(3) A potential bidder shall be given sufficient notice of the pre-bid meeting to offer reasonable opportunity for the bidder to attend.

(4) A pre-bid meeting shall allow sufficient time before the deadline for bidding to enable a bidder to take any additional information into account in preparing the bid.

(5) The minutes of a pre-bid meeting shall be recorded using Form 10 in **the Schedule** and copies of the minutes shall be provided to all bidders who purchased bidding documents or to whom the bidding documents were issued.

(6) A pre-bid meeting shall be managed by the procurement and disposal unit and the user department shall be represented at the pre-bid meeting.

51. Format and content of bids.

The bidding documents shall contain instructions to bidders on—

- (a) the format and content required in bids;
- (b) the requirements for signing and authorising bids; and
- (c) the number of copies of bids to be submitted, which shall be the original bid marked “ORIGINAL” and a specified number of copies, each marked “COPY”.

52. Bid validity period and extensions

(1) The bidding documents shall state the date up to which a bid shall be valid.

(2) A bid shall remain valid until the close of business on the last day of the validity period.

(3) When determining the duration of a bid validity period, sufficient time shall be allowed to enable—

- (a) the procuring and disposing entity to undertake evaluation, post-qualification and negotiation exercises, as may be appropriate;
- (b) the contracts committee to adjudicate the award of contract recommendation;
- (c) a bidder to challenge the award decision before a contract is formed; and
- (d) the procurement and disposal unit to prepare a letter of bid acceptance or the contract document and obtain all necessary approvals prior to issue of the letter or document, within the validity period of the bid.

(4) A procuring and disposing entity shall not request for an extension to the initial period of bid validity from a bidder.

(5) Where an extension to the bid validity period becomes necessary, a bidder shall be requested in writing, before the expiry of validity of their bid, to extend the validity for a specified period to complete the process outlined in subregulation (3).

(6) In extending the validity of a bid, the bidder shall not be permitted to change the price or any other details of the bid.

(7) A bidder may refuse to extend the validity of the bid, and where the bidder refuses to do so, the bidder shall not forfeit the bid security.

53. Bid security and bid securing declaration.

(1) A bidding document shall state any requirement for a bid security or bid securing declaration.

(2) The amount of a bid security or the terms of a bid securing declaration shall be specified in guidelines issued by the Authority.

(3) The purpose of a bid security and a bid securing declaration shall be to encourage bidders fulfill the conditions of the bids and to deter irresponsible and unserious bidders from bidding.

(4) A procuring and disposing entity shall require a bid security to be—

- (a) in a format provided by the Authority as shall be included in the bidding documents;
- (b) in a form and from an institution that is specified in guidelines issued by the Authority after consulting the Bank of Uganda; and
- (c) valid up to the date prescribed in the bidding documents.

(5) A bid security shall be valid for at least twenty eight days after the expiry of the bid.

(6) A bid security shall be released promptly by a procuring and disposing entity to an unsuccessful bidder upon expiry of the term of the security or upon the formation of a contract with the successful bidder and submission of a valid performance security or upon request by the unsuccessful bidder after publication of the notice of best evaluated bidder.

(7) The bid security of the successful bidder shall not be returned to the bidder until a corresponding performance security is received, where it is required by the contract.

(8) The proposed release of a bid security shall be communicated to the bidder and the bid security returned in accordance with the instructions of the bidder.

(9) A procuring and disposing entity shall require a bid securing declaration where the restricted domestic bidding and quotations procurement methods are used.

(10) Where a bidder breaches the bid securing declaration, the procuring and disposal entity shall immediately notify the Authority.

(11) The Authority may in accordance with Section 94 of the Act, suspend a bidder who breaches a bid securing declaration.

54. Forfeiture of bid security.

The conditions for forfeiture of a bid security shall be specified in the bidding document and shall include—

- (a) the withdrawal of a bid by a bidder during the period of bid validity; and
- (b) failure by a successful bidder to—
 - (i) accept the correction of the bid price;
 - (ii) sign the contract within the specified period; or
 - (iii) furnish the required performance security within the specified period.

