



UNITED REPUBLIC OF TANZANIA

PUBLIC PROCUREMENT REGULATORY AUTHORITY

PROCUREMENT OPERATIONAL MANUAL
FOR LOCAL GOVERNMENT AUTHORITIES

Version 1.1
December 2016



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FOREWORD

Decentralization has been one of the major policy initiatives of the Government of the United Republic of Tanzania. The most recent policy reform commenced around two decades ago and was formulated in 1998 as Decentralisation-by-Devolution (D-by-D). The policy has the main objective to empower citizens, devolve fiscal resources, democratize state power and facilitate effective service delivery in our communities and Councils to improving people's welfare. It is also intended to improve transparency and accountability in Local Governments, promote good governance and participatory democracy.

Under the decentralization policy, a range of powers, responsibilities and functions are transferred to Local Government Authorities. Besides the responsibility of planning, mobilising, allocating and managing fiscal resources, the function of procurement and contracts management was fully transferred to Local Governments as entrenched in the Public Procurement Act (PPA) of 2004 and subsequent revisions made under PPA 2011 and amended in 2016.

In the course of implementing public procurement reform and following consultations with stakeholders, we have realized that many Local Government Authorities (LGA) - which constitute around one-third of all Procuring Entities in Tanzania- would require additional guidance in operational areas of Procurement and Contract Management. This is related to the multi-sectoral organisation and wide range of services provided by the LGAs at various levels (Council, Ward, Village and Service Delivery Unit) under the Council governance system.


Against this background, the Authority has developed this Procurement Operational Manual for Local Government Authorities. The aim is to guide LGA staff and officials (i.e. job families) in the correct use and application of the public procurement law, regulations, standards, procedures, processes, tools and systems. The manual uses a practical, process management approach, which structures the roles, responsibilities, tasks and outputs of LGA actors, bodies and committees (Job Families) in line with the LGA procurement cycle, functions, outputs and outcome. We are confident that this will improve the procurement compliance and performance of the Councils, and ultimately attain Value-for-Money of LGA procurement.

All Local Governments and stakeholders are encouraged to use the manual in their work place. Besides in printed format, the PPRA has made the manual available

through its e-platform in order to reach as many stakeholders as possible. The manual should, however, be used together with the Constitution, the Public Procurement Act and its Regulations, Local Government Finance Act, and any legislation relevant to a particular subject or topic.

Finally, we wish to express our deep appreciations and gratitude to our partners, stakeholder and collaborators in the invaluable assistance they gave the Authority in developing and validating the manual. They comprised staff of selected Local Government Authorities and Regional Secretariats, the Local Government Division and Local Government Training Institute of the President's Office - Regional Administration & Local Government, Consultant as well as procurement experts from the Authority and the Project Implementation Unit. The manual is one of the main outputs of the Enhancement of Procurement Capacity of Local Government Authorities project (EPC-LGAP), which was jointly implemented from 2013 to 2017 by the PPRA and the Belgian Development Agency (BTC) in partnership with the President's Office - Regional Government and Local Government (PO-RALG).

The Authority invites stakeholders to provide feedback on the use of the manual and undertakes to provide any clarification where required to support capacity building for improved procurement and contract management in the Local Governments.



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ABBREVIATIONS

AG	Attorney General
AO	Accounting Officer
APP	Annual Procurement Plan
BAA	Budget Approving Authority
BOQ	Bill of Quantity
BTC	Belgium Development Agency
CAG	Controller and Auditor General
CD	Council Director
CLO	Council Legal Officer
CMT	Council Management Team
CTB	Council Tender Board
CUIS	Common Use Items and Services
EC	Evaluation Committee
EOI	Expression of interest
FPC	Finance and Planning Committee
GN	Government Notice
GPN	General Procurement Notice
GPSA	Government Procurement Services Agency
HoD	Head of Department
IAC	Inspection and Acceptance Committee
HLG	Higher Local Government
ICB	International Competitive Bidding
ICT	Information Communication Technology
ITT	Invitation to Tender
LCS	Least Cost Selection
LGA	Local Government Authority
LLG	Lower Local Government
LPO	Local Purchasing Order
M&E	Monitoring and Evaluation
MSD	Medical Stores Department
MTEF	Medium Term Expenditure Framework
NCS	National Competitive Selection
PE	Procuring Entity
PMIS	Procurement Management Information System
PO-RALG	President's Office – Regional Administration and Local Government
PMU	Procurement Management Unit
PPA	Public Procurement Act
PPAA	Public Procurement Appeals Authority
PPP	Public Private Partnership
PPR	Public Procurement Regulations
PPRA	Public Procurement Regulatory Authority
PSPTB	Procurement and Supplies Professional and Technicians Board
QCBS	Quality Cost Based Selection

RAS	Regional Administrative Secretary
RS	Regional Secretariat
RFPs	Request For Proposal
SOR	Specification of Requirements
SOW	Specification of Works
SBD	Standard Bidding Document
STD	Standard Tender Document
TB	Tender Board
TDS	Tender Data Sheet
TOR	Terms of Reference
TEMESA	Tanzania Electrical, Mechanical and Electronic Engineering Agency
UD	User Department
VEO	Village Executive Officer
WEO	Ward Executive Officer
WDC	Ward Development Committee

CHAPTER 1: OVERVIEW OF THE MANUAL

1.1 Purpose and Application of the Manual

This manual which is cited as the Local Government Authorities (LGAs) Procurement Operational Manual, has been prepared to ensure best practices in procurement when procuring goods, works and services while at the same time supporting LGAs operations and missions. This Manual governs the procurement of all goods, services and works and guide all LGAs personnel involved in the procurement process. The procurement processes set out in this manual have reference to the salient provisions of the Procurement Act (PPA) No. 7 of 2011 as Amended 2016 and its Public Procurement Regulations (PPR) of 2013 that should be read together with this manual.

This manual has been prepared to address the following categories of procurement:

- i) Procurement of Goods;
- ii) Procurement of Works;
- iii) Procurement of Non-Consultancy Services;
- iv) Selection and Employment of Consultants; and
- v) Disposal of Public Assets by Tender.

1.2 Limitations of the Manual

This manual shall not cover the following areas:

- i) Procurement of used railway machinery, aircrafts and ships;
- ii) Procedures for Conducting Electronic Procurement which will be provided through the system developed by PPRA;
- iii) Procedures for Procurement under Lower Local Government (LLG) for which PPRA will issue guidelines; and
- iv) Disposal of public assets by methods other than tender.

1.3 Review and Update of the Manual

This Procurement Manual will be updated by PPRA, and also in any of the following special situations:

- i) When existing public procurement legislation and respective LGAs legislation are revised;
- ii) Lessons learnt while conducting procurement activities; and
- iii) Comments or suggestions for improvement have been received by PPRA.

1.4 Interpretation of Terms

In this Manual, the interpretation of terms shall be as provided in the public procurement legislation.

CHAPTER 2: PRINCIPLES, STANDARDS AND ESSENTIALS OF PUBLIC PROCUREMENT

Public procurement at the LGAs is guided by various principles and standards. Public procurement proceedings shall be undertaken in a manner that maximises integrity, competition, accountability, economy, efficiency, transparency, and value for money. In achieving the best acceptable level of standards, LGAs has to ensure they take into consideration of equality of opportunities to all tenderers, fairness of treatment to all parties and the need to obtain best value for money in price, quality and delivery.

These principles are intended to set the framework for guiding procurement practitioners at the level of LGAs in managing public procurement proceedings. By integrating these principles in public procurement, the outcome will always be in line with requirements of the law.

2.1 Integrity

Integrity is when an individual exhibits probity in their actions. Probity means an individual has strong moral principles and honesty and decency as character traits. A person of integrity has a sense of honesty and truthfulness that is apparent in their professional and personal conduct. Such a person adheres to commonly accepted moral and ethical principles and is incorruptible. All personnel engaged in public procurement must avoid any unethical behaviour as it reduces the reputational risk of LGA and its public image.

2.2 Competition

Public procurement must be conducted in a manner that maximises competition. In doing so, it must be conducted through open public bidding, except as otherwise provided for under the public procurement legislation. A competitive bidding process treats bidders equitably, creates a level playing field and provides fair grounds for competition among themselves, thereby ensuring that no single bidder significantly influences the outcome of the bidding. Competition among bidders will urge them to offer more beneficial terms to the government. Hence, the alternative methods of procurement must only be resorted to under highly exceptional circumstances pursuant to the conditions laid down in procurement regulations.

Effective competition is achieved under the following conditions:

- Sufficient number of independent prospective bidders;
- Prospective bidders that act independently of each other;

- Competition for the same business opportunity under the same conditions; and
- Response to the procurement opportunity by a sufficient number of offers.

2.3 Accountability

Public office is a public trust, public officials should be made accountable for their actions. For this purpose, LGAs staff should ensure that the public procurement legislations and the prescribed procedures are faithfully complied with in discharging their functions throughout the procurement process as well as during the implementation of contracts. In order to achieve this, the responsibilities of each official directly or indirectly involved in the procurement process must be clearly assigned. Private parties who are involved with LGAs procurement should also be held accountable for their actions.

LGAs personnel who take any action that is contrary to the public procurement or LGAs finance legislations, guidelines, circulars, directives from the Authority or any other competent body may personally be liable for the consequences of such action. When LGAs is using public funds in the procurement, due care must be taken to ensure funds are utilized solely for their intended purpose. Procurement practitioners must therefore be particularly careful to ensure their actions, or those undertaken by persons under their supervision, are in compliance with the legal and regulatory frameworks.

2.4 Economy

The principle of economy requires careful management of available resources within LGAs. It places emphasis on the need to manage public funds responsibly such that prices paid for goods and services are reasonable and represent good value (in terms of quality) for the amount of public funds expended on them. It holds the Council or any public officers to ensure that the process takes advantage of competitive tendering and market forces.

Everyone involved in the public procurement process or directly responsible for facilitating the acquisition of goods and services with public funds, should avoid fraud, waste and abuse of public resources, whether it be through inflated specifications, paying unreasonably high prices for substandard goods, collusion with bidders, or other irregular and unethical practices.

2.5 Efficiency

Council officers and members of Tender Boards shall, when undertaking or approving procurement or disposal of public assets by tender, choose appropriate

procedures and cause the procurement or disposal of assets to be carried out diligently and efficiently, so that the prices paid or goods received by the Council represent the best value or net outcome that can reasonably be obtained for the funds applied for or the assets disposed of.

2.6 Transparency

Transparency in public procurement means that information on the public procurement process must be available to everyone: contractors, suppliers, Service Providers and the public at large, unless there are valid and legal reasons to keep certain information confidential.

When a public procurement requirement is published or made available to the market by any means (electronically, press, internet portal, etc.), the announcement must contain sufficient details for interested contractors, suppliers and Service Providers to understand it in order to determine if they are qualified to compete; most especially, the solicitation document must be made widely available at a reasonable cost or even free of charge.

After reading the solicitation document, interested contractors, suppliers and Service Providers should also be able to determine: the nature of the requirement and its scope; closing date for submission of bids, proposals or information; evaluation and selection criteria; details on how and where bids/proposals should be submitted; number of copies, point of contact for additional information and response to queries (clarifications); deadline for submission of queries; schedule of pre-bid/proposal meeting and site visits, and any other pertinent details. Additionally, if there is a change to the solicitation document, all stakeholders should be notified through the same publications used for the initial notification, so that they can take the necessary actions to comply as a result of the change

Transparency literally means that something is visible and evident to everyone and that nothing is hidden. By being transparent during the procurement process, we can demonstrate at any time to all stakeholders, internal and external, that fairness has been applied. Transparency also means that all information on procurement opportunities and processes leading to the award are clearly defined.

A transparent system must have clear rules and mechanisms to ensure compliance with procurement legislation and guidelines. Examples of clear rules are unbiased specifications; objective evaluation criteria; standard solicitation documents; equal information to all parties; confidentiality of offers, etc.

Among other things, records are open, as appropriate, to inspection by auditors, unsuccessful suppliers can be briefed on the strengths and weaknesses of their own offers and contract information is disclosed publicly. The inclusion of sustainability criteria at the very early stages of the procurement process encourages respect of this principle. Transparency ensures that any deviations from fair and equal treatment are detected very early in the process, making such deviations less likely and thus protecting the integrity of the process and the interests of the organization.

2.7 Value for Money

Value for money means the maximum benefit from goods, works or services procured with the resources available worth the cost incurred. The purpose of public procurement is to obtain the best value for money and to achieve this it is important to consider, among other factors, the optimum combination of life cycle costing (i.e. acquisition cost, cost of maintenance and running costs, disposal cost) of a purchase and its fitness for purpose (i.e. quality and ability to meet the contracting authority's requirements).

In order to obtain best value for money, procurement practitioners must ensure to:

- a. Maximize competition;
- b. Keep the procurement process simple e.g., good planning and clear specifications and minimize financial risk, e.g. thorough background checks on capacity (technical and financial) of bidders;
- c. Carefully establish the evaluation criteria (in order to select the offer with the highest expectation to meet partners' needs in accordance with the evaluation parameters set forth in the tender documents);
- d. Consider all costs, e.g. life cycle costs, transportation costs, installation costs, maintenance costs, sustainable procurement considerations Documentation of the procurement process);
- e. Ensure, whenever possible, that social and environmental benefits are optimized and adverse impacts are minimized;
- f. Ensure impartial and comprehensive evaluation of offers in a timely manner; and
- g. Ensure selection of the contractor whose offer has the highest degree of realism and whose performance is expected to best meet the specified requirements at the lowest overall expense to the organization.

Value for Money is the difference between the total benefit derived from a good or a service against its total cost, when assessed over the period the goods or services are to be used.

VALUE FOR MONEY = TOTAL LIFETIME BENEFIT - TOTAL LIFETIME COST

Example:

Photocopy machine that requires replacement of Cartridge every 10th thousand copy at say sh.200,000 compared to the one that requires replacement of the component after every 50th thousand copy at sh.250,000 would be much more expensive taking the TLCC even when the purchase price of the machine is less by Sh. 750,000 assuming the life span (possession by the Council) of 5 years.

2.8 Equality of Opportunity to Tenderers

The principle of equality of opportunity to all tenderers has an important place in Tanzania and much effort has been applied to dealing with discrimination. Equality should be integrated into all stages of the procurement process to assist the Council to deliver better services that meet the needs of an increasingly diverse population.

It also recognises its statutory duty to promote equality of opportunity and eliminate unlawful discrimination. The Council has to set the criteria for evaluating bids on equal basis since the principle of equality requires that all the tenders comply with clearly known criteria so as to ensure objective comparison of their tenders.

2.9 Fairness of Treatment

The principle of fairness of treatment to all parties is intended to showing consideration and impartiality in all stages of the procurement process, especially demonstrating equality in bid evaluations and subsequent award. In this regard, the following shall be seen as crucial in the process:

- Decision-making and actions must be unbiased, and no preferential treatment should be extended to individuals or organizations;
- All offers must be considered on the basis of their compliance with the stipulations of the solicitation documents, and offers should not be rejected for reasons other than those specifically stated in the solicitation documents and related procurement rules;
- A contract should only be signed with the supplier, contractor or Service Provider whose offer is compliant and best responds to the objectives of the requirement in terms of technical capability and price; and
- Suppliers, Contractors or Service Providers should have the right to challenge the procurement process whenever they feel they were unfairly treated or that the Procuring Entity failed to carry out the procurement process in accordance with the set rules.

2.10 Essential Requirements of Public Procurement

The essentials of effective and efficient Public procurement are consistent with the basic principles that govern the use of all LGA funds.

2.10.1 Compatibility with National Laws

All procurements of LGAs shall be conducted as provided in:

- Public Procurement Act No. 07 of 2011 as amended 2016;
- Public Procurement Regulation GN 446 of 2013;
- Local Government Finance Act (Cap 290) of 1982; and
- LGAs TB Establishment and Proceedings GN 330 of 2014.

➤ The Public Procurement Act prevails as primary legislation for procurement in Local Government Authorities

Section 9(1) of PPA 2011 provides that one of the functions of the PPRA is to issue guidelines under the Act. It is further provided under Section 106 of PPA 2011 that the PPRA shall issue guidelines from time to time for the better carrying out of the objectives or any functions under the Act. This manual is in line with the provision ascertained above.

2.10.2 Conflict of Interest

Section 84(3) of PPA 2011 provides that, a Council shall not procure from a member of its staff or a person who has direct influence on the decision of a Procuring Entity acting in a private capacity, either alone or as a partner in a partnership or as an officer of a company. For the purpose of this manual a person shall be considered, as having indirectly a conflict of interest in a contract, proposed contract or other matter if:

- He/she or his/her nominee is a member of a company or other body with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration; or
- He/she is a partner, or is in the employment of a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration.

Conflict of Interest specified above shall not apply to membership of, or employment under, any public body and a member of a company or other body shall not, by reason only of his membership, be treated as having an interest in any contract, proposed contract or other matter if he has no beneficial interest in any securities of that company or other body.

In the case of married persons, the interest of one spouse shall, if known to the other, be considered, for the purposes of Public Procurement Regulations of 2013, to be an interest of the other.

2.10.3 Awarding Principles

Section 75 of PPA 2011 stipulates that, the Council Tender Board shall review the evaluation and recommendation made by the Procurement Management Unit (PMU) and may either:

- Approve the recommendation and authorize acceptance of the tender and award a contract in the form specified in the tender documents; or
- Refuse to authorize recommendation for award of the tenders and refer the evaluation to the Procurement Management Unit with an instruction to re-evaluate the tenders or retendering or other action

The Council Tender Board is required to inform the Council Director of its award decision within three working days of making the decision.

The Council Director shall, before issuing a notice of intention to award a contract, submit the award decision to the Committee responsible for finance and planning, for scrutiny, and where the Committee is dissatisfied with the decision of the Tender Board, it shall request the Authority to conduct an investigation pursuant to section 33(3) of PPA 2011.

Where no complaints have been lodged the Council Director shall issue a notice of acceptance to the successful tenderer.

Where a tender, offer or proposal has been accepted by the Council, the Council and the person whose tender, offer or proposal has been accepted shall enter into a formal contract for the supply of goods, provision of services or undertaking of works.

2.10.4 Use of Standard Bidding and Contract Documents

Section 70(1) of PPA 2011 provides that, the Council shall use the appropriate standard model tender documents specified in the Regulations for the procurement in question.

Authorized versions of the standardized tendering and contracts documents, regularly updated, for use by Procuring Entities are available from the website of the Authority.

Regulations 168(1) of 2013 provides for the procurement procedures, specifications and contract packaging to be adopted to reflect such interest or objectives where, in the interest of project sustainability or to achieve certain specific social objectives of the project to:

- Call for the participation of local communities or farmers' groups;
- Increase the utilization of local know - how and locally manufactured products; and
- Employ labour intensive and other appropriate technologies.

2.10.5 Availability of Funds

Local Government Authorities shall ensure that funds are allocated or committed before commencing procurement proceedings especially for "Large" projects exceeding one year. For contracts whose funds are exclusively budgeted for during a particular financial year, the contract can only be signed when funds are available.

CHAPTER 3: INSTITUTIONAL ARRANGEMENTS AND FUNCTIONALITY

This chapter discusses the institutional structure and arrangements of public procurement in the Local Government Authorities. The chapter includes the mandates and approval levels, roles and responsibilities of the oversight institutions as well as the established organs and committees within LGA. This is in line with the institutional arrangement of Procuring Entity in compliance with the provisions of PPA 2011 as amended in 2016. Guidance is provided on functionality of the procurement structure including the required independence of the organs and committees in undertaking procurement tasks including decision-making, how to handle disagreements and delegation of procurement authorities.

The institutional arrangement for public procurement in Tanzania are summarized in figure 1.