55. Bid currency.

The bidding documents shall state any limitations on the currency of the bid and the payment that shall apply to the procurement proceedings and the contract.

56. Bid submission methods.

(1) The bidding documents shall contain instructions on the method of bid submission.

(2) The one stage-single envelope method shall be the used for the procurement of goods, works and non consultancy services.

(3) Under the one stage-single envelope method, a bid shall be submitted in one sealed envelope, which is opened on the specified date and time in a single bid opening.

(4) Notwithstanding subregulation (2), where necessary, in the case of procurement of design and build, text books and information technology systems, the bid submission method may be—

- (a) the one stage-two envelope method, in which a bid is submitted in an outer sealed envelope, containing two separately sealed and labeled technical and financial bids, which are opened on different dates in separate bid openings; or

- (b) the two stage method, in which—
 - (i) during the first stage, only the technical bid is submitted, opened and evaluated; and
 - (ii) during the second stage, a revised technical bid and a financial bid are submitted, opened and evaluated together.

(5) Where the two stage method is used, a bidder shall be invited to submit a revised technical bid and financial bid during the second stage, unless the bidder has been declared non compliant or non responsive.

(6) The bid submission method to be used shall be selected using the rules for the applicable evaluation methodology and guided by the following-

- (a) the one stage-single envelope method shall be used under technical compliance evaluation method where all stages of the evaluation are to be conducted together;
- (b) the one stage-two envelope method shall be used where the detailed technical evaluation is to be conducted without reference to the financial bid; and
- (c) the two stage method shall be used for large and complex contracts, where technically unequal bids are likely to be received and more than one equally acceptable technical solution is available to the procuring and disposing entity, which needs to ensure that all technical bids conform to the same technical standard before a financial bid is prepared.

(7) The bidding documents shall state that the bid shall be submitted in a plain securely sealed outer envelope, so that opening and resealing of the envelope cannot be achieved undetected.

(8) The bidding documents shall contain instructions on the information to be provided on the envelope, including—

- (a) the procurement reference number;
- (b) the name of the bidder;
- (c) the words, “TECHNICAL” or “FINANCIAL” where the one stage-two envelope or two stage bid submission method is used;
- (d) the words “WITHDRAWAL” “MODIFICATION” or “REPLACEMENT” where a bid is withdrawn, modified or replaced; and
- (e) the words “NOT TO BE OPENED BEFORE THE DATE AND TIME OF THE BID OPENING”.

(9) The bidding documents shall state that where a bid is not properly marked or sealed in accordance with this regulation, the procuring and disposing entity shall not be responsible for opening a bid when it should not be opened or misplacing the bid.

(10) Where alternative bids are permitted and a bidder submits more than one bid, each bid shall be submitted as a completely separate bid and shall conform to the instructions for preparation and submission of bids in its own right, without any reliance on any other bid.

(11) For the purposes of subregulation (10) each bid shall be separately signed, authorised, sealed, labelled and shall be submitted in accordance with the instructions for submission of bids and shall be accompanied by a separate bid security or bid-securing declaration, if so required, and labelled “Main Bid” or “Alternative Bid”, as the case may be.

57. Withdrawal, replacement and modification of bids.

(1) The bidding documents shall contain instructions that a bidder may, at any time before the deadline for submission of bids—

- (a) withdraw the bid;
- (b) submit a replacement bid; or
- (c) modify the bid.

(2) The bidding documents shall specify the procedure for withdrawal, replacement or modification of a bid and shall state that the deadline for withdrawal, replacement or modification shall be the same as the deadline for submission of bids.

(3) Withdrawal shall be by submission of a letter notifying the procuring and disposing entity of the withdrawal and shall be authorised and submitted in the same way as the bid.

(4) Modification shall be by submission of a letter notifying the procuring and disposing entity of the part of the original bid being modified and shall be authorized and submitted in the same way as the original bid.

(5) The envelope containing the letter withdrawing a bid shall be clearly marked, "WITHDRAWAL".

(6) The envelope containing the letter withdrawing the bid shall be clearly marked, "MODIFICATION".

(7) A bidder withdrawing a bid may submit a new bid in accordance with the bid submission instructions in the bidding document and the envelope containing the new bid shall be clearly marked "REPLACEMENT".

(8) A bid shall only be modified, replaced or withdrawn in accordance with this regulation and any modification, replacement or withdrawal submitted in any other way shall not be taken into account in the evaluation of bids.

58. Methods of receipt of bids.

(1) A procuring or disposing entity shall receive bids—

(a) through the staff of the procurement and disposal unit, in person, who shall acknowledge a receipt; or

(b) by use of a bid box.

(2) Where a bid is delivered by courier, a procuring and disposing entity shall not be held liable where the bid is lost or delivered late by the courier to the procuring and disposing entity.

59. Receipt of bids in person and closing of submission of bids.

(1) A member of the Procurement and Disposal Unit shall be available at the location for submission of proposals, for a reasonable period of time before the deadline for submission, to receive proposals and to issue receipts.

(2) The procurement and disposal unit shall issue a signed receipt for each bid received, stating the date and time the bid is received.

(3) A procuring and disposing entity shall maintain a record of all the bids received, using Form 11 in **the Schedule**.

(4) The process of submission of bids shall be closed at the deadline for submitting bids.

(5) A bid that is brought to the location of submission of bids after the deadline for submission shall not be accepted or received by the procuring and disposing entity.

(6) A bid that is submitted after the deadline for submission of bids shall be labelled “LATE”, and shall be returned unopened to the bidder or shall be destroyed, where the bid is not labelled with the name of the bidder.

(7) The closure of the process of submission of proposals shall be managed by at least one member of the procurement and disposal unit and shall be witnessed by a member of the contracts committee or the user department.

(8) The persons referred to in subregulation (7) shall sign Form 11 in **the Schedule** to confirm that bidding closed at the at the deadline for submission of bids.

(9) Immediately after the closure of the process of submission of bids, the bids received shall be moved to the location where the bids are to be opened.

60. Receipt of bids by bid box and closing of submission of bids.

(1) A Procurement and Disposal Unit shall provide a box for submission of bids which shall be accessible to bidders during working hours until the deadline for submission of bids.

(2) Where a bid is too large to be placed in the bid box, a member of the Procurement and Disposal Unit shall receive the bid and issue a receipt to the bidder.

(3) Where a procuring and disposing entity considers it appropriate, it may require a bidder to register the bid before placing the bid in the bid box.

(4) The process of submission of bids shall be closed at the deadline for submission of bids by sealing the bid box.

(5) A bid that is brought to the location for submission of bids after the deadline for submission shall not be placed in the box or accepted in any other way.

(6) The closure of the process of submission of bids shall be managed by at least one member of the procurement and disposal unit and shall be witnessed by a member of the contracts committee or a person nominated by the user department.

(7) The persons referred to in subregulation (6) shall sign Form 11 in **the Schedule** to confirm that the bid box was sealed at the deadline for submission of bids. .

(8) Immediately after the closure of the process of submission of bids, the bids received shall be moved to the location where the bids are to be opened.

(9) The bid box shall not be opened before the public opening session.

61. Change to bid details.

(1) The bidding documents shall state that a change in the substance of a bid including changes in price shall not be sought, allowed or offered after bid closing.

(2) The bidding documents shall state that a bidder who attempts to make changes to a bid after closure of the process of submission of bids shall be reported to the Authority and that the bid shall be rejected by the procuring and disposing entity.

62. Notification to bidders of public bid opening.

(1) The bids submitted under the open bidding method or the restricted bidding method shall be opened at a public bid opening session.