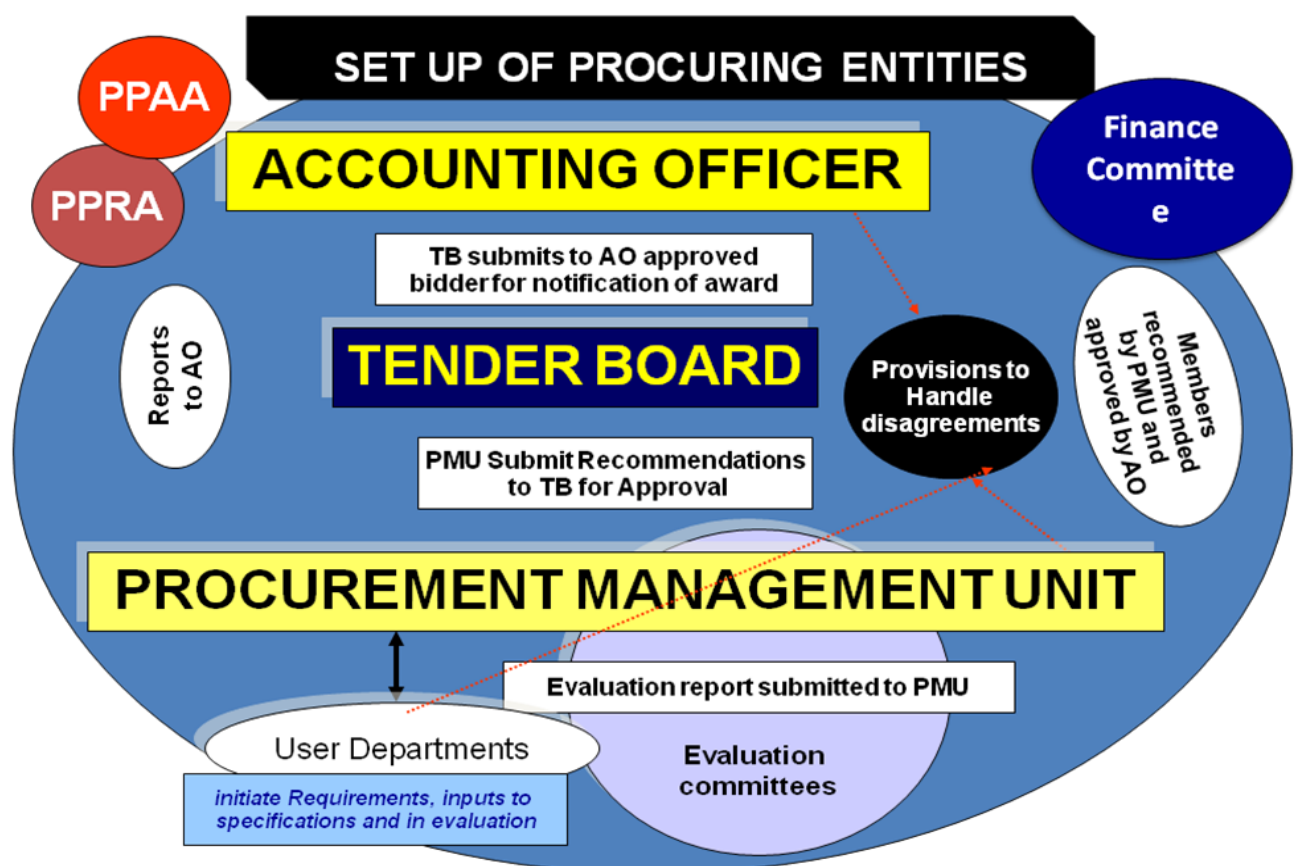


Figure 1: Summary of Institutional Arrangements

The institutional arrangements of public procurement in a Council comprise the *External Oversight Bodies*, including:

- Public Procurement Regulatory Authority (PPRA);
- President's Office Regional Administration and Local Government / Regional Secretariat (RS);
- Public Procurement Appeals Authority (PPAA); and
- Attorney General (AG).

Within the LGA the following actors, bodies and committees are involved in one way or another in the procurement processes as per procurement legislation:

- Budget Approving Authority which is the Full Council;
- Finance and Planning Committee;
- Accounting Officer (Council Director);
- Council Tender Board;
- Procurement Management Unit;
- User Department;
- Evaluation Committee;
- Inspection and Acceptance Committee;
- Internal Auditors; and
- Legal Officer.

In their functioning the above institutions, organs and committee shall observe independence of powers and responsibilities as provided in the public procurement legislation. The following paragraphs provide various roles and responsibilities of institutions involved in the LGA's procurement process.

3.1 External Oversight Bodies

3.1.1 Public Procurement Regulatory Authority

The oversight functions of PPRA pursuant to Section 9 of the PPA of 2011 as amended in 2016 provides that PPRA shall provide oversight services to all include among others the following:

- i) Advise Government, local government authorities and statutory bodies on procurement principles and practices;
- ii) Monitor and report on the performance of the public procurement systems in the United Republic of Tanzania and advise on desirable changes;

- iii) In collaboration with the Attorney General's Chamber Prepare, update and issue authorized versions of the standardized tendering documents, procedural forms and any other attendant documents to procuring entities;
- iv) Build capacity to Stakeholders involved in procurement issues;
- v) Obtain price for standardized common use items from relevant bodies with a view to ensure that they conform to the prevailing market prices.
- vi) Determine , develop, introduce, maintain and update related system to support public procurement by means of information and communication technologies including the use of public electronic procurement;
- vii) Administer and enforce compliance with the provisions of the Act, regulations and guideline issued under the Act.

3.1.2 Attorney General

The PPA, 2011 assigns various roles to the Attorney General in oversight of procurement contract, including:

- i) Vetting of contracts above the thresholds specified in the regulations arising out of the acceptance of a tender, offer or proposal under the PPA;
- ii) Provide advice to the Legal Officer who seeks for an advice of the Attorney General in respect of the contract required to be vetted by that Legal Officer;
- iii) Receive copies of award letters and all contracts entered by Procuring Entities; and
- iv) Receive information on termination of contract for abandoning works or services and take appropriate action.

3.1.3 President's Office Regional Administration and Local Governments

It is the responsibilities of the President's Office Regional Administration and Local Governments (PO-RALG) to ensure that the procurement in LGAs is done in compliance with the various acts, regulations, guidelines, including public procurement legislation.

The roles of PO-RALG include amongst others the following:

- i) Ensuring that LGAs are staffed with sufficient number of qualified personnel in the area of procurement;
- ii) Ensuring that LGAs comply with procurement procedures as provided by laws;
- iii) Ensuring capacity building to procurement staff and other staff with roles and responsibilities in LGA procurement; and
- iv) To take disciplinary actions to those who performs their procurement duties contrary to requirements of law.

3.1.4 Regional Administrative Secretariat

The Regional Administrative Secretariat provides overall coordination of all LGAs' procurement plans and supervision role on procurement implementation in the region as prescribed in Local Government Financial Memorandum and other guidelines issued by the Ministry responsible for Local Governments. The role of the Regional Administrative Secretariat through the Local Government Authorities Management Services Section (LGAMSS) is to provide expertise and service in developing good governance in LGAs by performing the following activities:

- i) Advice and facilitate proper use of public finances in LGAs;
- ii) Build capacity and promote good governance in procurement; and
- iii) Take part in routine inspections of LGA's performance and conducting ad hoc inspections.

3.2 Council Procurement Organs and Committees

3.2.1 Accounting Officer

The Accounting Officer (Council Director) shall have the overall responsibility for the execution of the procurement processes in the LGAs in accordance with the provisions of the PPA 2011, PPR 2013 and GN 330 for the Local Government Authorities' Tender Boards (Establishment and Proceedings) Regulations, 2014.

Roles and responsibilities of the Council Director include:

- a) Establishing a Tender Board in accordance with the Act
- b) Appointing the members of the Tender Board;
- c) Causing to be established a Procurement Management Unit staffed to an appropriate level;
- d) Causing to be prepared Procurement Plan for the Council based on its Annual Plan and Budget and submitting the same to the Full Council;
- e) Causing to be prepared quarterly procurement reports submitting the same to the Finance Committee for approval;
- f) Appointing the evaluation committees;
- g) Having satisfied himself that proper procedures have been followed, communicating award decisions;
- h) Certifying the availability of funds to support the procurement activities;
- i) Signing contracts for the procurement activities,
- j) Investigating complaints by suppliers, contractors or consultants;

- k) Submitting a copy of complaints and reports of the finding to the PPRA; Ensuring that the implementation of the awarded contract is in accordance with the terms and conditions of the award; and
- l) Responsible for the provision of periodic reports to PPRA through the Procurement Management Information System (PMIS).

3.2.2 Council Tender Board

The Council Tender Board (CTB) shall be established in accordance with Section 31 of PPA 2011. Further, the composition and the method of appointment of the members and the procedures to be followed by such a Tender Board are prescribed under GN 330 the Local Government Authorities' Tender Boards (Establishment and Proceedings) Regulations, 2014.

Composition of Council Tender Board

The Council Tender Board shall comprise five members, who shall be appointed by Council Director:

- Chairman, who shall be a Head of Department in the Council, but not one that frequently initiates procurement proceedings; and
- Four other Heads of Department.

- The Council Legal Officer or his representative shall attend all Tender Board Meetings as advisor but shall not vote in any decision.
- The Secretary of the Board shall be the Head of the Procurement Management Unit in the Council and shall be appointed by the Accounting Officer.
- The Accounting Officer is required to inform PPRA timely in writing on all CTB appointments and/or changes in the CTB's composition.

The Accounting Officer shall submit to the Finance Committee the names and qualifications of the members of the Tender Board for ratification and approval.

The roles and responsibilities of CTB are provided in Section 33 of PPA 2011 read together with Regulations 18 of GN 330 of 2014 as follows:

- a) Adjudication of recommendations from the PMU and award of contracts;
- b) Review of all applications for variations, addenda or amendments to ongoing contracts;
- c) Approval of tendering and contract documents;
- d) Approval of procurement and disposal by tender procedures;

- e) Ensuring that best practices in relation to procurement and disposal by tender are strictly adhered by Council;
- f) Compliance with the Public Procurement Act and Regulations thereof; and
- g) Liaise directly with the PPRA on matters within its jurisdiction.

3.2.3 Budget Approving Authority

The Full Council is the Budget Approving Authority of a Local Government Authority responsible for:

- a) Reviewing and approving the Annual Procurement Plan based on its budget and action plan;
- b) Reviewing of quarterly procurement reports submitted by the Accounting Officer;
- c) Ensuring that the Council complies with the provisions of the Act and regulations;
- d) Ensuring that the PPRA's recommendations with respect to established wrongdoings in procurement activities are implemented; and
- e) Disciplining of the staff implicated on wrongdoings.

3.2.4 Finance Committee

The Finance Committee is the standing committee of the Council responsible for overseeing all financial matters and in this capacity responsible for:

- a) Scrutinising award of contracts;
- b) Review of the quarterly procurement reports submitted by the Council Director;
- c) Overseeing contract implementation through inspection of project works and goods received;
- d) Instructing the Council Director to carry out procurement or value for money audits where not satisfied with explanations received;
- e) Approve names of the members of the Tender Board; and
- f) Oversight on public procurement matters.

3.2.5 Procurement Management Unit

Each Council is required to establish a Procurement Management Unit (PMU) in accordance with Section 37 of PPA 2011. The roles and responsibilities of the PMU in the Council include the following:

- a) Manage all procurement and disposal of assets by tender activities of the Council except approvals done by the Tender Board;

- b) Support the functioning of the Tender Board;
- c) Implement the decisions of the Tender Board;
- d) Act as a secretariat to the Tender Board;
- e) Plan the procurement and disposal by tender activities of the Council;
- f) Check and prepare statements of requirements;
- g) Prepare contract documents;
- h) Issue approved contract documents;
- i) Maintain and archive records of the procurement and disposal process;
- j) Maintain a list or register of all contracts awarded;
- k) Prepare and submit to the management meeting quarterly reports on the implementation of the Annual Procurement Plan;
- l) Co-ordinate the procurement and disposal activities of all the departments of the Council;
- m) Prepare monthly reports for the Tender Board; and
- n) Prepare monthly reports for submission to PPRA through PMIS.

3.2.6 User Department

The User Departments of the Council are required to perform their functions according to the provisions under PPA 2011 and GN 330 of 2014 including:

- a) Liaise with and assist the PMU throughout Action Plans, Annual Procurement Planning, procurement or disposal of assets by tender process to the point of contract placement;
- b) Initiate procurement and disposal by tender requirements and forward them to the PMU;
- c) Prepare technical inputs to statement of requirement (SOR) and or Terms of Reference (ToR) for procurement requirements to the PMU;
- d) Propose technical specifications to the PMU when necessary;
- e) Participate in tender evaluation (Note: This overrides the contradiction found in GN 330);
- f) Certify for payments to suppliers, contractors or consultants;
- g) Report any departure from the terms and conditions of an awarded contract to the PMU;
- h) Forward details of any required contract amendments to the PMU for action;
- i) Maintain and archive records of contracts management.

➤ There are several departments (staff) in the Council that besides being a User Department, provide professional advice and services for procurement contracts of User Departments like Education and Health, in particular Engineers. For construction contract and IT officer(s) for ICT-related procurement.

3.2.7 Evaluation Committee

This is a Committee which is not permanent and is required to be formed for each tender to be evaluated. PMU liaises with User Departments to obtain the names of competent staff to form the evaluation team. The names of the recommended team by PMU are submitted to the Council Director for approval. The team is notified of their appointment. The evaluation team shall report to the PMU.

The number of members of the Evaluation Committee with appropriate level of expertise and experience shall depend on the value and complexity of the procurement (ranging from 3 to 5 or more) for Goods, Works and NCS while evaluation of consultants' proposals range from (5) five to (7) seven members. The evaluation team shall be required to sign the Code of Ethics undertaking.

Members of the Evaluation Committee may be external to the Council where the required skills or experience are not available within the Council.

3.2.8 Inspection and Acceptance Committee

The Council Director shall for each procurement contract for goods, including call-off orders, appoint an Inspection and Acceptance Committee (IAC) tasked to inspect the goods at the office of the Council, or at the site specified in the contract. Any inspection conducted at any other site not specified in the contract shall be with a prior consent of the Council Director. The committee is required to inspect and count the goods in order to ascertain whether they are correct, complete and of required quality in accordance with the agreement. A checklist containing items to inspected and counted (where applicable) should be developed to ensure all parameters are covered.

3.2.9 Internal Audit Unit

The Internal Auditor is responsible for independent assessment of the effectiveness of procurement systems and processes in the Council. The Internal Auditor shall be responsible for submission of quarterly procurement audit reports to the Council Director, PPRA or any other authority as the case may be.

3.2.10 Council Legal Unit

The Council Legal Officers from the legal Unit are recognised by the law as being responsible for all legal matters as advisors to the Accounting Officer. The Legal Officers are also required to vet all procurement contracts of the Council below the threshold set (currently Tsh 1.0 billion).

3.2.11 Lower Local Governments

The institutional arrangement for the Lower Level Local Government i.e. Villages, Wards and Service Delivery Units shall be in accordance with the provisions provided in the detailed procurement guidelines being developed for sub-Council level institutions and units. The salient feature is that final responsibility remains with the Council Director (Accounting Officer) whereas delegation always needs to be done in writing.

Confidentiality

- Any person having an official duty or being employed in the Council or engaged as consultant to the Procuring Entity shall consider and deal with all documents and information relating to the functions of the Council as confidential.

3.3 Independence of Powers and Responsibilities

Each Body, Actor and Committee including the Council Director, CTB, PMU, User Department and Evaluation Committee shall act independently in relation to their respective functions and powers as provided in section 41 of PPA of 2011 and its amendments of 2016.

3.3.1 Handling of Disagreements

Handling of disagreements in the Councils between organs and committees is provided for in PPA of 2011 and its Regulations of 2013. Disagreements that may occur can be handled as indicated in table 3.1 below:

Table 3.1: Summary of Disagreements Handling Procedure

S/n	Disagreement	How to Handle the Disagreement	Reference
1.	Accounting Officer and Tender Board	<ul style="list-style-type: none">• AO to return decision for TB Review giving reasons for disagreement;• Review by TB and issue a decision and re-submit to AO;• AO if not satisfied with decision reached by TB after review, shall refer the matter to PPRA for independent review giving reasons for disagreement	PPA 2011-S.36(4) and GN.446-R.51
2.	Tender Board and PMU	<ul style="list-style-type: none">• TB to return recommendation to PMU giving reasons for disagreement;• Review by PMU and re-submit to Tender Board;• TB if not satisfied with re-submission, Chairman of TB to refer the matter to Accounting Officer for further review.• TB if not satisfied with outcome of review by the AO, shall refer the matter to PPRA for directives.	GN.446-R.52 and R.57(3)

S/n	Disagreement	How to Handle the Disagreement	Reference
3.	PMU and User Department	<ul style="list-style-type: none"> PMU and UD shall jointly consult two members of TB for review of the matter; If further disagreement, the matter shall be submitted to the TB for its formal Decision. 	GN.446-R.53
4.	PMU and Evaluation Committee	<ul style="list-style-type: none"> PMU to return evaluation report to EC for re-evaluation; If PMU disagrees with re-evaluation, shall refer the matter to the TB for Decision. 	GN.446-R.54
5	Finance Committee and AO	The Council Director shall before issuing a notice of intention to award a contract submit the award decision to the committee responsible for finance for scrutiny, and where the committee is dissatisfied with the decision shall request PPRA to conduct an investigation	GN.446-R.60(4) and S.33(3)
6	Overall responsibility	The Council Director shall be responsible for procurement decisions made by the Council.	S.36(5)

3.4 Prohibition and Probity

Probity and ethics requirement are set in GN. 446-R.7 and emphasized in GN. 330-R.6 which requires:

- Officers of the Procuring Entities (PE) to be scrupulous and honest in their dealings with tenderers, members of the public and with the Procuring Entity itself;
- PEs to conduct procurement and disposal with complete probity and in a manner that the Procuring Entity is respected and trusted as a client or customer while maintaining good reputation with tenderers;
- To reject a tender of a tenderer who gives or agrees to give directly or indirectly to any public officer or other public authority, a gratuity in any form, an offer of employment or any other thing of service or value, as an inducement with respect to an act or omission or decision of or procedure followed by the Procuring Entity in connection with that tender or proposal or any other tender or proposal;
- PEs not to make procurement to a member of staff or a person who has direct influence on the decisions of the Procuring Entity acting in private capacity, either alone or as a partner in a partnership or as an officer of a company; and
- PEs not to include in any tender document any condition or specification such as to favour any tenderer.

3.5 Delegation of Procurement Authority

Delegation of procurement authority in the Councils shall be as provided in PPA of 2011 and its Regulations of 2013, in particular the functions of the Tender Board and

PMU can only be delegated to a sub-division of a Council and they cannot be delegated to an individual as stated in Regulation 48(1) of PPR 2013.

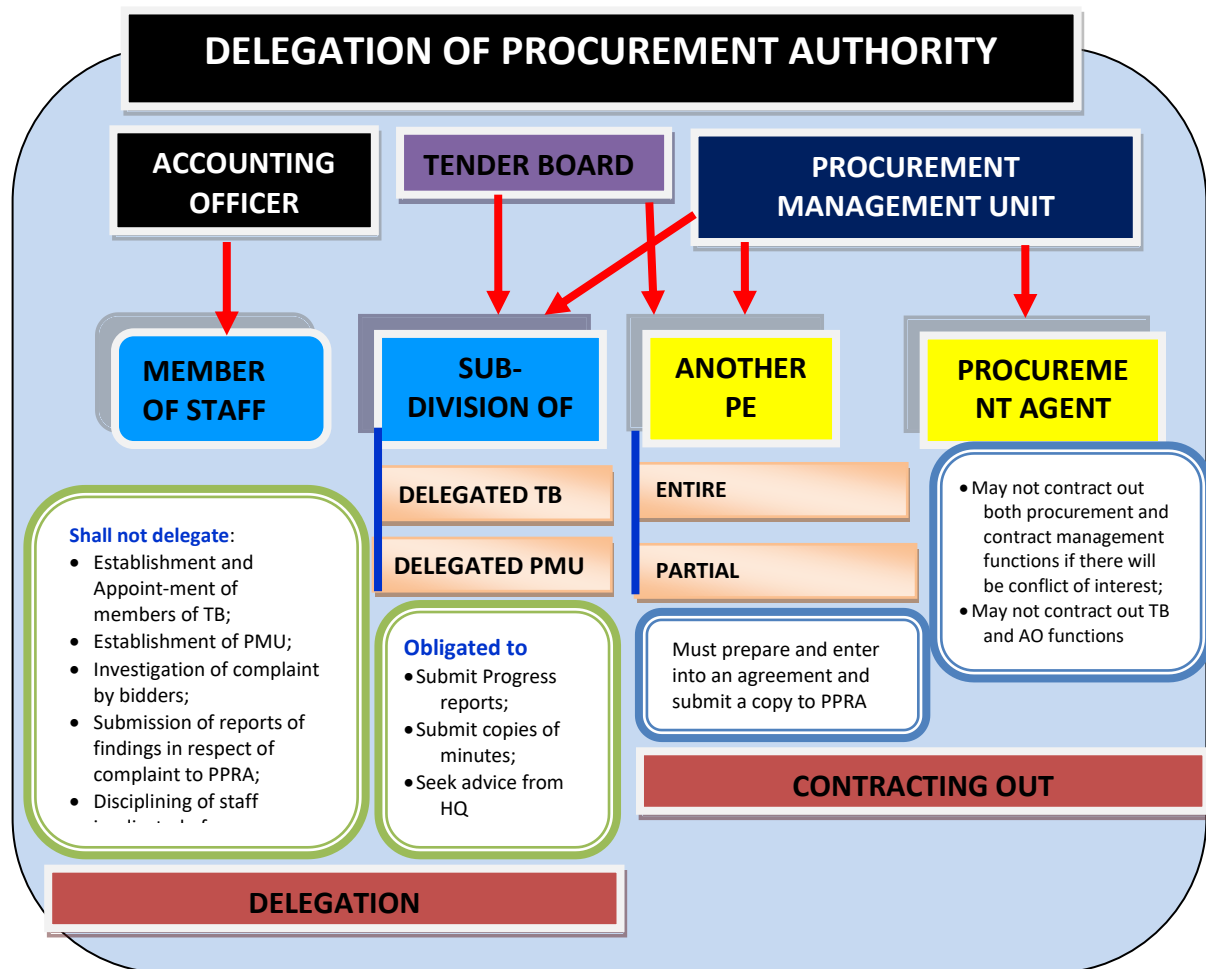


Figure 2: Summary of Delegation of Procurement Authority as per PPR 2013

CHAPTER 4: PROCUREMENT PLANNING

A corporate procurement plan is an overall projection of an organization's future procurement needs for a defined period. This chapter is intended to provide guidance on how to handle the process of procurement planning for the LGA. It is an effort to strengthen LGAs overall procurement capacity and achieve the intended objectives of providing effective and efficient operational management services.