(2) The bidding documents of the open bidding method or the restricted bidding method shall contain instructions to bidders regarding—

- (a) the date and time of the bid opening session;
- (b) the location of the bid opening session; and
- (c) the information to be read out and recorded at the bid opening session.

(3) For the purposes of subregulation (2)(a) bid opening shall be immediately be after bid closing.

63. Representation of bidder at public bid opening.

(1) Public bid opening shall be conducted in the presence of a bidder who chooses to attend or a representative of a bidder.

(2) The procuring and disposing entity shall permit a bidder or a representative of a bidder to confirm that the bid is intact and sealed and no addition, deletion or modification to the exterior or the contents of the sealed bid shall be permitted.

(3) A bidder or a representative of a bidder may ask questions after the bids are opened, but a procuring and disposing entity shall not enter into discussion on the specific details of any bid.

64. Information to be read out at bid opening.

(1) The information to be read out at a bid opening session shall be in accordance with the bidding document and shall include—

- (a) the name of the bidder;
- (b) the presence or absence of a bid security and the form or amount of any bid security, where bid security was requested in the bidding document;
- (c) the total price of the bid, including the currency and amount or discount;
- (d) the technical score obtained by the bid under the one stage-two envelope, the two stage-two envelope or the two stage submission methods, as may be applicable;
- (e) where applicable, whether a power of attorney is submitted or not; and
- (f) any other information required as may be stated in the bidding documents.

(2) The information in subregulation (1) may be varied where it is required by an alternative bid submission or evaluation methodology.

65. Procedure for public bid opening.

(1) The public opening of bids shall be managed by the procurement and disposal unit and shall be witnessed by a member of the contracts committee or a person nominated by the user department.

(2) At the public opening, the Procurement and Disposal Unit shall first manage the envelopes marked “WITHDRAWAL” by reading out the names of the bidders as indicated on the envelopes and returning the sealed envelopes to the bidder.

(3) A bid shall be accepted as withdrawn where the withdrawal notice is in accordance with the instructions for withdrawal of bids stated in the bidding documents and in accordance with subregulation (2).

(4) The Procurement and Disposal Unit shall open all the other envelopes including the envelopes marked “REPLACEMENT” OR “MODIFICATION” and read out the information that is required by the bidding documents to be read out at the public opening session.

(5) A modified or replacement bid shall be recorded as such in the record of the bid opening session.

(6) The key pages of a bid, including the typed pages that are unique to the bid, the bid form, the bid submission sheet and the pages containing financial information shall be endorsed with the stamp of the procuring and disposing entity and signed or initialled by the chairperson of the opening session.

(7) A bid shall not be accepted, rejected or evaluated in any way at the public bid opening.

(8) The procuring and disposing entity shall note the discrepancies in a bid or documents missing in a bid, if any, in the record of the bid opening session, but shall not otherwise comment on the discrepancies or documents missing.

(9) The public bid opening shall be recorded using Form 12 in the Schedule.

(10) A person who attends or participates in a bid opening session shall sign Part II of Form 12 in the Schedule.

(11) After all bids are opened, read out and recorded, the record of the bid opening session and shall be signed by the chairperson and the secretary.

(12) Copies of the record shall upon request, be made available to a bidder or a representative of a bidder.

(13) The record of the bid opening shall be posted on the procurement and disposal notice board of the procuring and disposing entity, within one working day after the opening session and shall be displayed for a minimum of seven working days.

66. Complaints on the bidding process.

(1) A member of a procuring and disposing entity, who suspects collusion between bidders, may request the Authority to investigate the matter.

(2) A member of a procuring and disposing entity who suspects mismanagement or malpractice of a procurement or disposal process within the procuring and disposing entity, shall report this to the accounting officer, who shall take the appropriate action.

(3) A bidder may complain about the bidding process in accordance with the Public Procurement and Disposal of Assets (Administrative Review) Regulations, 2014.