The procurement plan is always based on estimates of procurement activities to be carried out in the next financial year. Some procurement needs cannot be anticipated easily and plans may sometimes not be entirely accurate. User departments are expected to provide best estimates based on available information at the time of reporting. PMU shall be responsible for compiling the annual procurement plan, analysing the provided data, and taking appropriate action.

The Annual Procurement Plan prepared by LGAs should be linked with the Medium-Term Expenditure Framework (MTEF) / budget in order to have a comprehensive Annual Procurement Plan (APP) describing roles and responsibilities; the basic steps in preparing the procurement plan should include assessment of the procurement environment and associated risks; market analysis; and aggregating procurement requirement; forming packages and finally selection of procurement methods and preparation of the procurement schedules / templates; as well as submission to relevant authorities for its approval.

4.1 Rationale of Annual Procurement Plan

The Annual Procurement Plan is a requirement under the PPA 2011 and its regulations 2013 and as further provided in PPRA guidelines. It is an important tool to provide the Council with continuity of inputs (procurements) to enable it to achieve strategic objectives. It begins with setting of procurement targets and activities by a Council in a manner that spreads them out in an annual calendar in accordance with the availability of resources commensurate with needs.

Why Procurement Planning? Procurement planning is a vital part of the planned activities of the Procuring Entity to align the budget of the Council and its execution. PMU in collaboration with User Departments and /or Units, has the prime responsibility for planning procurement of the LGA.

The Council is required to prepare its Annual Procurement Plan in a rational manner and in particular: - avoid emergency procurement, aggregate its requirements both

within the Council and between Councils to obtain value for money and reduce procurement costs.



Splitting of procurement to defeat the use of appropriate procurement methods should be avoided unless such splitting is to enable wider participation of local consultants, suppliers or contractors in which case the Authority shall determine such an undertaking.

4.2 Link between Annual Procurement Plan and Budget

The Council is required to integrate its procurement budget with its expenditure programme in which case the Council shall prepare its Annual Procurement Plan as part of budget process and submit the plan to the Authority within seven days after completion of the budget process as provided in the Regulations.

In Tanzania where the financial year runs from July to June, the process for planning and budgeting is provided in the Plan and Budget Guidelines (PBGs) prepared based on the requirements of Section 21 of the Budget Act No. 11 of 2015. The process may begin as early as in the end of 2nd Quarter in order to catch the budget cycle by March of the subsequent year.

4.2.1 Linkage with Medium Term Expenditure Framework

The process of procurement planning involves the analysis of the Council's requirements as detailed in the Medium Term Expenditure Framework (MTEF). The objective is to ensure that there is a common understanding of the procurement requirements of all User Departments, Unit and sub-Council institutions/units that would assist in developing a comprehensive Annual Procurement Plan.

The inputs of the activities listed in the MTEF are linked with their objectives and targets to ascertain Procurement Categories. This is done by importing the

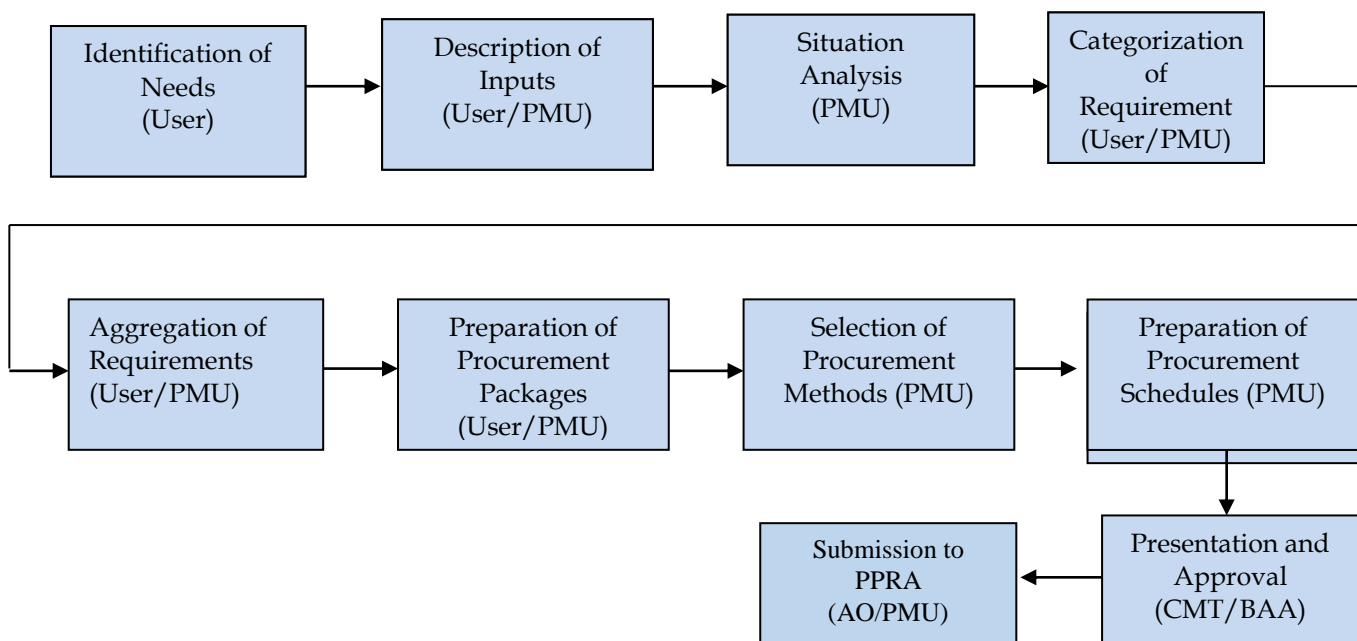
PLANREP and exporting same on EXEL sheet to enable further navigation & manipulation with a view to integrate procurement budget with total expenditure programme.

4.3 Preparation of Annual Procurement Plan

The process of preparation of Annual Procurement Plan involves the following key steps: Identification of needs; Description of inputs; Situation analysis; Categorization of requirement; Aggregation of requirements; Preparation of procurement packages; Selection of procurement methods; Preparation of procurement schedules; Presentation and approval; and Submission to PPRA.

Refer to Flow Chart No 1 below:

Flow Chart No 1: Preparation of Annual Procurement Plan



4.3.1 Identification of Needs

The procurement cycle starts with identification of procurement needs. The first step in the planning process is to identify the desired outcomes and objectives of the procurement.

Example:

Need for a borehole well fitted with lifting pump to serve a population of 250 Kaya in the ward with the objective to improving life standards of the population but above all to cut down time wasted for mothers fetching water from distant places and loss of productivity. Once the requirement goes through the necessary budget approval it has to be included in the APP of the Council.

Each department within the Council identifies the required goods, services and works that are needed to accomplish activities planned for achieving organization's objectives. This is concerned with redefining the actual requirements of the individual departments in an organization, which will assist in categorizing the procurement in the next phase of formulating strategy of procurement planning. This step starts when the MTEF is being prepared and should not be confused with the preparation of specifications.

4.3.2 Description of Inputs

The description of inputs provides important information about Council's procurement needs and strategies that must be considered during procurement planning. All inputs for each activity should be clearly described in the MTEF showing appropriate unit of measure and quantity. The major contribution of the PMU is to provide guidance on the appropriate unit of measure and on availability of materials or services needed from the market. The outcome of this process is to assist in ascertaining given categories of procurement.

4.3.3 Situation and Risk Analysis (Identification of needs)

The Council should carry out procurement situation and risk analysis on its requirements based on Council Strategic and Operational plan in relation to the budget and cash flows. When analysing supply risk the following factors need to be analysed for each commodity or category:

- Nature of the supply market;
- Probability of supply failure;
- Strategic importance to the organization;
- Impact on the organization of supply failure; and
- Complexity of the procurement relationship.

The inputs of the activities listed in the MTEF are linked with the objectives and targets to determine Procurement Category and timing of the delivery or completion.

Steps in Procurement Situation Analysis

The following three phases are common in carrying out procurement situation analysis:

- i) Demand analysis;
- ii) Market analysis; and
- iii) Supplier analysis.

Demand Analysis

This involves analysis of Council related demand risks and other risks that are associated with criticality of goods, works and services that are needed. This is done by clarifying the objectives and the activities to confirm whether demand should be met through contracting for goods, works or services.

After redefining the requirements the next step will be to analyse the required goods, works and services according to the criticality, values and perishability. This will be done using the Pareto principle (also known as the 80/20 rule) which holds in most organizations. For obvious reasons, it is particularly important that plan for top 20% or 50% of the materials be developed using careful detailed analyses.

The 80% or 50% of the materials that account for approximately 20% of the firm's expenditures are grouped by general classifications and a plan is made for each group of similar items. These normally fall under operating costs and procurements are normally through shopping methods where the threshold so allows.

Market Analysis

This involves analysing the market related risks. The PMU should make an attempt to ascertain the state of the market for their requirement and inform the team. It may be competitive or monopolistic, or it may be suspected that the market is controlled by a cartel. This information will assist in planning the procurement. Market research may be conducted using a variety of sources. One output of market research is the determination of likely costs and the relation of those costs to the budget. The objectives of supply market research include but not limited to the following:

- Supporting the creation of annual and individual procurement plans and strategies through an understanding of how markets operate which will assist in formulating packaging contracts options and deciding on methods of procurement;
- Clarifying where the leverage points and opportunities exist in the marketplace; and
- Visualising and understanding the marketplace from the economic operators' perspective through a better understanding of their playing field, strengths, weaknesses and opportunities.

Supplier Analysis

The PMU should make analysis of supplier related risks which involves analysis of availability of Suppliers in the market (locally or international). It further provides a means to evaluate the Procuring Entity in terms of how the Suppliers perceive them in the market place and their willingness to provide services (to the particular LGA)

A general review of other potential suppliers, contractors and Service Providers in addition to current suppliers are done to determine whether any particular attractive possibilities should subsequently be investigated more closely.

4.3.4 Categorization of Council Procurement Requirements

From the situation analysis of each project components or departments, Procurement categories are identified to enable grouping the organisational requirements into various categories of procurement. Procurement can be categorized into the following:

- Works: construction, rehabilitation, maintenance and repair of buildings, bridges, roads, etc;
- Goods: materials, drugs, foodstuffs, vehicles, plant, etc;
- Non-Consultancy Services: cleaning services, revenue collection, security services and repair services, catering services, etc; and
- Consultancy Services: studies for designs and provision of technical assistance, training, engineering design and supervision etc.

Categorization must take into consideration the objectives, target and inputs to the activities of the annual work plan for all project components or departments. These should be discussed and agreed upon between the procurement unit and User Departments or heads of project components.

Example: How to Determine the Procurement Category

The Head of Department XZ might include in the annual work plan the cost for minor works for repair of door locks indicating the need to procure and fix locks for 100 doors at a cost Tsh. 20,000,000.00 and repair of toilets to replace the lids and flash-buoyant at a cost of Tsh. 50,000,000.00. There are two or more options for categorizing these requirements. The categories may either be contracts for goods or works depending on the definition of works and goods according to the Act. Clear analysis should be carried out with the User Department to clarify on the cost elements of the work to be done indicating the total cost of goods and the total cost of labour or works.

If the Council has the capacity to supervise the fixing of the locks in-house then force account procurement method would be applied. The procurement could be contracted for goods only if the organisation has technicians to fix and renovate the toilets.

4.3.5 Aggregation of Requirements

After categorising the procurement requirements, the next phase of preparation of procurement plan is to group goods, works or services of broadly similar nature based on the market and suppliers analyses, which was done under phase one. The law prohibits splitting of contracts with the view to avoid wider competition.

Aggregation is therefore done for the purpose of grouping contracts or tenders of a size and type that will be likely to attract the most suppliers, contractors and Service Providers and will not cause unreasonable delay in procurement process.

Every effort be made to avoid emergency procurements and make use of framework contract wherever appropriate. This provides an efficient, cost effective and flexible procurement of identified requirements continuously or repeatedly over a set period of time as described under Section 49 (1)(a),(b) and (c) of PPA,2011.

4.3.6 Preparation of Procurement Packages

The process of packaging of procurements contracts will take into account the economic and technical reasons to divide the project into homogeneous lots or packages, which are large to foster maximum competition to obtain the most economic contracts through national or international tenders.

It involves packaging of requirements according to similarities of items to be procured, Size of each package should be appropriate to obtain maximum possible competition from qualified bidders. The requirements is to get larger size of contract to facilitate international competitive bidding (ICB) and to get economies of scales

The process further involves creating Lots within a single procurement proposal with the aim to 1) reduce the number of procurement proposals and 2) facilitate procurement of “grouped” items as a Lot.

The created Lots should include items of similar nature likely to be supplied by dealers (or manufacturers) specializing in such items. If large quantities of a single commodity are being procured, then packaging should take into consideration market practices for that item, transportation costs, ship unloading capabilities, storage capacities, inventory carrying costs, etc.

The PMU should decide, for each individual case, if it is better to include “supply of materials” and “supply of equipment” within the scope of a Works Contract. Goods and Works required to be delivered and/or constructed at different dates during the project implementation period should be packaged separately.

The Council shall not divide its procurement into separate contracts for the purpose of avoiding international or national competitive tendering or selection. Provisions in the PPA, 2011 prohibit splitting of procurement to defeat the use of appropriate procurement methods unless such splitting is to enable wider participation of local consultants, suppliers or contractors as provided in the Act.

Packaging Options for Consultancy

Packaging should be done taking into account the nature of the consultancy services assignment. However do not make the scope of the assignment too large or too small. This should be guided by the nature and size of average consulting firm active in the relevant field.

For Consultants (where firms are to be hired), as far as possible, define scope of work such that payments are made for measurable outputs rather than a periodic payment and front loading. However, in the case of time-based contracts, this may be more difficult to achieve, but at least a part of the payments could be linked to measurable outputs to be delivered.

For Consultants (where individuals are to be hired), the normal payment method could be periodic payments, but part of the payment could also be linked to specific outputs to deliverables.

4.3.7 Selection of Procurement Methods

The choice of procurement method is a critical issue to the success of procurement process; the differences between the methods are significant in terms of formality, level of competition, duration and complexity for bidders and the Council. The choice should, therefore, be made with a view to maximize competition to the greatest extent possible.

PPA 2011 as amended 2016 and Attendant Regulations stipulate the use of defined procurement methods and the time required to be given to bidders for the various methods. It is important for Councils to appreciate the time consideration of each method and its impact on their respective operational and subsequent procurement plan.

The different procurement methods available range from the most competitive ones to those where there is no competition at all. The Regulations emphasize that open tendering, which is the most competitive method and which accords opportunity to any bidder with qualifications to participate, be a default procurement method.

Open Procurement Methods

According to Regulation 149 of GN.446 of 2013 the default Method is Open Tendering – National and International. Other methods may be used as an exception subject to the approval of Tender Board if competitive tendering is not considered to be the most economic and efficient method of procurement and the nature and estimated value of goods, works or services permit. The Open tendering methods (International Competitive Tendering, National Competitive Tendering and Restricted Tendering) are discussed in details in the Table 4.1.

PROCUREMENT METHODS INVOLVING NEGOTIATIONS

Apart from open tendering procedures GN. No. 446 of 2013 has separated other methods of procurement into two categories, those involving negotiations and those without negotiations. Procurement methods with negotiations include:

- Two stage tendering –GN.446-R.154;
- Request of Proposal with simultaneous negotiations – negotiations held with all bidders –GN.446-R.155 to 156;
- Request for Proposal with Consecutive Negotiations –GN.446-R.157;
- Request for Proposals with competitive negotiations –GN.446-R.158;
- Single source procurement method for goods or services –GN.446-R.159-160; and
- Single source procurement method for works – GN.446-R.161.

GN.446-R.153 gives conditions for use of two stage tendering and request for proposal with simultaneous negotiations, consecutive negotiations and competitive negotiations and they are summarized in Table 4.1.

PROCUREMENT METHODS WITHOUT NEGOTIATIONS

Procurement methods not involving negotiations include:

- Request for proposals without negotiations – GN.446-R162;
- Shopping – GN.446-R163 to 164;
- Minor value procurement – GN.446-R165; and

These methods are also discussed in detail in Table 4.1.

Table 4.1: Thresholds for Methods of Procurement for Goods, Works and Non-Consultancy Services

Method of Tendering		Circumstances for Use	Goods	Works	Non-Consultancy	Disposal of Public
OPEN PROCUREMENT METHODS	International competitive tendering PPR-R150	The need to attract maximum competition where capacity within the country is not available or goods and services are not available in the country. Margin of preference in favour of local firms applies.	No limit Procedure of Procurement is Covered in PPR-Part VII			
	National competitive tendering PPR-R151	The need to attract maximum competition where local capacity is available, the need to restrict payments to Tsh only, the need to minimize procurement transaction costs. Does not limit participation of foreign firms, however a margin of preference shall be applied in favour of local firms	Up to Tsh 1,000,000,000	Up to Tsh 5,000,000,000	Up to Tsh 1,000,000,000	Up to Tsh 5,000,000,000
			Procedure of Procurement is Covered in PPR-Part VII . The procedure is the same with International Competitive Tendering save for advertisement requirements and time given to bidders to prepare and submit their tenders			
	Restricted tendering (PPR-R152)	<ul style="list-style-type: none"> • Tenderer's already prequalified, • Few specialized tenderer's, • Emergency circumstances, • Need to achieve certain social objectives by involving the community, • Set aside contracts for purpose of capacity building of local firms. 	No limit but must be justified <u>Procedure:</u> Except for no need of advertising and the time given to bidders, all requirements relating to international and national competitive tendering apply.			

Method of Tendering		Circumstances for Use	Goods	Works	Non-Consultancy	Disposal of Public
PROCUREMENT METHODS	Two Stage Tendering PPR 153(1) & PPR-R154	<ul style="list-style-type: none"> • Need to refine aspects of the description of subject matter of procurement and to formulate them with the detail required to meet its requirements; • A repeat tender process following no submission of tenders in previously invited tender 				<p>NO LIMIT IS GIVEN ON ITS APPLICATION</p> <p><u>Procedure:</u></p> <ul style="list-style-type: none"> • Obtain tenders in two stages- First stage proposal without price on: technical, quality or performance characteristics of the subject of procurement; Contractual terms and conditions of supply; and professional and technical competence of the tenders • May engage in discussion with those who are responsive. Opportunity to be extended to all. • Revise set of terms and conditions of procurement in response to the tenderer submission and discussions held. Observe PPR-R154(7) • Invite responsive bidders to submit financial offers in response to revised set of terms and conditions of procurement. • Tenders wishing to withdraw in the second stage may do so without forfeiting their bid security.

Method of Tendering	Circumstances for Use	Goods	Works	Non-Consultancy	Disposal of Public
<p style="text-align: center;">PROCUREMENT METHODS INVOLVING NEGOTIATIONS</p> <p>Request for Proposals with Simultaneous Negotiations PPR 153(2)& PPR-R155 to 156</p>	<ul style="list-style-type: none"> • PE unable to formulate a detailed description of subject matter and therefore a need to involve tenderer's through negotiation to obtain the most satisfactory solution to its procurement needs; • Tender for research, experiment or study of which quantities to be procured have no commercial viability to recover the costs; • Procurement for national defence or national security; • A repeat tender process following no submission of tenders in previously invited tender or rejection of all tenders; and • Technical nature of goods, works and services dictate the need to negotiate with tenderers 				<p>NO LIMIT IS GIVEN ON ITS APPLICATION</p> <p><u>Procedure:</u></p> <ul style="list-style-type: none"> • Invite tenders to submit their proposals. It may be desirable to limit the number through pre-qualification or pre-selection – the need to have a clear rating criteria to arrive to a required number; • Observe PPR-R155(2) with regard to invitation to participate; PPR-R155(9) with regard to issuing a Request for Proposals to the pre-qualified or pre-selected providers; and PPR-R155(10) with regard to the contents of the Request of Proposals; • Simultaneous negotiations shall be conducted with tenderer's that presented responsive proposals. The number of tenderer's should be at least three to ensure competition. Conducted concurrently be the same representative of a PE. • Not allowed to modify the subject matter of procurement; any qualification or evaluations criterion; or minimum requirements with regard to qualifications of tenderer's; • Invite tenderer's remaining in the proceedings to present their best and final offer with respect to all aspects of their proposals.

Method of Tendering	Circumstances for Use	Goods	Works	Non-Consultancy	Disposal of Public
Request for Proposals with Consecutive Negotiations PPR 153(3) & PPR-R157	<ul style="list-style-type: none"> The need to consider separately the quality and technical aspects, and financial aspects of the proposal; The need to establish acceptability of the financial terms and conditions of procurement contract by PE 				
Request for Proposals with Competitive Negotiations PPR 153(4) & PPR- R158	<ul style="list-style-type: none"> emergency circumstances making it impractical to use open tendering proceedings; Procurement for national defence or national security. 				

Method of Tendering		Circumstances for Use	Goods	Works	Non-Consultancy	Disposal of Public
PROCUREMENT METHODS INVOLVING NEGOTIATIONS	Single source procurement for goods and services (PPR-R159)	<ul style="list-style-type: none"> • Only one supplier of Service Provider available, • emergency circumstances, • additional supplies required in a contract awarded through open tendering, • research, experiment or development basis where there is commercial viability, • national defence or national security, • continuity of functioning of existing equipment or Services; • Compatibility with existing equipment; • Standardization of Spare Parts. 	No limit, but must be justified. <u>Procedure:</u> Except for no need of advertising and the time given to bidders, all requirement relating to international and national competitive tendering in terms of documentation apply.			Not applicable

Method of Tendering		Circumstances for Use	Goods	Works	Non-Consultancy	Disposal of Public
PROCUREMENT METHODS NOT INVOLVING NEGOTIATIONS	Request for Proposals Without Negotiations	<ul style="list-style-type: none"> Need to consider financial aspects of proposals separately and only after completion of examination of quality and technical aspects of the proposals. 	NO LIMIT IS GIVEN ON ITS APPLICATION <u>Procedure:</u> More less the same as Quality Based selection for Consultancy Services <ul style="list-style-type: none"> Invite tenders to submit their proposals. It may be desirable to limit the number through pre-qualification or pre-selection; Observe PPR-R162(2) with regard to invitation to participate; PPR-R162(4) with regard to issuing a Request for Proposals to the pre-qualified or pre-selected providers; and PPR-R162(5) with regard to the contents of the Request of Proposals; Evaluate technical, quality and performance characteristic of a proposal and rank them in accordance with criteria and procedure for evaluating proposal set out in the request for Proposal document; Open financial proposals of those successful in their technical proposal; Best proposal shall be one with best combined evaluation in terms of the price and the criteria for technical, quality and performance characteristics specified in the RFP; 			
	Competitive quotations (Shopping) PPR -R163	<ul style="list-style-type: none"> For diversified goods offering no commercial interest for any single supplier to tender for them For off the shelf or standard commodity 	Up to Tsh 120,000,000	Up to Tsh 200,000,000	Up to Tsh 100,000,000	Not applicable
	Minor Value Procurement		Up to 10,000,000	Up to 20,000,000	Up to 10,000,000	Not applicable
	Micro (value) Procurement		5,000,000	Not applicable	Not applicable	Not applicable

The minimum time for preparation and submission of pre-qualification documents and tenders are summarized in Table 4.2.

Table 4.2: Minimum Time for Preparation and Submission of Prequalification Documents and Tenders for Tenderers

S/N	Method of Procurement	Period (Calendar Days)
PREQUALIFICATION STAGE		
1	International competitive tendering	30
2	National competitive tendering	21
TENDERING STAGE		
3	National competitive tendering	21
4	International competitive tendering	30
5	Restricted national competitive tendering	21
6	National shopping	4
7	International shopping	8
8	Where large works are involved	90

OTHER PROCUREMENT METHODS AND PROCEDURES

Force Account

Force account procurement method for works relates to Councils use of own staff, hired labour or public or semi-public agencies or departments in the construction of works- PPR-R167. One of the pre-requisites for the use of this method is the availability of qualified personnel within the Council to carry out and/or supervise the required works.

Community Participation

Provisions with regard to community participation in procurement have remained the same in the amendment of 2016 as was contained in (PPR-R169) save for procurement of the same using framework agreements if included in the list of common use items.

Participation of Special Groups

The Council is required to set aside a given percentage value of procurement in favour of special groups i.e. women, the disabled and the elderly pursuant to amendments on PPA 2016. The regulations to this effect shall shed more light on its operationalization.

Procurement of food stuffs for schools, training institutions, hospitals and prisons

Procurement of food stuffs for schools, training institutions, hospitals and prisons as provided in (PPR-R170) shall be regulated by TFDA following which GPSA shall play a major role for procurement of such items having obtained standards for such goods from the relevant Ministries and estimated quantities from responsible institutions that shall be required to place call-off orders based on established framework contracts.

Emergency Procurement

Emergency procurement by definition cannot be covered by the Annual Procurement Plan. Councils are cautioned to differentiate between **Urgency** and **Emergency**.

The provision for handling of emergency procurement is covered under PPA 2011-S.65 as well as R.63 - R67. Following the 2016 Amendments the Accounting Officer is allowed to proceed with procurement without seeking approval from GPSA. A waiver is given with regard to procurement limits, methods, tender processing periods and advertisement. However, the tenders must be evaluated and award must be approved by the Tender Board – PPA 2011-S.65 (6) as amended.

Emergency procurement shall not apply for common use items and services. When a procurement was not included in the procurement plan, yet is reasonable and justified, the Accounting Officer may approve re-allocation within his authority in order to carry out such procurement within the limits of minor and micro procurement values shown in 6th and 10th Schedule of the Regulations.

The Director shall be held accountable where the so called emergency procurement is proved to be unnecessary and extravagant and was undertaken by lack of sight and timely action. However contract entered under such circumstances, shall be valid and the Accounting Officer shall be responsible for the payment of the price involved (GN.446-R.67).

4.3.8 Preparation of Procurement Schedules

The preparation of the procurement schedules with target dates for each main task in the procurement cycles calls for the PMU bear in mind the lead time required for each procurement cycle and be guided by standard procurement processing time schedules prescribed in the regulations.

The PPRA Website has templates for procurement plan schedules for use by public procuring entities where schedules for external use will be published as part of the General Procurement Notice (GPN) and reported through the Procurement Management Information System (PMIS).

- Separate schedules for OPERATING COSTS, TRAINING and WORKSHOPS will be prepared for procurement using different approaches as will be directed by the Council Director.

4.3.9 Approval of Annual Procurement Plan

The Budget Approving Authority (BAA) i.e. Full Council of the Local Government Authority is responsible for review and approval of Annual Procurement Plan based on Council budget and action plan-Ref. Section 33 (2) of PPA, 2011.

4.3.10 Submission of Annual Procurement Plan

The Accounting Officer in collaboration with the Head of the PMU is responsible for submission of the Annual Procurement Plan to the PPRA. Submission should be through the Procurement Management Information System (PMIS) save for LGAs without ICT structure and connectivity to the internet.

- It is a requirement to track and monitor the implementation of the Annual Procurement Plan (refer to Chapter 13) and based on implementation experience, review and update the APP as part of the mid-year budget review of the Council.

CHAPTER 5: PROCUREMENT PROCESS AND PROCEDURES

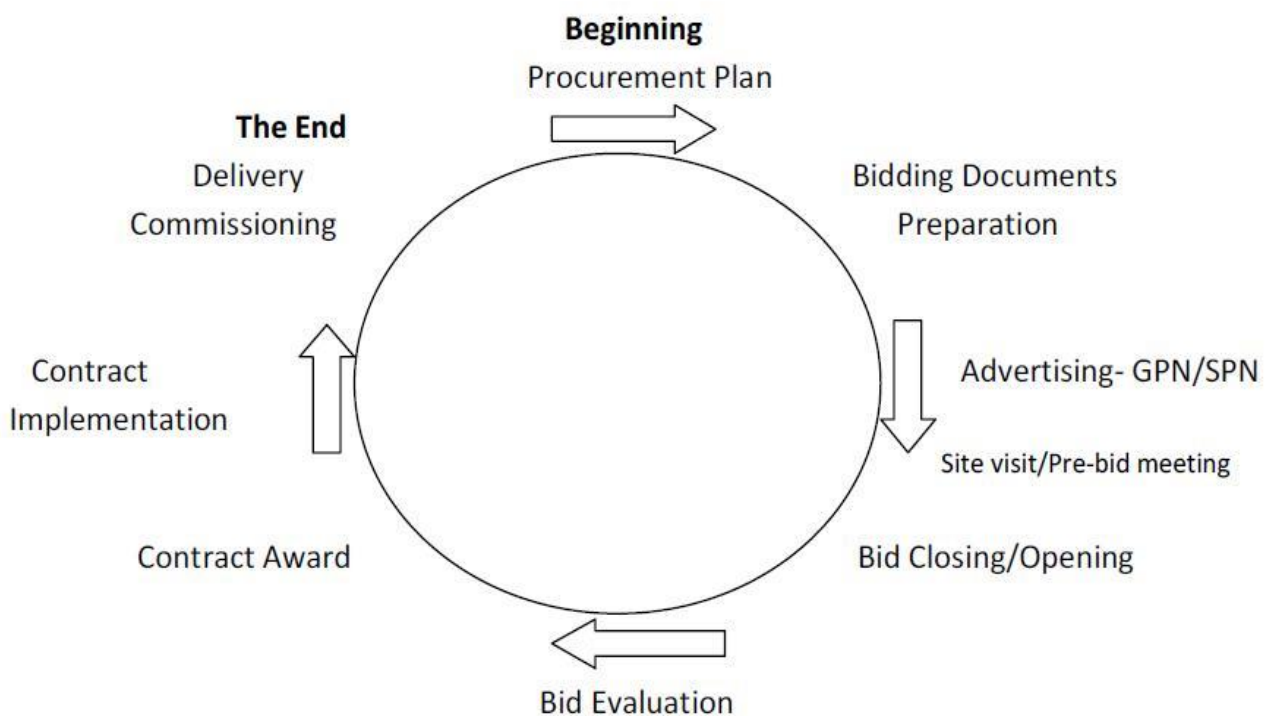
This chapter provides guidance to the general procurement process and how to effectively handle common procurement tasks in line with roles and responsibilities in the LGA procurement cycle. The chapter also seeks to give highlight on tasks and responsibilities for individual procurements during tendering. The procurement process follows a pre-determined order of steps that can be explained here under as procurement cycle that comprises main phases:

- **Pre-tendering:** including needs assessment, planning and budgeting, definition of requirements, determining priorities and choice of procedures;
- **Tendering:** comprising the invitation to tender, evaluation and award; and
- **Post-tendering:** including contract management, payment and closeout.

5.1 Procurement Cycle

The Procurement cycle (see figure 5.1) is the cyclical process of key steps in procurement, from identification of a need through the process of selecting the supplier, contract administration, contract closing and reviewing performance.

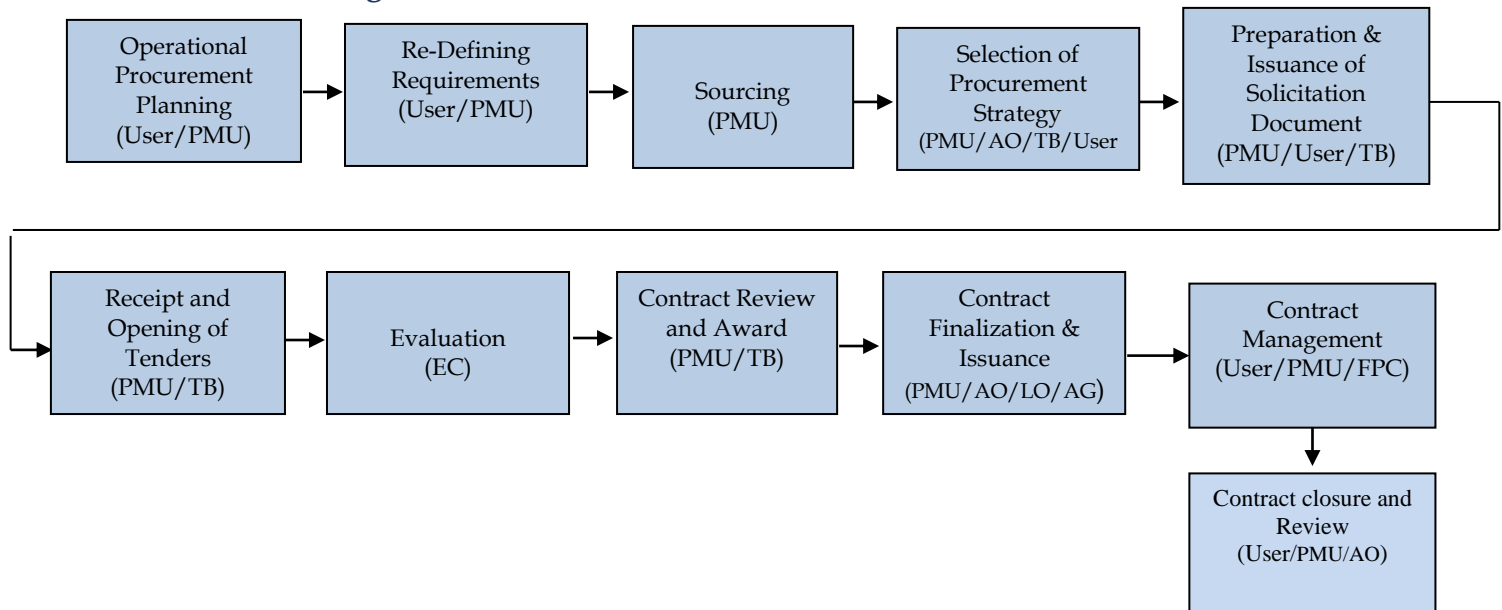
Figure 5.1 LGA Procurement Cycle



5.2 Stages in the Procurement Process

The procurement process means the successive stages in the procurement cycle, which includes planning, choice of procedures, measures to solicit offers from tenderer's, examination and evaluation of offers, award of contract and contract management. The flow chart below gives an outline of the stages involved including key players in the process.

Flow Chart: Stages in the Procurement Process



5.2.1 Procurement Planning

As pointed out elsewhere in this manual, each Council need to ensure that its procurement is integrated with its expenditure programme. Following approval of its Annual Procurement Plan, stakeholders (User Departments and PMU in particular) are therefore duty bound to ensure that the Council observes the approved Annual Procurement Plan and any unplanned procurement shall have to get a prior written approval of the Accounting Officer.

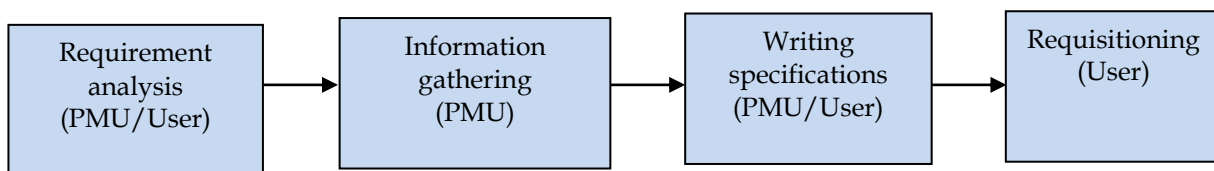
5.2.2 Defining Requirements

In defining requirements the Council shall clearly describe what is needed by collecting additional information, identifying appropriate solutions and obtain specifications for goods and works, terms of reference (TOR) for consultancy services, or statement of works (SOW) for non-consultancy services. These shall be linked with the operation and action plans in order to harmonise the set objectives and timing of deliverables.

It is at this stage that Specifications, TOR and SOW, which constitute the technical basis for the solicitation and eventual evaluation, are developed i.e. they become the “heart” around which the eventual contract is written and later administered.

Requirements should be defined with the aim of opening up competition, i.e. no use of brand names or other unnecessary restrictions. Requirement definition should identify the exact need (technical and quality), aiming at avoiding over-specifications (as this may increase the cost) or under-specifications (where needs will not be met), as well as the “when” it is needed (timing), in order to avoid progress delays or losses for example due to extra storage and handling charges if delivered earlier than required.

The flowchart below shows each of the stages in the requirement definition process



5.2.3 Sourcing

The term sourcing refers to a number of procurement practices, aimed at finding, evaluating and engaging right and capable suppliers for acquiring goods and services.

The Sourcing process, leading to identification and invitation of relevant suppliers, ensures maximum competition, by allowing the most relevant and suitable companies to compete. Sourcing also leads to a better understanding of the market. This knowledge helps to:

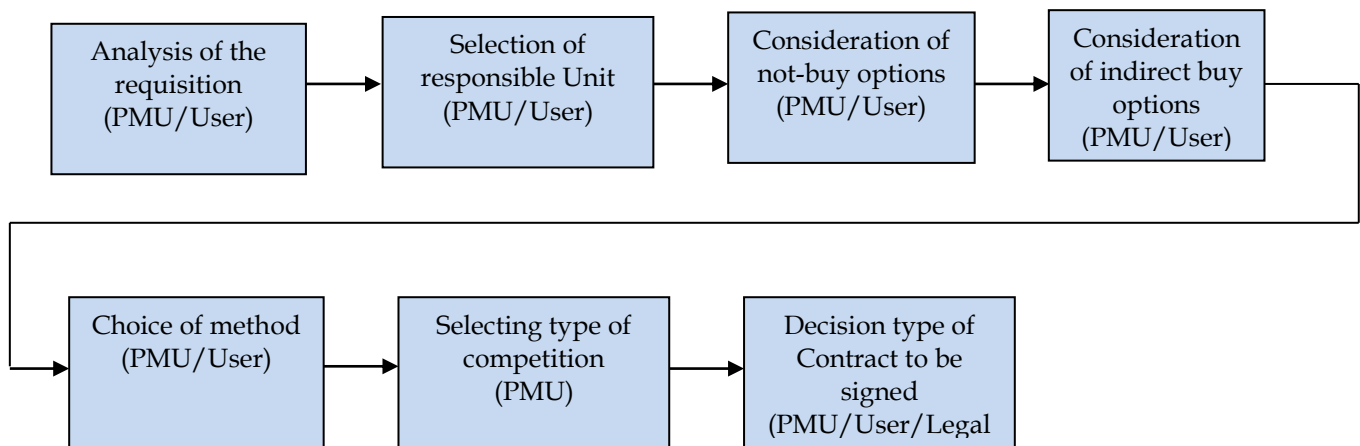
- Assist in a make or buy or lease decision;
- Determine when to buy / establish realistic delivery schedules;
- Review sole/single source justifications;
- Identify price and non-price evaluation factors;
- Identify special terms and conditions for the solicitation and resulting contract that are customary in special markets; and
- Establish realistic budgets, pricing arrangements and economic ordering quantities.

5.2.4 Selection of Procurement Strategy

The process of identifying and selecting the appropriate procurement strategy can best be described as a series of decisions, rather than sequential stages that need to be followed in strict order to achieve the best procurement strategy.

Normally, the PMU would only complete the most relevant stages based on requirements of the Act and Regulations, and the procurement officer's experience. To fully understand this process and the results, however, each of the logical stages in the selection of a procurement strategy process is provided in the flowchart below.

Flow Chart: Process of Selecting Procurement Strategy for Individual Procurement



Analysis of Requisition

The User Department of the Council is responsible for raising requisition that clearly describe the need in terms of quantity/scope and required delivery date. This document shall be authorised by Head of Department before submission to PMU for further action including re-defining the need and whether it falls under APP. The Council shall use procedural form no. 2 issued by PPRA.

5.2.5 Preparation and Issuance of Tendering Document

“Tender or solicitation document” means a written or electronic document or request for proposal inviting tenderers or consultants to participate in procuring or disposal by tender proceeding and includes document inviting potential tenderers for pre-qualification.

The Procurement Management Unit is responsible for the preparation and issue of the Tendering Documents. The Council must use the appropriate Standard Bidding

Documents (SBD) issued by PPRA, as this is a mandatory requirement for contracts to be funded by the Government of Tanzania.

In deciding the deadline for tender submission the Council is required to comply with the minimum Tendering periods given in the Regulations. Hence, the Council shall provide Tenderers with sufficient time for obtaining and studying the Tendering Document, preparing complete and responsive tenders and submitting the tenders. Where a Tender Notice has been published, the Council must issue Tendering Documents promptly to all Tenderers who request them and pay any required fees. A record must be kept of the Tenderers to whom Tendering Documents have been issued with appropriate Receipts being issued for all fees paid.

Where the Tendering Document is issued to pre-qualified or short-listed Tenderers, the documents must be issued to all Tenderers at the same time and must be issued early enough to ensure compliance with the minimum Tendering period given in the Regulations. A record must be kept of the issue of all Tendering documents.

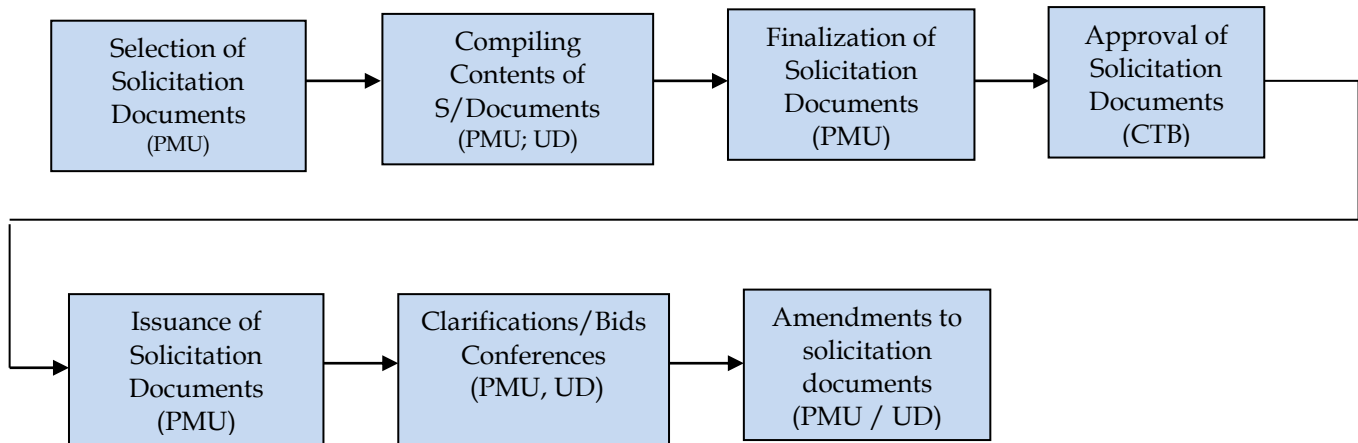
Bidding documents should clearly define the scope of works, goods or services to be supplied, the rights and obligations of the Council and of suppliers and contractors, and the conditions to be met in order for a bid to be declared valid and responsive. They should also set out fair and non - discriminatory criteria for selecting the winning bid. The contents of the bidding documents are supposed to:

- Encourage eligible potentially qualified firms to bid;
- Not discriminate against any potential bidder; and
- Provide a clear, objective means of evaluating the bids.

➤ The detail and complexity of bidding documents vary according to the nature and size of the procurement contract.

Tender documents shall be issued with the approval of the appropriate Tender Board, which shall examine the draft tender documents before approving the issue of the tender.

The flowchart (on next page) shows each of the stages in the process of preparation and issuance of solicitation documents.



Preparation of Tendering Document

Call is made for the Council to use the original customized Standard Tendering Document for each new Tendering Document. However once customized, the original STD (or Standard Bidding Document – SBD) should not be amended in any way.

When preparing a Tender Document, the first task is to electronically copy the contents of the STD directory into a new electronic directory. It is recommended that the new directory is given a name including the unique number from the procurement reference number as shown in the procurement plan and a relevant description. This new directory will be the working directory for the individual Tendering Document and its files can be amended to suit the individual requirement.

Rules for Preparing Tendering Documents

The STDs have been designed to require the minimum of input or changes to the document so that a final Tendering Document can be produced with minimum time and effort. Once the original STD has been copied to become the individual Tendering Document, the relevant sections can be amended in accordance with the rules specified below:

Most importantly the provisions in must be used with their text unchanged

Section II “Instructions to Tenderers” and
Section IV “General Conditions of Contract”

Any data or information that Sections II or IV require are to be included respectively in

Section III “Tender Data Sheet” and
Section V “Special Conditions of Contract.”

Data and information contained in the remaining Sections should be modified as follows:

Section VI Schedule of Requirements: This Section should be completed with details of the requirement by the Procuring Entity.

Section VII Specifications: This section covers the description of goods and related services to be supplied and the delivery. The Council should specify information and requirements specific to the circumstances of the Procuring Entity.

Section VIII Forms of Tender: The “Form of Tender” and the “Form of Qualification Information” in this Section should be completed by the Tenderer. No changes to these standard forms should be made by the PE.

“**Letter of Acceptance**” should be filled in and sent to the successful Tenderer only after evaluation of tenders has been completed, subject to any review by the appropriate approving authorities.

“**Price Schedule for Goods and Related Service**” the price breakdown given in the sample Price Schedules generally follows the usual breakdown requested for procurement of Goods in order for the domestic preference procedure to be applied. It is essential that Tenderers indicated their prices in the manner prescribed by the Price Schedules.

“**Form of Qualification Information**” should be filled in by Tenderers for purposes of post-qualification or for verification of pre-qualification. This information will not be incorporated in the Contract.

“**Form of Contract**” should be included in the Tendering Document, but details need not be completed until after the contract award stage, when it will be signed by the Employer and the successful Tenderer.

Section IX Security Forms: The “Tender Security” or “Tender Securing Declaration”, where required, must be furnished by each Tenderer.

“**Performance Security**” and “**Advance Payment Guarantee**”, where required, should be furnished by the successful Tenderer only.

“**Manufacturer’s Authorization Form**” Tenderers must submit, as part of their tenders, Manufacturer’s Authorization Form(s) in the format provided in the STD for all items specified in the Tender Data Sheet.

Section X Undertaking by Tenderer on Anti - Bribery Policy / Code of Conduct and Compliance Program: This Section should be completed, signed and submitted together with the Tender by each Tenderer without modifying the text.

Standard Bidding Documents

- No changes should be made to the Instructions to Bidders and the General Conditions of Contract.
- If changes are necessary to address requirement and specific issues, they may be introduced only through Bid Data Sheets or Special Conditions of Contract.

5.2.6 Receipt and Opening of Tenders

The Secretary of the Council Tender Board shall, on behalf of the board, receive and keep the tenders in a locked tender box or in a secure office space; give each tenderer a receipt showing the time and date that the tenders were received, particularly when the envelopes containing the tenders are too large to be placed in the tender box, or if no such box is available, all tenders that are not placed in a tender box shall be kept unopened in a secure place until the deadline for opening of that tender.

The Secretary shall be responsible for holding securely envelopes or packages containing any tenders which cannot be placed in a locked tender box. On receipt of

tenders, in case where the tender box is not used, the envelopes shall be recorded in a special register in the order in which they arrive.

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. Tenders received after the deadline for the submission of tenders stipulated in the tender documents shall neither be opened nor be considered and shall be returned unopened to the tenderer who submitted it: PPR-195 of 2013.

Submission and Receipt of Tenders

The Tenderer is fully responsible for tender preparation and its submission. The PMU shall ensure the following:

- Receive and record sealed tenders from Tenderers or make a Tender Box available up to the deadline for tender submission;
- Keep all tenders received secure until the time for tender opening; and
- Close receipt of tendering at the precise date and time of the deadline and ensure that late bids are not accepted for opening and should be returned unopened.

Modification, Withdrawal or Substitution of Tenders

Unless otherwise stipulated in the solicitation documents, a tenderer may modify, substitute or withdraw the tender prior to the deadline for the submission of tenders without forfeiting its tender security. The modification or notice of withdrawal shall be effective if it is received by the Council prior to the deadline for submission of tenders.

Tender Opening

The Secretary of the Tender Board will chair the Tender Opening session bearing the fact that the Council is responsible for the Tender Opening, which is a critical event in the Tendering process. Council staff must be aware that inappropriate procedures at Tender Opening are usually irreversible and may lead to cancellation of the Tendering Process, with the consequent delays and waste of time and resources. The Tender Opening must therefore follow the rules and procedures given in the Regulations and the tender document.

Tender opening is a formal process of opening, reading and recording in writing all bids received in response to the solicitation, at the date, time and place stipulated in the solicitation documents. It is recommended that the tender opening takes place immediately after the deadline for receipt of bids. The tender opening process

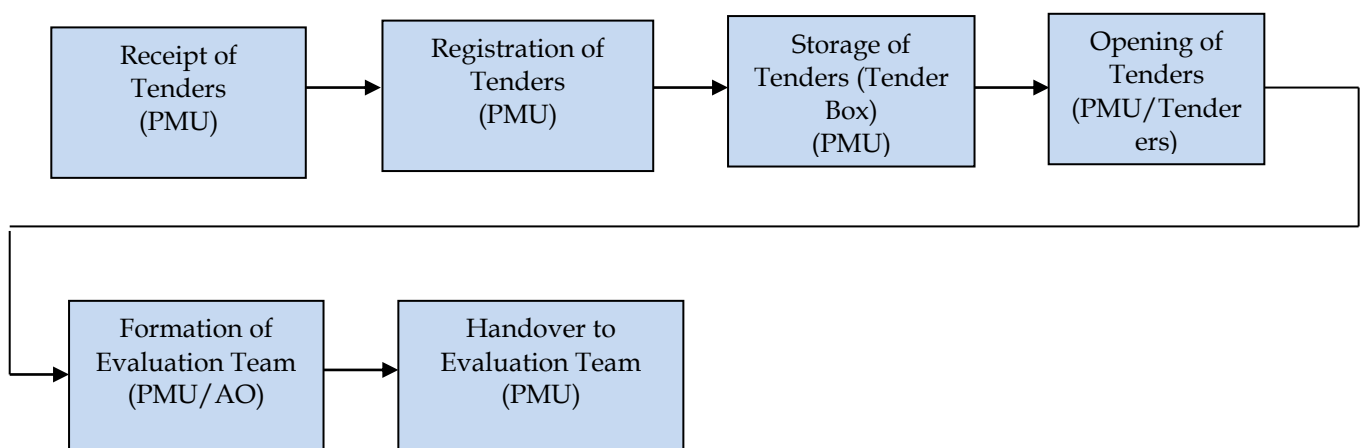
should normally be conducted by an authorized tender opening committee/official panel as prescribed in the Regulations and Guidelines.

During Opening of Tenders, envelopes are opened one by one, and the tender opening committee/official panel should check that the bids meet the procedural requirements of the solicitation documents, for example, the tenderer's names; the tender prices and the total amount of each tender, written notifications of tender modifications, substitution and withdrawals; any alternative tenders, if they have been requested or permitted; any discounts; the presence of the requisite tender security or tender securing declaration as the case may be; and such other details as specified in the tender document. With a two envelope system, technical proposals should be checked to ensure that no price information is included.

It should be noted that only "Discounts" read out and recorded during opening shall be considered during the evaluation.

- The checklist from the procedural forms issued by PPRA give sufficient guideline in this regard.

The flowchart below shows the stages in the process of receipt and opening of tenders.



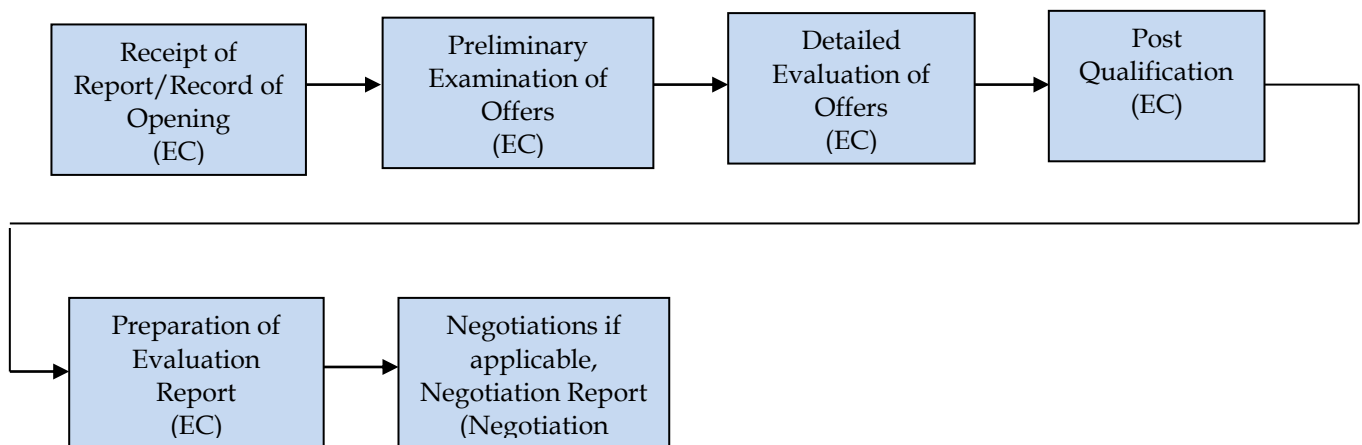
5.2.7 Evaluation of Bids

The Evaluation Committee is responsible for the evaluation of all tenders received. In appointing an Evaluation Committee (EC), it must be remembered that mistakes committed at tender evaluation may later prompt complaints from Tenderers, requiring re-evaluation of the tenders, with the consequent delays and waste of time and resources. In observance of the Regulations and best practices, those involved shall:

- Maintain the tender evaluation process strictly confidential;
- Reject any attempts or pressures to distort the outcome of the evaluation, including fraud and corruption;
- Strictly apply only and all of the evaluation and qualification criteria specified in the Tendering Documents to determine the Lowest Evaluated Tenderer or Highest evaluated tender (Disposal/Revenue Collection) and to make a recommendation for award of contract to the Tender Board; and
- Conduct any negotiations recommended in the Evaluation Report and approved by the CTB.

- The Evaluation Report may recommend also that negotiations be held with the recommended Tenderer.

Upon completion of the Tender Evaluation, and any negotiations, the Tender Board shall be requested to make a Contract Award decision. The flowchart below shows the stages in the evaluation process.



Preliminary Examination of Tenders

The objective of preliminary examination of tenders is to obtain substantially responsive tenders, thus, the examination aims to identify and reject tenders that are incomplete, invalid, or substantially non-responsive to the tendering documents and therefore, are not to be considered further; since they may contain deficiencies that, if accepted, would provide unfair advantages to the tenderer. Sound judgment must be used: for example, simple omissions or mistakes arguably occasioned by human error should not be grounds for rejection of the tender.

Example: if the tenderer is a joint venture, the joint venture agreement must be submitted; if the tenderer is an agent, an authorization from the supplier or manufacturer must be provided in addition to any documentation required of the

supplier or manufacturer itself. All copies of the tender should be compared with the original and corrected accordingly, if necessary. Thereafter, the original should be kept in a safe location, and only copies should be used in evaluation.

Eligibility of tenderers and tender securities should be confirmed to comply with the requirements of the tendering documents. A substantially responsive tender is one which conforms to all the terms, conditions, and specifications of the tendering documents without material deviation or reservation or omission. A material deviation or reservation is one that:

- Affects in any substantial way the scope, quality or supply of goods, execution of works or performance of services;
- Limits in any substantial way, inconsistent with the bidding document, the LGA's rights or the tenderer's obligations under the contract; or
- If rectified would affect unfairly the competitive position of other tenderers presenting substantially responsive bids.

The LGA may waive any minor informality, non-conformity or irregularity in a tender which does not constitute a material deviation provided such waiver does not prejudice or affect the relative ranking of any tenderer.

Detailed Evaluation of Offers

Only those tenders surviving preliminary examination need to be examined in this phase. Bids should be checked carefully by the Evaluation Committee for arithmetic errors in the bid form to ensure that stated quantities and prices are consistent. The quantities should be the same as stated in the bidding document. The total bid price for each item should be the product of the quantity and the quoted unit price. If there is a discrepancy, the quoted unit price shall govern in the recalculation. Prices spelled out in words shall take precedence over numeric quotations in case of differences. The Council should correct all arithmetic errors and notify each bidder of the detailed changes. The Bidder must accept such arithmetic corrections or its bid will be rejected.

In order to compare bids fairly for all tenders, where bids have been in wide variety of currencies the Evaluation Committee must convert all bids to a common currency before they can be compared.

Detailed evaluation of bids shall strictly be based on the evaluation criteria specified in the bidding document. Common evaluation factors include one or more of the following quantification methods:

- Pricing elements;
- Delivery schedule;
- Payment schedule deviation;
- Operating and maintenance costs; and
- Any other specific criteria as the LGA may consider appropriate

Post Qualification of Lowest Evaluated Bidder

Where pre-qualification has not occurred, the prospective award should be subjected to post-qualification, the procedures for which are described in the Instructions to Tenderers. If the lowest evaluated tenderer fails post-qualification, its tender should be rejected, and the next ranked tenderer should then be subject to post-qualification examination. If successful, this tenderer should receive the award. If not, the process continues with the next lowest / highest ranked.

The rejection of a tender for reasons of qualification requires substantial justification, which should be clearly documented in attachments to the report. A history of poor performance may be considered a substantial justification.

Bid Evaluation Report

After the completion of the evaluation process the Evaluation Committee prepares an evaluation report. This report covers five major stages of the evaluation process namely; tender opening record, tabulation of valid offers, preliminary examination of offers, detailed evaluation of offers and the need for negotiations if applicable. The contents of the report should cover among others:

- Key dates and steps in the bidding process;
- Bid prices, corrections, discounts and currency conversions;
- Additions, adjustments and price deviations;
- Domestic preference if any;
- Technical evaluations if any;
- Post qualification results;
- Names of bidders rejected and reasons for rejection of bids; and
- The proposed contract award.

Approval by Council Tender Board

The PMU shall review the evaluation report as submitted by the Evaluation Committee and recommend award of contract to the Council Tender Board for approval or return same to the Evaluation team with comments. The Council Tender Board may:

- Approve the recommendation and authorize acceptance of the tender and award a contract in the form specified in the tender documents; or
- Refuse to authorize recommendation for award of the tenders and refer the evaluation back to the Procurement Management Unit with the reasons for re-evaluation of the tenders, re-tendering or other action.

Table 5.1: Summary of Evaluation Process for Goods, Works and Non-Consultancy Services

Evaluation Stage	Responsible	Approval	Deliverable
Formulation of Evaluation Committee	PMU	AO	List of Members of EC
Receipts of tender Opening minutes	PMU/EC	CTB	Tender Opening Minutes
Preliminary Examination	EC	On Process	List of Substantial Responsive Bids
Detailed Evaluation	EC	On Process	List of Lowest/Highest evaluated Bidders
Post Qualification	EC	On Process	Final Evaluation report for review
Review of Evaluation Report	PMU	CTB	Award Recommendation

Scrutiny of the Award Decision

The Council Director shall, before issuing a notice of intention to award a contract, submit the award decision to the Finance and Planning Committee, for scrutiny, and where the Committee is dissatisfied with the decision of the Tender Board, it shall request the Authority to conduct an investigation pursuant to section 33(3) of the PPA of 2011.

Notification of Intention to Award Contract

Where the Committee responsible for Finance and Planning is satisfied with the award decision the Council Director shall issue a notification of intention to award the contract. The letter of intension to award is sent to all bidders who participated in the tender in question by giving fourteen (14) days to lodge their complaints if any. Where no complaints have been lodged pursuant to subsection (3) the AO shall issue a notice of acceptance to the successful tenderer.

5.2.8 Vetting of Contracts

After the period of intention to award has been completed and no complaint has been received, contract shall undergo vetting by Council Legal Officer when the value of the contract does not exceed one billion Tanzanian Shillings. When the

contract is equal to or above one billion the contract is sent to AGs' office for vetting before the contract is signed by the parties.

The Council Director shall, within three (3) working days after being notified by the Tender Board of its award decision, submit to the Attorney General the draft contract with value stated above for vetting.

The Attorney General shall, within twenty one (21) working days upon receiving the draft contract from the Council Director, vet the draft contract and provide comments to the Accounting Officer, if any.

The Council Director shall, upon receiving the comments on the draft contract from the Attorney General, incorporate them in the draft contract.

➤ All procurement contract below the threshold shall be vetted by the Council Legal Officer.

Complaints and Appeals

Any application for administrative review shall be submitted in writing or electronically to the Council Director and a copy shall be served to PPRA within (14) fourteen days of the tenderer becoming or should have become aware of the circumstances giving rise to the complaint or dispute.

The requirements of application for administrative review shall not apply to complaints submitted in response to the notice of intention to award the contract issued to tenderers pursuant to section 60(3) of the PPA 2011. The application for administrative review shall contain:

- Details of the procurement or disposal requirements to which the complaint relates;
- Details of the provisions of the act, regulations or provisions that have been breached or omitted;
- An explanation of how the provisions of the Act, Regulations or provisions have been breached or omitted, including the dates and name of the responsible public officer, where known;
 - documentary or other evidence supporting the complaint where available;
 - remedies sought; and
 - Any other information relevant to the complaint.

The Council Director 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 Council Director

The Council Director shall, upon receipt of an application for administrative review:

- Suspend the procurement or disposal proceedings of the tender in dispute, until he delivers a written decision on the complaint; and
- Notify all tenderer's who participated in the tender, of the complaint and of its substance within three working days of receipt of such application and the tenderer's who opt to join in the proceeding shall submit written responses within three working days of receipt of such notification.

Upon receiving an application for review, Council Director shall institute an investigation to consider:

- The information and evidence contained in the application;
- the information in the records kept by a council;
- the information provided by other tenderer's; and
- Any other relevant information.

The investigation instituted in accordance with Public Procurement Regulations of 2013 may be conducted by a review panel appointed in accordance with section 96(2) of PPA 2011.

Review by the Public Procurement Appeals Authority

The Public Procurement Appeals Authority (PPAA) deals with complaints or disputes which:

- Are not settled within the specified period under regulation 106(6) of 2013;
- Are not amicably settled by the Accounting Officer; or
- Arise after the procurement contract has entered into force pursuant to section 60(11) of the PPA 2011, shall be referred to the PPAA within fourteen days from the date when the tenderer received the decision of the Council Director, in case no decision is issued after the expiry of the time stipulated under the regulations or when the tenderer became aware or ought to have become aware of the circumstances giving rise to the complaint or dispute pursuant to section 97 (3) of the PPA 2011.

Publication of Contracts

The Council is required to submit details of contract award to PPRA through PMIS within fourteen (14) days from the date of award for publication in the Journal and Tenders Portal. The contract award information shall be in a prescribed form issued by the PPRA and shall contain the following:

- Names of participants of the tender in question;
- Read out tender price;
- Reasons for those eliminated in the tender;
- Name of the winner of the tender and the contract amount;
- Date when the award was made; and
- Contract period.

The Council Director shall be responsible for the requirement to furnish PPRA with details as stated above for publication in the Journal and Tenders Portal.

- Besides the above requirement, the Council is also required to:
- Publish awarded contracts to the wider public i.e. on Council Notice Boards.
 - Provide the Authority with the list of LPOs and Micro Procurement (through PMIS).

5.2.9 Contract Management

A Council shall be responsible for the effective management of any procurement of goods, services or works for which it is undertaking and shall:

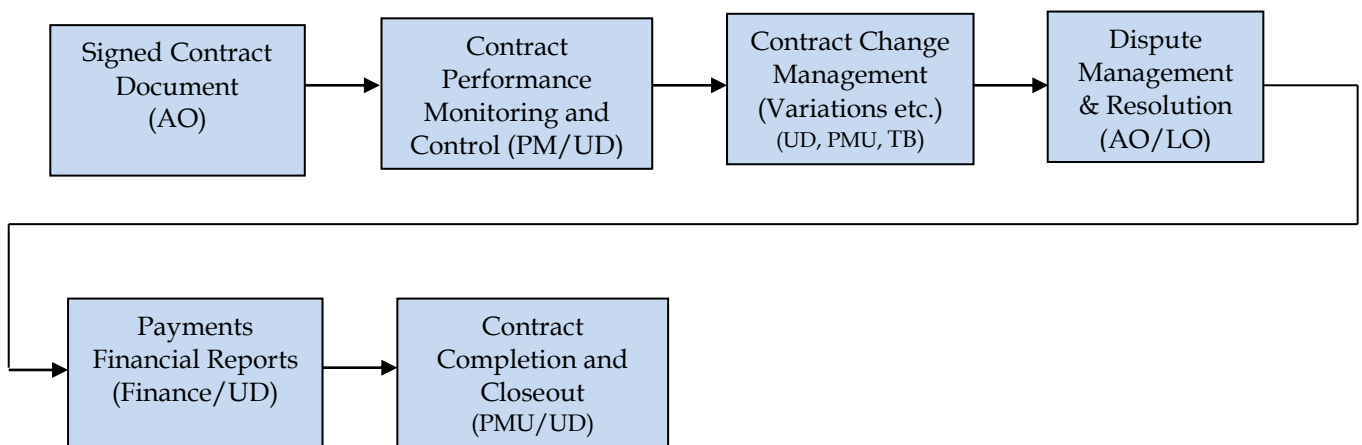
- Monitor the costs and timely delivery of goods and services in the correct quantities and to the quality specified in each contract;
- Monitor the progress and timely completion of works in accordance with the terms of each contract;
- Take or initiate steps to correct or discipline deviations from observance of contract condition; and
- Ensure that the responsibilities imposed on it by the contract are fully discharged

The purpose of contract management is to ensure that all parties to the contract fully meet their respective obligations as efficiently and effectively as possible, delivering the business and operational outputs required from the contract and providing value for money. It also protects the rights of the parties and ensures required performance when circumstances change.

In all situations, the PMU and contract managers/supervisors are responsible for following up and ensuring that the actions of the supplier and the PE are in line with the contractual responsibilities, that the contract is amended to reflect agreed changes in circumstances, and that any claim or dispute is resolved amicably according to the terms of the contract.

The stages of contract management are intended to ensure that the parties work together to achieve the objectives of the contract. Contract management is based on the idea that the contract is an agreement, a partnership with rights and obligations that must be met by both sides to achieve the goal. Contract management is aimed not at finding fault, but rather at identifying problems and finding solutions together with all contracting parties involved.

The flowchart below shows the stages in the contract management process.



Amendments

Any amendment to the contract that may change the original terms and conditions of such contract shall be prepared by the Procurement Management Unit in consultation with the User Department before it is submitted to the Tender Board for approval. A contract amendment shall not be issued to a tenderer prior to:

- Obtaining approval from a Tender Board;
- Commitment of the full amount of funding of the amended contract price over the required period of the revised contract; and
- Obtaining approval from other relevant bodies including the Attorney General.

A contract amendment for additional quantities of the same items shall use the same or lower unit prices as the original contract.

A contract amendment shall not increase the total contract price by more than fifteen percent of the original contract price without the approval of budget approving authority.

Amendments after Signing

Once signed, the contract or written agreement shall not be altered, except when an alteration is necessary for the benefit of the Council or when an alteration does not prejudice the Council.

The contract extension which includes their mission or reduction of penalties in favour of the tenderer shall be permitted only in the case of *force majeure* or default or shortcoming on the part of the Council.

The proposed variations such as additions or deductions which are not incidental to or arising out of the contract, and which alter the scope, extent or intention of the contract shall, in every case, be referred to the appropriate Tender Board for approval before instructions are issued to the tenderer.

The Council shall have no power to authorize additions beyond the scope of the contract without having obtained prior written approval from the Paymaster General or appropriate budgetary approving authority for additional financial authority to meet the cost of such work.

Where the execution of contract has commenced, the cost increases involving all changes which alter the scope, extent or intention of such contracts shall have the prior written approval of the Tender Board.

For the purposes of the regulation, “changes in the scope of the contract” includes all changes in the quantity or quality of goods to be supplied, services to be provided or work to be performed by a tenderer with whom a contract has been entered into and such changes shall generally be changes of a policy nature such as an increase in the area of a building or finishing to a higher standard than originally specified.

Receipt, Delivery, Acceptance and Payment

Goods delivered shall be inspected, sampled and tested by the Council and they shall not be accepted if they are below the standards stipulated in the contract. Contracts shall contain a clause that the supplier shall be responsible for all costs and expenses incurred due to a justified rejection of his goods on the ground that they are below standards stipulated in the contract. Goods rejected shall be collected by

the supplier from the premises of the Council within seven working days from the date of rejection of the goods.

Inspection and Acceptance Committee

The Council Director shall for each tender, including call-off orders, appoint an Inspection and Acceptance Committee (IAC) which is required to:

- Inspect the goods at the office of the Council or, user, or at the site specified in the contract and any inspection at any other site shall be with a prior consent in writing of the Council; and
- Inspect and count the goods in order to ascertain whether they are correct and complete in accordance with the agreement.

In case of a technical or scientific test or experiment, an expert or qualified person in respect of the goods may be invited for consultation, or the goods may be sent to that qualified person for test.

Where the Council Director considers necessary that any contracted work be managed by a supervisor, he shall appoint a public officer under the jurisdiction of the Council or an officer of the department or unit responsible for the works or a consultant to be a supervisor.

The supervisor appointed shall manage the works of inspection committee and shall prepare and submit to the Council Director Performance report on monthly basis or within the period prescribed by the Council Director.

5.2.10 Procurement Record Keeping

Record of procurement and procurement contracts are important because they serve as quality assurance to the Procuring Entity (Council) as well as audit trail of how the process was carried out and managed. Procurement and contract records are the evidence of all actions taken to award contracts, and of the results of the monitoring and oversight of contract implementation. Procurement and contract records forms the basis for internal and external audits, and are needed to determine compliance with the procurement legal and institutional framework. Maintaining procurement and contract records should be mandated by law given the use of public funds and the need for transparency and accountability. Procurement records include all documents relevant to the pre-tendering, tendering and contract administration phases. It should be possible to reconstruct the entire procurement and contract management processes from these records.

The Council is responsible for maintaining procurement and contract records of each procurement requirement. The Council should develop the filing system and maintains a complete record on the entire procurement and contract management processes for each requirement. Although all records are maintained by the Council, the entity responsible for contract administration should also maintain working copies of relevant documents, while sending pertinent documents to the Council and other entities (such as finance) as determined in the contract administration plan. In order to eliminate the need for duplication of relevant procurement documents, while making them available to relevant stakeholders, such documents could be made available electronically, via an electronic document management system, on a controlled access network, or management information.

The procurement record management system and procedures is guided by the following principles and requirements:

Finance: Appropriate provision must be made in annual estimates of the Council for sufficient funds to enable the records management unit to perform its functions properly. The Procurement Management Unit is required to have its own budget (sub-vote) and should have adequate allowance for the procurement sub-registry which will be used for purchase of equipment, materials and office accommodation.

Staff: the Council should ensure adequate record management expertise in the Procurement Management Unit, preferably by appointing a Record Management Assistant to the PMU.

Accommodation for records: The records office should be in a location that is easily accessible to action officers. Records office should be adequate in size to house both the staff and records. There must be adequate space for both current and inactive records.

Equipment and stationery: Sufficient and appropriate equipment should be provided for the handling and storage of records. An adequate supply of suitable file covers, and other stationery should be maintained. Computers and the necessary software should also be provided.

Role of the Council Director in the Management of Procurement Records: The Council Director through the Council Human Resource Officer should be responsible for ensuring that an entity properly documents procurement proceedings and manages records in accordance with the Regulations.

Role of the Head of PMU in Procurement Records Management: The head of the PMU is responsible for the overall management of procurement records, under the direction of the Accounting Officer. He/she should ensure that documented records of procurement transactions are comprehensive, accurate, authentic, understandable and usable. A PMU should assign in writing responsibility for the maintenance, control, security and access to procurement records to a specific procurement officer.

Procurement records management officer: under the direction of the head of the PMU should ensure that the records are authentic, accurate, reliable, safe and secure.

ICT officer/Systems Administrator: should ensure that any procurement records in electronic format are accurate, available and legible.

The Role of the Procurement Records Manager: It should be the procurement records manager's responsibility to ensure that all the documents pertaining to a specific procurement are placed in one file:

- Documents in a procurement file should be placed in a logical order to reflect the sequence of the transactions of the procurement action;
- The documents will also need to be folio numbered, i.e. each paper will need to be serially numbered, to protect them from unauthorized tampering or removal of papers from a file. It is easy to detect removal of papers from a file because of the evident break in folio numbering. If for some reasons the documents cannot be accommodated in one file, subsidiary files linked with the main file will be opened;
- The procurement activity file will bear the tender or quotation number, item name and the file reference number generated from the procurement file scheme;
- Files will be arranged and maintained according to the tender number, file reference number and in financial year sequence; and
- These files will need to be captured in the official procurement file scheme and maintained in secure cabinets.

Role of User Department in the Management of Procurement Contracts: The User Department shall maintain and archive records of contracts management.

5.2.11 Contract Closure and Review

The table (on next page) gives a summary of the key steps in the contract close out process:

Table 5.2: Summary of contract close out process

Step	Action
1	Review and confirm appropriate action taken according to contract close-out checklists.
2	<p>Prepare final contract performance report (jointly by requisitioned and procurement officer), including lessons learned.</p> <p>Depending on the organization, this report may be purely internal or may be shared with the supplier for their knowledge and comment.</p>
3	Prepare supplier assessment form and forward for appropriate action.
4	Issue final acceptance on the basis of the Requisitioners report.
5	Make final financial settlements.
6	Liquidate/return bonds and/or securities.
7	Record any residual obligations (warranties, etc.) and advise requisitioned of procedures.
8	Close- out contract file.

➤ Councils are reminded on the importance to use for their tender proceedings Procedural Forms and Standard Bidding and Contract Documents issued by the PPRA: see Annex 1.

CHAPTER 6: PROCEDURES FOR PROCUREMENT OF GOODS, WORKS AND NON-CONSULTANCY SERVICES

This chapter details the procedures and requirements for the procurement of Goods, Works and Non-Consultancy Services have similarities as opposed to the procedures for Procurement of Consultancy Services. Apart from the general Statement of Requirements (SOR), the Technical Specifications are the most critical aspect that differentiates the procurement contracts of these three procurement categories.

6.1 Technical Specifications

Specific requirements relating to the goods or services being procured should be clearly stated to give a correct and complete description of what is to be procured and that allow for fair and open competition among those who may wish to participate in the procurement proceedings. The Council may seek external experts' assistance in preparing technical specifications when it does not have the expertise.

- For goods User Department should define the requirement in terms of description, quantity, quality, urgency, packing and marking requirements and a detailed specification; and
- Similarly, for non-consultant services the user or requesting department shall prepare a description of services required, and a detailed specification of the requirement including the period of the contract, quality standards and service levels.

The technical requirements shall, where appropriate:

- Relate to performance rather than to design or descriptive characteristics;
- Be based on national, regional or international standards;
- Not refer to a particular trademark, name, patent, design, type, producer or Service Provider or to a specific origin unless:
 - There is no other sufficiently precise or intelligible way of describing the requirements and;
 - The requirements allow equivalents to what is referred to.

Bill of Quantities for Works

The Bill of Quantities (BOQ) is the list of all main components of the project (buildings, roads, sidewalks, lighting, equipment, etc) including estimated quantities for each line item (soil movements/ excavations, structures, roofing, floors,

sanitation, etc) and information on the way it will be paid (e.g. lump sum or unit price).

The preparation of the BOQ is the most difficult part because it should be complete and exhaustive especially in contracts based on unit prices. Even though less detail or fewer items are needed in lump sum contracts, such contracts require good technical specifications and careful supervision.

6.2 Bidding Documents

The PMU shall prepare the bidding documents and incorporate the technical specifications based on the standard bidding documents issued by PPRA. Once the bidding document is ready it must be given to the Council Tender Board which will review and grant approval. The bidding document should provide the following information:

- 1) The specific requirements relating to the goods, works or services being procured and the time limit for delivery or completion;
- 2) If works are being procured, relevant drawings and bills of quantities;
- 3) The general and specific conditions governing the contract, if the performance security is provided;
- 4) The tender number assigned to the procurement proceedings by the Procuring Entity;
- 5) Instructions for the preparation and submission of tenders including:
 - o The Bid form;
 - o The number of copies to be submitted with the original bid;
 - o Any bid security required, the form and amount of such security; d) any proof evidencing the bidder's qualifications.
 - o Statement where and when tenders shall be submitted,
 - o Statement where and when the tenders shall be opened;
- 6) Statement of whether those submitting tenders or their representatives shall be allowed to attend the tender opening session;
- 7) Statement of the period during which tenders shall remain valid;
- 8) The procedures and criteria for bid evaluation and comparison;
- 9) A statement that the Council may cancel the bids at any time before the signing of the contract; and
- 10) Anything else as may be provided for by the bidding document in accordance with this PPA or public procurement regulations.

Eligibility: the standard bidding documents should provide the eligibility of both bidders and the goods to be supplied. For example a bidder is not eligible if:

- Currently blacklisted (debarred) by PPRA;
- Has been prosecuted and found guilty in court, including any appeals process on corruption charges;
- Bankrupt;
- Excluded in accordance with regional or international conventions; or
- Has a conflict of interest

Delivery and Incoterms

The main purpose of Incoterms is to define responsibilities of seller and purchaser, set rules for moving goods from one country to the other and determine point of transfer of risk from Seller to Purchaser. In the bidding documents for goods, the instruction to bidders shall specify or define the price to be quoted. Such price shall be based on specific delivery terms in accordance with specified incoterms for goods supplied from within the country and those supplied from outside the country.

The most commonly used when importing goods are CIF (Cost, Insurance and Freight) and CIP (Cost and Insurance Paid). For Tanzania CIP is ideal because freight and insurance is paid up to place of destination whereas CIF freight up to port of discharge.

6.3 Notification and Advertisement of Tenders

All tender notices for national and international tenders shall first be advertised with TPJ and Tender Portal together with at least one local newspaper and one international newspaper in the case of international tendering/ selection, Ref. First schedule of PPR 2013 shown in Table 6.1 below:

Method of procurement	Mode of Advertisement
PRE-QUALIFICATION OR EXPRESSION OF v INTEREST	
International competitive tendering/Selection	Journal and Tender Portal; PE website and/or Notice Board; and At least one local newspaper and one international newspaper
National competitive tendering/selection	Journal and Tender Portal; PE website and/or Notice Board; One local newspaper
TENDERING	
International competitive tendering	Journal and Tender Portal; PE website and/or Notice Board; and At least one local newspaper and one international news paper
National competitive tendering	Journal and Tender Portal; PE website and/or Notice Board; One local newspaper

6.4 Bidding Process

The process of submission and receipt of Tenders shall be the same as detailed in Chapter 5 of this Manual with some additional procedures and requirements, which are indicated in the below sections.

Bid Clarifications

The bidding document shall provide for the period during which bid clarifications may be requested specifying time for receipt after which the clarification may be ignored unless they draw attention to a serious flaw in the bidding documents. Any response to a bidder must be communicated to all bidders who received the bidding documents, but without identifying the bidder who requested the clarification.

Bidding Document Amendment

The period during which the bidding document can be amended will be defined in the bidding documents. In principle at any time prior to the deadline for submission of bids, the Procuring Entity may amend the bidding documents by issuing addendum and any addendum issued shall be part of the Bidding Documents and shall be communicated in writing to all who have obtained the Bidding Documents legally.

Extension of Bid Closing Date

To give prospective bidders reasonable time in which to take an addendum or clarifications into account in preparing their bids, the Procuring Entity may, if necessary or at its discretion but in line with the law, extend the deadline for the submission of bids. It is normally necessary to extend the bid closing date if modification of bidding documents requires additional research or effort by bidders to submit a responsive bid or request for a time extension is made by two or more bidders; and unforeseen administrative issues which force a postponement of the proposed bid opening.

Cancellation of Bidding Process

A bidding process may be cancelled at any time before the deadline for receipt of bids by the Accounting Officer. Note that for donor-funded procurements, the donor must be consulted for “a no objection” before any cancellation of the bidding process.

Cancellation of Bidding after Bid Opening

The Council Tender Board may recommend cancelling bidding if:

- No tender or proposal is responsive to the tender documents or request for proposals;
- No tender or proposal satisfies the criteria for the award of the contract as set out in the tender documents or request for proposal;
- The economic or technical data of the project have been altered;
- Exceptional circumstances render normal performance of the contract impossible;
- Every tender or proposal received exceeds the budgetary resources available;
- The tenders or proposals received contain serious irregularities resulting in interference with the normal play of market forces;
- Funds voted or earmarked for the procurement have been withheld, suspended or have otherwise not been made available;
- There has been no competition;
- The goods or services are no longer required; or
- The lowest evaluated bid is unacceptably higher than the budget (contract cost estimates).

Evaluation and Award Recommendation

The Evaluation Committee shall prepare an evaluation report containing a summary of the evaluation and comparison of bids and recommendation of award of contract to the bidder with the lowest evaluated bid. The amount of the recommended contract award is the bid price as submitted by the lowest evaluated bidder and adjusted as described in the bidding documents for corrections, any discounts and acceptance of alternative offers from the lowest evaluated responsive bidder.

In brief the evaluation report should ensure that:

- Justification is provided for any decisions reached by the committee on rejection of bidders (if necessary provide copies of selected pages from bids) and the recommendation for award of contract;
- Inconsistencies between prices and modifications to prices read out at bid opening are explained;
- Substantial corrections for arithmetic errors which may affect the ranking of bidders are explained;
- Any additions, adjustments, and priced deviations that may affect the ranking of bidders are explained;
- Clarification correspondence between the Procuring Entity and the bidders which result in major decision by the committee should be attached; and
- Any separate evaluation or assessment report from a consultant, if one was engaged for this purpose is attached.

The Evaluation Committee undertaking an evaluation shall be composed of at least three members. Decisions of the committee shall be taken unanimously and all members present have to sign the report.

Award of Contract and Contract Signing

The Council Director is required to send a copy of the award letter to the PPRA, the Controller and Auditor General, the Attorney General and the Internal Auditor General. The award shall be made within the period of tender validity to the tenderer whose tender has been determined to be the lowest evaluated or the highest evaluated, as the case may be, and meets the required financial and managerial capability, legal capacity, experience and resources to carry out the contract effectively.

Acceptance of Tender and Entry into Force of Procurement Contract

Where a tender is accepted by the Accounting Officer, the Council and the firm whose tender is accepted shall enter into a formal contract for supply of goods, provision of services or undertaking of works within twenty eight calendar days after fulfilling all conditions prior to the signing of contract. A formal contract shall be in a prescribed form and shall contain terms, conditions and provisions set out in the tender document. A procurement contract shall enter into force when the two parties have signed a formal contract.

Where a successful tenderer fails to sign a written contract as required or to provide any required security for the performance of the contract, the Council shall, on the recommendation of the Tender Board, select a competitive tender from among the remaining tenders that are in force, subject to the right of the Council, to reject all remaining tenders.

Advance Payment and Security

The advance payment shall not exceed twenty per cent (20 %) of the price of the tender and shall be paid upon submission by the successful bidder to the Council of an advance payment security equivalent to the advance itself. That security shall be given by a bank or any authorized financial institution.

The successful bidder shall use the advance paid only in activities related to the tender. If the successful bidder uses the entire advance or part of it in other activities that are unrelated to the tender, the advance shall immediately be considered as a debt which shall be paid by seizing the entire security or part of it.

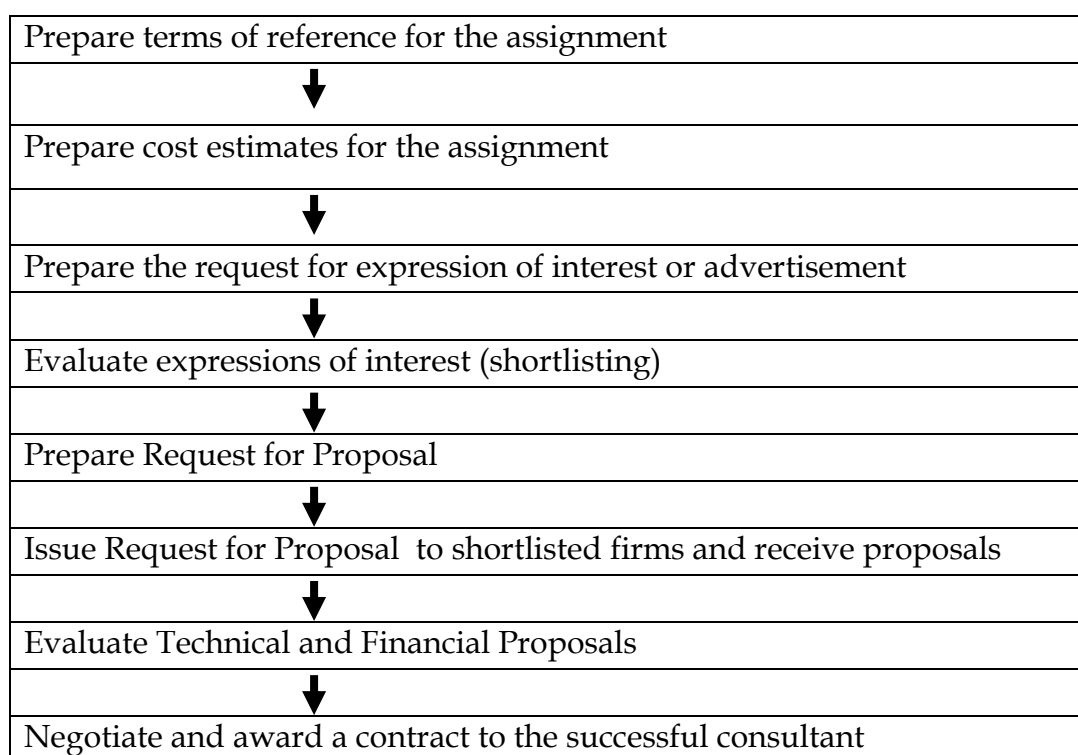
The advance received by the successful bidder shall be recovered by deducting a certain amount from submitted and approved invoices/certificates. The bidding document shall determine the percentage to be deducted until the whole amount of the advance is fully recovered.

CHAPTER 7: PROCEDURES FOR SELECTION AND EMPLOYMENT OF CONSULTANTS

This chapter introduced the procedures for selection and employment of consultants, which involves several steps that are crucial for the selection of appropriately qualified consultants to undertake an assignment successfully.

7.1 Selection and Employment Process of Consultants

The Council needs to undertake the following activities in the selection and employment process of consultants:



7.1.1 Terms of Reference

The Terms of Reference (TOR) is prepared by the User Department with assistance of the PMU and must define clearly the objectives and scope of the assignment and provide background information (including a list of existing relevant studies and basic data) to enable the consultant to prepare a proposal. The TOR should:

- Describe the background to the assignment;
- State the objectives of the assignment including the scope of the services and the duration of the assignment;
- Detail list of the consultants' duties and responsibilities;
- Where applicable, the required inputs in terms of man days, months or years;

- Detail outputs (deliverables), e.g.: designs, reports, recommendations, draft laws etc.
- Set the time periods for the deliverables;
- List any services and surveys necessary to carry out the assignment;
- Detail the services, facilities and counterpart staff to be provided by the Council; and
- Specify detailed requirements when transfer of knowledge or training is an objective, to allow bidders to estimate the required resources.

7.1.2 Invitation for Expressions of Interest

The Council shall include, in the General Procurement Notice, a list of expected consulting assignments which shall be updated as the Council considers necessary for all outstanding procurement.

A Council shall then call for expressions of interest by publishing a notice in the Journal and Tender Portal and a national and international newspaper of wide circulation in order to establish a short list of bidders.

The Procurement Management Unit shall prepare the invitation for expression of interest and table before the Tender Board for comments and approval. The invitation for expression of interest shall be advertised by the Council in the Journal and Tender Portal in accordance with the First Schedule of GN 446 of 2013.

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

7.1.3 Short Listing and Expressions of Interest

The Council shall establish a shortlist comprising of bidders with capacity to perform the required services. The shortlist shall be prepared for every new request for proposals and shall comprise of five to ten firms at least three of which shall be national firms. Where there are no qualified firms from Tanzania 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

A Tender Board may require the Procurement Management Unit to expand or reduce a short list and where a Tender Board has approved a short list; a PMU management unit shall not add or delete names without an approval of the Tender Board.

The notice inviting expressions of interest shall set out the following:

- The name and address of the Council;
- Brief description of the services to be provided;
- Qualification(s) necessary to be invited to submit a proposal;
- Statement of where and when expression of interest shall be submitted.

Consultants shall be individuals or firms and Requests for proposals shall be addressed to either individual consultants or firms, but not both under the same tender.

7.1.4 Request for Proposals

The Request for Proposals (RFP) shall be sent to the short listed consultants, asking them to confirm their participation. The RFP shall include a minimum of the following information:

- 1) The name and address of the Procuring Entity;
- 2) The nature, time frame and location of the services to be provided, terms of reference, required tasks and outputs;
- 3) The general and specific conditions to which the contract will be subject;
- 4) Instructions for the preparation and submission of proposals which shall require that a proposal include a technical proposal and a financial proposal;
- 5) An explanation of where and when proposals shall be submitted;
- 6) The procedures and criteria to be used to evaluate and compare the proposals including:
 - The procedures and criteria for evaluating technical proposals which shall provide the basis on which to decide on the responsive proposal. Care should be taken to follow the standard request for proposals in defining the criteria and procedures for evaluating technical proposals
 - The procedures and criteria for evaluating the financial proposals
 - Notice of conflict of interest restrictions and anti-fraud and corruption rules, including the grounds for potential disqualifications from future participation in public procurement ;
 - Any other matters provided for in the procurement regulations.

7.1.5 Selection Procedure

The following procedures, method and criteria which must have been notified to bidders in a request for proposals, shall be used detailed under:

- 1) Quality and cost-based selection (QCBS) shall be the method of default;
- 2) Quality based selection (QBS); applicable where quality is the paramount factor;
- 3) Selection under a fixed budget may be applied when the assignment is simple and can be precisely defined and when the budget is fixed;
- 4) Least cost selection may be applied when selecting consultants for assignments of a standard and routine nature, where well established practices and standards exist and in which the contract amount is small;
- 5) Selection based on consultant's specific qualifications.

7.1.6 Evaluation

Technical Proposals

The Evaluation Committee shall evaluate each technical proposal on the basis of criteria disclosed in the request for proposals including the following:

- 1) The consultant's relevant experience for the assignment;
- 2) Quality of the methodology presented;
- 3) Qualifications of key personnel proposed for the assignment;
- 4) Transfer of knowledge, if required in the terms of reference; and
- 5) The extent of participation by nationals among key staff in case of international tendering.

Indicative weights to be attached to the above criteria shall be provided in the issued RFP in line with the regulations.

Financial Proposals

The financial proposals shall be opened and evaluated only after completion of the technical proposal. When the quality and cost-based selection procedure is used, only financial proposals of bidders who attained the minimum technical score shall be opened.

The total score shall be obtained by adding the importance of quality and cost scores. The quality and cost shall be established based on the complexity and the nature of the assignment. The coefficient for quality and cost score to be used in determining the winning proposal shall be specified in the request for proposals and in accordance with the procurement regulations.

Similarly, the same shall apply to the fixed budget and least cost selection. Only financial proposals whose technical proposals obtained the minimum technical score prescribed shall be opened. Under the fixed budget method, proposals whose cost is

above the budget ceiling shall be rejected and the bidder whose proposal attained the highest technical score shall be selected.

Under the least cost method, the bidder whose proposal attained the minimum technical score and proposed the lowest cost shall be selected.

Under quality based selection, only the financial proposal of the bidder whose technical proposal attained the highest score shall be opened.

Detailed procedures for evaluation of technical proposal shall be outlined in the Guidelines on the Evaluation of Technical and Financial Proposals and Preparation of Evaluation Reports issued by PPRA obtain from PPRA website <https://www.ppra.go.tz>.

Negotiations with Selected Consultant

Negotiations with the selected consultant shall cover the terms of reference, deliverable, progress reports, facilities to be provided by the Council and the successful bidder's financial proposal subject to the following:

- Whenever price has been a factor, such as in the QCBS, fixed budget or least cost selection procedures, consultant fees shall not be subject to negotiation. Only reimbursable expenses may be negotiated;
- If the negotiations fail to result in a procurement contract, the Council shall proceed to the next ranked bidder and so on. Negotiations shall not be simultaneously engaged with several consultants.

Detailed procedures for negotiation are outlined in the regulations under GN 4463.

Table 7.1: Steps for Quality and Cost Based Selection

Step No	Recruiting a Consultant using QCBS	Remarks
1	Terms of Reference (TOR) for the assignment when ready should be prepared or checked by the PMU to ensure the format is correct	The TOR shall be prepared by knowledgeable people (experts). It shall provide relevant background information, define clearly the objective, goals, and scope of the assignment and tasks to be undertaken, reporting time schedules, staff requirements and data & facilities to be provided by the Council
2	Prepare Cost Estimate & Budget (The cost estimate shall be based on the assessment of the resources)	Costs shall be divided into two broad categories: fee or remuneration, depending on type of contract used, and

Step No	Recruiting a Consultant using QCBS	Remarks
	needed to carry assignment: staff time, logistical support, and physical inputs)	Reimbursable are further divided into foreign and local costs. The preparation of a cost estimate is essential for realistic budgetary resources to be allocated.
3	Advertise for Expression of Interest (EOI)	The Procurement Management Unit shall prepare the invitation for expression of interest and table before the Tender Board for comments and approval. The invitation for expression of interest shall be advertised by the Council in the Journal and Tender Portal.
4	Receive Consultants' EOI on the due date	Timing should allow for effective preparation and submission of dossiers (EOI) depending on its complexity.
5	Review and Evaluate the EOIs, Award points and Rank them	A team evaluates the EOIs in accordance with evaluation criteria derived from the request for expression of interest. A minimum qualifying score should be agreed upon.
6	Select the Consultants who met minimum set requirements or minimum qualifying score and rank them	This is the list of qualified consultants from which you select the shortlist of 5 to 10 consultants firms at least three of which shall be national firms
7	The Evaluation Committee's EOI evaluation report should include expert advice received if any.	If the tender committee has engaged a consultant (expert) to provide advice then any report produced by the expert should become part of the evaluation report.
8	Prepare an appropriate RFP in accordance with the Standard Request for Proposals (SRFP) issued by PPRA	The contents of the Request for Proposals (RFP) are: Letter of Invitation (LOI) should contain at least the 5-10 short-listed names Information to Consultants including a data sheet (which would include: Evaluation Criteria, Conditions of Contract, Forms Terms of Reference, Sample Contract. Technical and financial proposal standard forms Anti-bribery pledge The RFP will indicate the deadline for submitting the proposals as not less than 30 days after receipt of the RFP.
9	The RFP is to be issued to the shortlisted consultants.	The short-list of Consultants will bid or compete for the particular assignment.
10	Notify the short-listed consultants of the RFP issuance by mail, fax, e-mail, etc.	If, for some reason, some decline to submit proposals, the shortlist can be refreshed and date of submission extended, if necessary
11	Arrange to receive the Technical and Financial Proposals on the appointed day and time for evaluation to commence.	The evaluation of the proposals shall be carried out in two stages: first stages: first the quality and then the cost. The Evaluation Committee would comprise of five or more members. <i>(To Safeguard the integrity of the process, the technical and financial proposals are submitted in separate sealed envelopes)</i>

Step No	Recruiting a Consultant using QCBS	Remarks
12	The technical envelopes shall be opened as soon as possible by the Tender Committee after the closing time for submission of proposals.	Each technical proposal shall be evaluated on the basis of its responsiveness to the TOR. A proposal shall be rejected at this stage if it does not respond to important aspects of the TOR or it fails to achieve the minimum technical score specified in the RFP. The committee will evaluate the responsive Technical proposals and award the deserving points, in accordance with the Evaluation Criteria. The relative strengths and weaknesses of each proposal shall be picked to be included in the Evaluation Report. The respective points from the TC members are then consolidated as average marks.
13	The Council (the Client) shall Inform the consultants who have, submitted proposals the technical points assigned to each Consultant	It shall also notify those Consultants whose proposals did not meet the minimum qualifying mark or were considered non-responsive to the RFP and TOR that their financial proposals will be returned unopened.
14	Under the QCBS (<i>also FBS, and LCS methods</i>), the Client shall promptly <i>notify</i> the consultants who met the minimum points, the date time and place the public opening of their Financial proposals	The timing for the opening of the financial proposals shall not be sooner 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
15	Open the financial proposals, in the presence of the consultants representatives who choose to attend	The Procuring Entity will keep a register of the representatives and prepare the minutes of the public opening.
16	The Council shall then review the financial proposals. If there are arithmetic errors, they shall be corrected. For the purpose of comparing proposals, the costs shall be converted to a single currency selected by the client currency or fully convertible foreign currency) as stated in the RFP. The Client shall make this conversion by using the selling (exchange) rates for	This includes checking computational errors and adding to the initial price all items of the Technical proposals, whose cost was omitted in the financial proposals. The RFP shall specify the source of the exchange rate to be used and the date of that exchange rate, provided that the date shall not be earlier than <i>four weeks prior to the deadline for submission of proposals</i> .

Step No	Recruiting a Consultant using QCBS	Remarks
	those currencies quoted by an official source	
17	For QCBS the bidder who submitted the least Financial proposals is assigned 100 points. The points awarded to the competitors are the inversely proportional to their prices.	Under QCBS, the total score of each bidder shall be obtained by weighting the quality and cost scores and adding them; ranking them to determine the successful bidder. If the technical score is weighted 0.8, for example, the financial score shall be weighted 0.2, such that the sum of the weights is equal to 1.
18	<i>Under the QCBS</i> , the highest ranking firm in combined weight scores the successful bidder, and is invited to negotiate a contract	

- Note that: the QCBS method also applies to (i) Fixed Budget Selection (FBS), and (ii) Least Cost Selection (LCS) methods
- The financial proposals shall remain sealed until they are opened publicly

Table 7.2: Steps for Fixed Budget Selection (FBS)

Step No	Recruiting a Consultant using FBS	Remarks
1-16	Steps 1 through 16 of the FBS method are the same as steps 1 through 16 of the QCBS and LCS methods above.	Remarks on steps 1 through 16 of the FBS method is the same as steps 1 through 16 of the QCBS and LCS methods above
17	In the FBS method, identify all the financial proposals outside the fixed budget; they will all be rejected. Then from among the consultants whose financial proposals were within budget, select as the successful bidder, the one who offered the best, i.e. the highest ranked technical proposal, and invite him to negotiate a contract.	In the FBS, the proposals at the set (fixed) level and within the fixed budget are accepted and from among the bidders, the one who offered the best technical proposal is selected. Here, it is seen that the deciding factor becomes not the cost, but the quality of the technical proposals.

Table 7.3: Steps for the Least Cost Selection (LCS)

Step No	Recruiting a Consultant using LCS	Remarks
1-16	Steps 1 through 16 of the LCS methods is the same as steps 1 through 16 of the QCBS method above.	Remarks on steps 1 through 16 of the LCS method is the same as steps 1 through 16 of the QCBS methods above
17	<i>Under the LCS method</i> , selected as the successful bidder, the consultant who offered the least cost and invite him to negotiate the contract.	It must be borne in mind that under LCS, all proposals that met the minimum points compete only on “cost” afterwards. The setting of the minimum points for the technical proposals, which shall be stated in the RFP (Not less than 70%), is therefore crucial to getting quality proposals.

Table 7.4: Steps for the Quality Based Selection (QBS)

Step No	Recruiting a Consultant using QBS	Remarks
1-10	Steps 1 through 10 of the QBS methods is the same as step 1 through 10 of QCBS method	Remarks on steps 1 through 16 of the QBS method is the same as steps 1 through 16 of the QCBS methods above
13	If financial proposal was not submitted before, the Procuring Entity (the Client) shall inform the Consultant with the highest technical score that his proposal has been accepted and should submit a financial proposal in order to negotiate a contract.	It shall also notify those Consultants whose proposals did not meet the minimum qualifying points or were considered non-responsive to
14	Review the financial proposal of the consultant with the highest score. If there technical are any arithmetical errors they shall be corrected	This includes checking computational errors and adding to the initial prices all items of the Technical proposals, whose cost was omitted in the financial proposals.
15	The Council shall invite the consultant for contract negotiations. During contract negotiations the Procuring Entity and the consultant will discuss technical proposal issues, financial proposal issues and the contract	Technical issues may include TOR comments, methodology, availability of staff, work plan etc. Financial issues may include reimbursable, taxation, advance remuneration, payment etc. Contract issues may include payment terms, commencement etc

Table 7.5: Steps for the Consultant Qualification Selection

Step No	Recruiting a Consultant using CQS	Remarks
1-4	Steps 1 through 4 of the CQS methods is the same as steps 1 through 4 of the QCBS method above.	Remarks on steps 1 through 4 of the CQS method is the same as steps 1 through 4 of the QCBS methods above
5	Review and Evaluate the EOIs, points and Rank them	The committee evaluates the EOIs in accordance with evaluation criteria derived from the request for expression of interest. A minimum qualifying score should be agreed upon.
6	Select the Consultant who attains the highest score from the ones who meet minimum qualifying score	From the list of evaluated consultants which are ranked you will select the qualified consultants. Reference checks should be carried out on the selected consultant.
7	Prepare an appropriate RFP in accordance with the Standard Request for Proposals (SRFP) issued by PPRA and issue to the selected consultant. Some simple assignments may not require a technical proposal and only a financial proposal is requested.	The contents of the Request for Proposals (RFP) are: (i) Letter of Invitation (LOI) (ii) Information to Consultants (which would include the Evaluation Criteria, Conditions of Contract, etc.), (iii) The Terms of Reference, (iv) Sample Contract. Forms deadline for submission of Financial Proposal only can be as short as one week.
8	Receive the technical and financial proposals. The tender committee will undertake the technical proposal evaluation	The technical proposal shall be evaluated on the basis of its responsiveness to the TOR. The proposal shall be rejected at this stage if it does not respond to important aspects of the TOR or it fails to achieve the minimum technical score specified in the RFP. If proposal is rejected then an RFP will be issued to the consultant with the second highest score.
9	If technical proposal achieves more than the minimum qualifying score, then the financial proposal will be opened and reviewed.	This includes checking computational errors and adding to the initial prices all items of the Technical proposals, whose cost was omitted in the financial proposals.
10	Council shall invite the consultant for contract negotiations. During contract negotiations the entity and the consultant will discuss technical proposal issues, financial proposal issues and the contract.	Technical issues may include TOR comments, methodology, availability of staff, work plan etc. Financial issues may include remuneration, reimbursable, taxation, advance payment etc. Contract issues may include payment terms, commencement

CHAPTER 8: PROCEDURES FOR PROCUREMENT OF COMMON USE ITEMS AND SERVICES

8.1 Definition of Common Use Items and Services

“Common Use Items and Services” means goods, works and services that are required continuously or repeatedly over a set period of time and are common to more than one Procuring Entity and are subject to common procurement.

Useful Features of Common Use Items:

- 1) Any item of materiel that is required for use by more than one entity;
- 2) Sometimes loosely used to denote any consumable item except repair parts or other technical items;
- 3) Readily available off-shelf commercial items;
- 4) Items used by two or more entities of similar manufacture or fabrication that may vary between the Services as to color or shape (as vehicles or Uniforms); and
- 5) Any part or component that is required in the assembly of two or more complete end-items.

Categories of Common Use Items and Services:

Class A: Stationery and Office Supplies

Class B: Office Equipment

Class C: Consumables and Accessories for office equipment

Class D: Furniture and Fittings

Class F: Cleaning Materials

Class H: Motor Vehicles Accessories

Class I: Tires and Tubes

Class J: Fuel and Lubricants

Class K: Food and Beverages

Class L: Uniforms, Sports Gears and Textile Materials

Class M: Laboratory Equipment

Class N: Equipment and Machinery

Class O: Kitchen Appliances

Class P: Tools and Equipment

Class Q: Fasteners

Class R: Building Materials and Hardware

Class T: Text Books

Class E: Non Consultancy Services

Non-Common Use Items and Services

“Non-Common Use Items” means raw materials, products, equipment and other physical objects of every kind and description, whether in solid, liquid or gaseous form, electricity, intangible asset and intellectual property, as well as services incidental to the supply of the goods and Non-Consultancy Services. Examples of Non-Common Use Items and Services include:

- Plant and Machinery;
- Medical Equipment;
- Motor Vessels; and
- Specialized Vehicles.

8.2 Procedures for Procurement of Common Use Items and Services

Councils are required to procure from the Government Procurement Services Agency (GPSA) any item included in the approved current stores catalogue where such item is available at lower prices than current market prices. To enable Councils to be aware of existence of such items GPSA is required, on quarterly year basis; publish in the *Gazette*, Journal and Tenders Portal, the descriptions of items available on the stores catalogue. If an item is not available GPSA shall issue anon-availability certificate to the PE within one day of submission of its request for purchase. Non-availability certificate enables a PE to proceed with the procurement of the said item using other appropriate procurement methods – **PPR-R130**.

Councils are also required to procure from the Agency clearing and forwarding service where such service is available at lower prices than current market prices.

Therefore PPR-R130 with regard to procurement from GPSA is applicable only when the prices are lower than the current market prices. This provision has two implications. First, Councils will need to make sure that before proceeding to procure an item from GPSA they have knowledge of market prices and it shall be the work of PMU to establish so. Second PPRA, will need to have a data bank of market prices for various items for the purpose of providing Councils with this vital information needed to make a procurement decision as part of its advisory function and for monitoring that procurement made by PE complied with **PPR –R130** as part of its regulatory function.

Procurement of common use items by the use of framework agreements is covered under PPR-R131 and has its legality under PPA-S50 which requires Councils to use closed or open framework agreements for the purpose of efficiency of procurement

process and reduction of procurement transaction costs within and across public bodies.

The system of procurement of common use items and services is summarized in **Figure 8.1 below** which visualizes the responsibilities of key parties namely PEs, GPSA, PPRA and Suppliers or Service Providers.

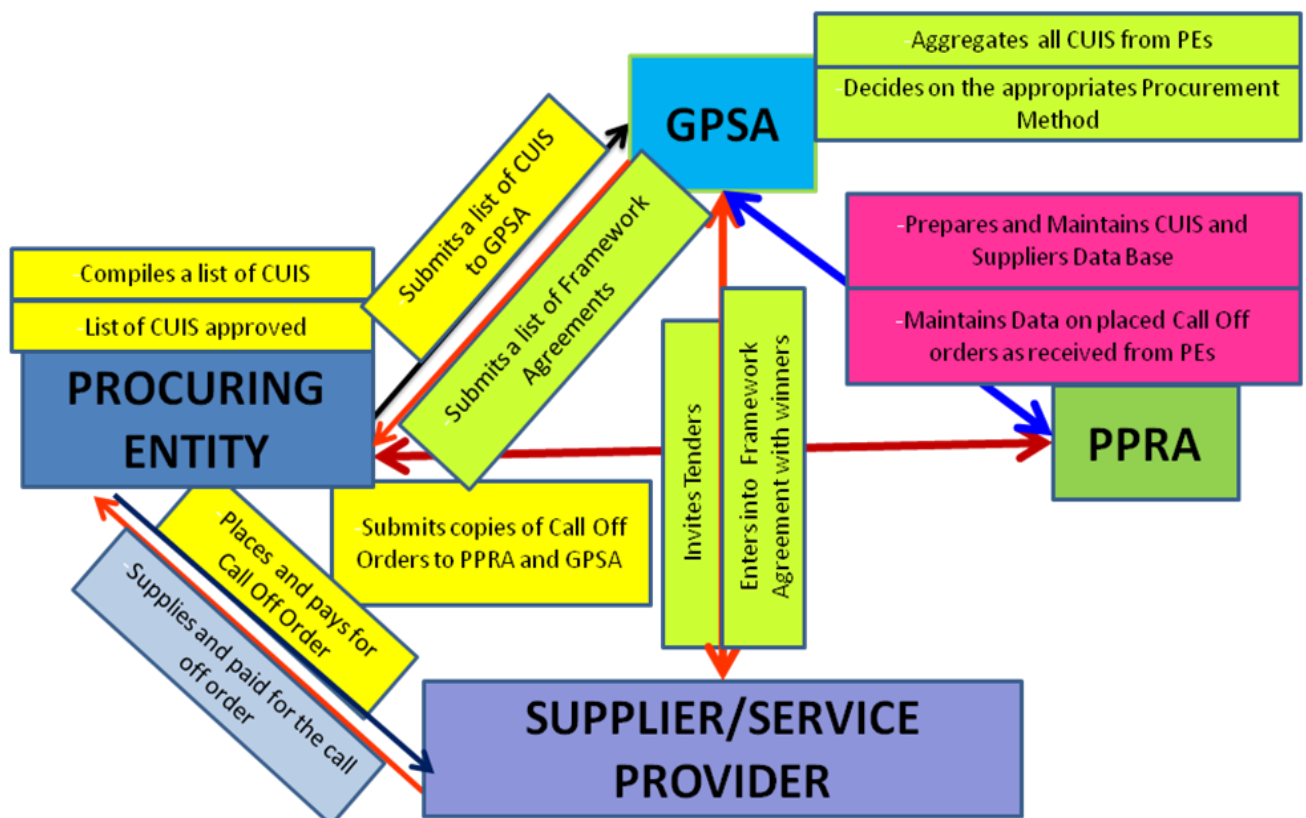


Figure 8.1: System of Procurement of Common Use Items and Services

8.2.1 Key Issues of Procurement of Common Use Items and Services

- 1) The duration of framework contracts shall range from one to three years [PPR-R131 (2)]. This provision is important as it will allow GPSA to enter into long term contracts which will assist in lowering procurement transaction costs and ensure continuity in the availability of goods or services.
- 2) Councils are required to submit GPSA their provisional annual estimates of the required common use items and services by the end of January each year to enable GPSA to consolidate the list and plan for their procurement. The list shall include descriptions, specifications, statement of requirements and quantities of the items.

- 3) Procurement of items under framework agreements shall be through a call-off order prepared by PMU and approved by the Council Director any delegated officer- **PPR-R131 (3) (b)**. Note that procurement of common use items and services through framework agreements does not require any other approval apart from that of the Council Director thus enabling fast procurement by Councils. However, where necessary to conduct a mini competition amongst suppliers or Service Providers an approval of a Tender Board will be required - **PPR-R131 (5)**. It may be necessary for GPSA and PPRA to issue clear guidelines of grounds under which it may be necessary to carry out a mini competition.
- 4) New tenderers may be accorded opportunity to participate through invitation by GPSA on annual basis - **PPR-R131 (7)**.
- 5) GPSA is allowed to make a price adjustment at any time during contract execution if such adjustment is justified and using a factor for price adjustment approved by PPRA- **PPR-R133 (1) & (2)**.
- 6) GPSA is required to prepare and make available to Councils a schedule of prices for common use items and services to be adhered by Councils in the procurement of such items - **PPR-R133(3)**;
- 7) The Minister for Works is required to prepare and make available to GPSA a schedule of Unit rates to be adhered by Councils in procurement relating to construction works- **PPR-133(4)**;
- 8) GPSA is required to procure stock items for re-sale to Councils from manufacturers, whole sellers or any other source which offer best value for money - **PPR-R135**.
- 9) The list of all suppliers and Service Providers awarded framework contracts shall be published in the Journal and Tender Portal - **PPR-R132 (3)**.

8.2.2 Obligations of Parties under Framework Agreement

The following are the main obligations of the parties under Framework Contracts:

- Honouring of call-off orders prepared and submitted by Council under their agreement by ensuring that they supply and deliver all goods and services at the rates, prices and at places stated in the frame work agreement and call-off order;
- Indemnifying the PE in the case of damage or loss of benefit caused by delay in delivery or any other act;
- Prepare and submit to GPSA a monthly sales report indicating the value of goods and services sold to PE through call-off orders; and

- Making payment to GPSA by Tenderer of fees amounting to 2 percent of each call-off order value as prescribed in the Fifth Schedule of PPR 2013. In the case of petroleum products the fee shall be 0.1% of each call-off order value.

Obligations of Councils in Procurement through Framework Agreements

- Preparing and placing call-off orders to tenderer's under framework agreements;
- effecting payments for goods and services delivered and accepted;
- claiming for damages caused by delayed delivery or any other act; and
- Reporting to GPSA and PPRA any breach of contractor unsatisfactory performance by a tenderer under framework agreements.

Obligations of GPSA in Procurement through Framework Agreements

- Preparing and signing framework agreements with tenderers;
- Receiving and reviewing reports on default of framework agreements from Councils;
- Where a breach of contract is determined, submit a proposal for debarment of a tenderer to PPRA; and

Where reported cases of non-performance by tenderer persist, GPSA may terminate framework agreement and report the matter to the PPRA.

CHAPTER 9: PROCUREMENT OF SERVICES FROM TEMESA

The Tanzania Electrical Mechanical and Electronics Services Agency (TEMESA) is an executive agency under the Ministry of Works mandated to carry out maintenance and repair of motor vehicles, plant and equipment, and the installation of electrical, refrigeration, air conditioning and electronics services in buildings owned by government.

TEMESA was established under the Authority of the Executive Agencies Act No. 30 of 1997 by an Establishment Order by the Minister for Works through Government Notice No. 254 of 26th August 2005. TEMESA was created in the spirit of Act No. 30 of 1997, which was to improve services and increase both effectiveness and efficiencies of operations.

9.1 Role of TEMESA

TEMESA is specifically responsible for providing efficient and effective electrical, mechanical and electronic services, reliable and safe ferry transport services and hiring of equipment to government institutions and the public at large.

TEMESA is charged with the responsibility of operating and maintaining government ferries, manning and operating government workshops mainly for production and automotive maintenance works and undertaking consultancy services in fields of mechanical, electrical and ICT engineering.

TEMESA also undertakes installation, repair and maintenance of refrigeration and air conditioning systems as well as street and traffic light in cities and municipalities countrywide.

The ministry responsible for electrical, and mechanical engineering shall prepare detailed and acceptable schedule of requirements and specifications which shall be made available to the Authority for use by procuring entities when procuring such items. The Secretary to the Cabinet may, on the direction of the Cabinet and on the advice of the ministry responsible for electrical, and mechanical engineering, determine the type, make and size of motor vehicles or other motorised equipment to be procured for official use of specified state officials or other senior Government officers and shall issue a circular for that purpose.

Obligations of TEMESA

The obligations of TEMESA include the following:

- Carrying out of maintenance or repair of Government owned motor vehicles, plant and equipment, maintenance, repair and installation of electrical, air conditioning and refrigeration and electronics services;
- Enter into open or closed framework agreements for carrying out maintenance or repair of Government owned motor vehicles, plant and equipment, maintenance, repair and installation of electrical, air conditioning and refrigeration and electronics services, in case they lack capacity. List of Service Providers awarded framework agreements shall be published in Tanzania Procurement Journal and Tender Portal;
- Publish, in the Journal and Tenders Portal, the list of Service Providers awarded framework agreements; and
- In all cases whether the repair is done by TEMESA or a Service Provider under open or closed framework agreement, conduct inspection prior and after the service is provided and shall issue a certificate of approval.

Local Government Authorities

The obligations of LGAs procuring maintenance or repair of Government owned motor vehicles, plant and equipment, maintenance, repair and installation of electrical, air conditioning and refrigeration and electronics services shall be:

- To maintain a record of maintenance, repairs and replacement of each motor vehicle, piece of plant and equipment, maintenance, repair and installation of electrical, air conditioning and refrigeration, and electronics services as required in PPR-R137 for inspection; and
- To submit to TEMESA quarterly reports on procurement made through framework agreements.

9.2 Scope of TEMESA Services

Major roles in the maintenance of government-owned motor vehicles have been assigned to 1) TEMESA garages and workshops, 2) private garages & workshops and 3) Government Entities including the Councils.

TEMESA Garages and Workshops

TEMESA Garages and Workshops are responsible for maintenance and repair of government-owned vehicles, plant and equipment including supervision of the implementation of quality maintenance standards for mechanical, electrical and electronics.

Private Garages and Workshops

Nominated private garages and workshops support TEMESA in maintaining and repairing government-owned vehicles. **PPR-R137(3) 2013** provides that where the Agency is unable to carry out the repair and maintenance due to non-availability of spare parts, technical knowhow or other resource constraints, it may procure such services from Service Providers awarded with closed framework agreements by call off orders in consultation with the LGA.

Councils

The Councils shall initiate and request activities for maintenance and repair of motor vehicles, plant and equipment, and the installation of electrical, refrigeration, air conditioning and electronics services in buildings owned by government or Council.

9.2.1 Specific Role of TEMESA

According to Executive Agency Establishment Order, the Ministry of Works (MoW) is responsible for determining the policy framework and operational boundaries within which TEMESA operates. TEMESA has the following duties and responsibilities:

- Undertake inspections of government vehicles to determine their roadworthiness and the state of repair;
- To identify the need for mechanical work and to authorise required repairs. These repairs can be undertaken either by TEMESA or by outsourced private garages;
- Undertakes a vehicle inspection to itemise specific maintenance work that may be required on a vehicle;
- To acquire through frame work arrangements services from private garage where the TEMESA workshops or garages are unable to carry out the repair or maintenance of the government owned motor vehicles due to non-availability of spare parts, technical know-how or other resource constraints or because the price offered by such workshops or garages are above the available market prices; and
- To conduct inspection and supervision to ensure that Councils are complying with the maintenance requirements of government owned vehicles. Also, the Agency is supposed to ensure that the whole system of maintenance is followed, from pre-inspections up to the post-inspection.

9.2.2 Specific Role of Private Garages

Private garages do provide maintenance and repair services to Procuring Entities including Councils where TEMESA is unable to repair the vehicles. **PPR-R 137 (3)** under the following conditions:

- Where the private garage is among the approved list under frame work arrangements by TEMESA; and
- Where such services are to be obtained through competitive quotations from private garages offering the same services.

9.2.3 Specific Role of Councils

The Council Director is responsible for ensuring that the government vehicle fleet in her/his charge is maintained to an acceptable standard. Vehicles should be regularly checked by referring to the maintenance register. The level of vehicle maintenance (such as routine versus overhaul) and the maintenance periods should be strictly adhered to.

The Council will initiate the repair and maintenance of their vehicles. Drivers of government vehicles are generally responsible for advising their supervisors on the need for repair or when service is due. The Transport Officer will report to the administration department for approval to take the vehicle to TEMESA for inspection and possible repair.

The roles of the Councils include but are not limited to:

- Detecting indications of faults and report to TEMESA for inspection;
- Keeping track of maintenance schedule (e.g. general service);
- Paying for the services;
- Maintaining a record of maintenance, repairs and replacement in respect of each motor vehicle; and
- Making the records available for inspection by TEMESA.

9.2.4 Work Flow for Vehicle Services

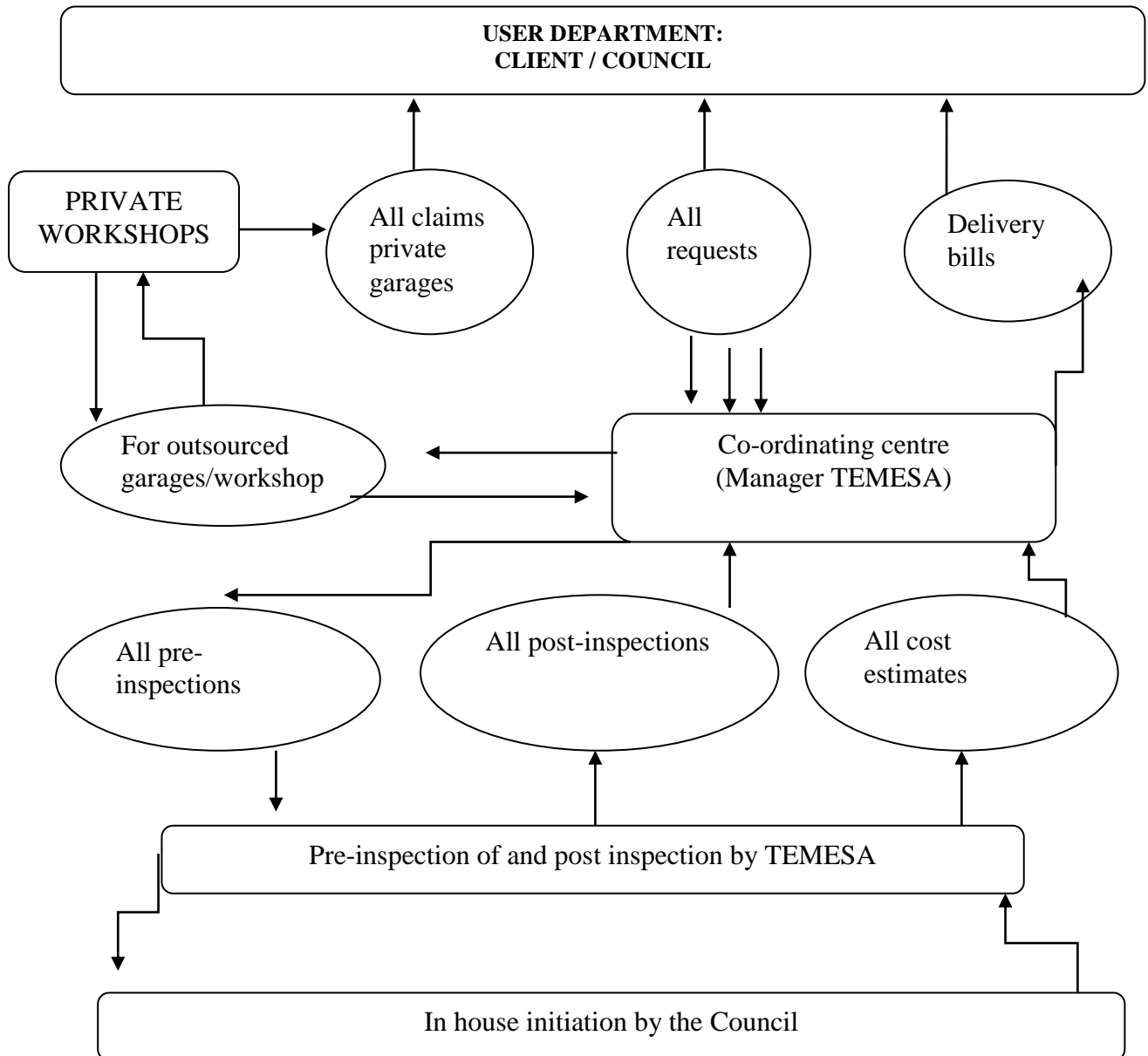
The Work Flow for services from TEMESA is as follows:

- 1) Work request by the Councils and sent to TEMESA requesting for:
 - Cost estimates only; or
 - Pre- service inspection of outsourced works.
- 2) The vehicle is handed over to the Inspection Section (TEMESA) by the Transport Officer from User Department;

- 3) Inspection work is carried out by the Inspector of TEMESA;
- 4) Inspection report is sent to the Council for authorisation of repair:
 - o Within TEMESA or
 - o Private garages
- 5) Repair is done by the respective workshop;
- 6) Post-service inspection is conducted to both outsourced services and the ones repaired at the TEMESA workshop;
- 7) Invoices/bills are raised and sent to the Council; and
- 8) The Council pays for the service.

The work flow is illustrated in figure 9.1:

Figure 9.1: TEMESA Work Flow



CHAPTER 10: SECTOR SPECIFIC PROCUREMENT: ICT EQUIPMENT, MEDICINES & MEDICAL SUPPLIES AND AGRICULTURAL INPUTS

This chapter covers the procedures for sector specific procurement including ICT Equipment, Medicines & Medical Supplies and Agricultural Inputs.

10.1 ICT Equipment

Information and Communications Technology (ICT) is an umbrella term that includes any communication device or application, encompassing: radio, television, cellular phones, computers, network hardware and software, satellite systems and so on, as well as the various services and applications associated with them, such as videoconferencing and distance learning.

ICTs are often spoken of in a particular context, such as ICTs in education, health care, or libraries.

According to PPR-R 138 computers and other related information technology equipment and tools includes computers of any type, computer printers, scanners, servers, storage media, software and local area networks.

10.1.1 Characteristics of ICT Equipment

ICT equipment and systems are characterized by the following features:

- Enormous level of continuing innovation;
- Prices come down while performance increases;
- Lifetime of “hard” investments potentially low;
- Technology now permeates business processes, with high level of increased integration across all systems; and
- Private sector (as provider) is key driving force.

10.1.2 Identification of ICT Needs

The Council is required to identify the needs and application of the ICT facilities in order to develop concise specification in line with the ultimate use. The following are typical parts of ICT components and procurement needs:

- General studies (BPR, IT strategy, establishing the linkage with project goals, establishing priorities, approach);
- Design studies (user requirements, functional specifications, designs, “blueprints”);

- Application software customization and/or development;
- Hardware and standard software delivery;
- Project management (often a complex task);
- Training (users, technical staff);
- Maintenance of ICT equipment, network and servers; and
- Other services (e.g., digitization, data conversion, surveys)

10.1.3 Procurement Procedures for ICT

The procurement procedures for ICT equipment are explained below:

- **Identification of ICT needs:** from the Annual Procurement Plan or the project requirements;
- **Specification of requirements:** The Council shall either obtain standard specifications when required from the Ministry responsible for information and communication technology or develop their own specifications to fit particular standard or requirements; in this case the specifications require approval from the ministry or where such prepared detailed and acceptable specifications of items falling under their jurisdiction which shall be availed to PPRA for use by the LGAs;
- **Preparation of Standard Bidding Document:** The Council shall use the SBD for ICT issued by PPRA to prepare tender documents for procurement of the required ICT equipment;
- In the preparation of the SBD, the Council shall clearly state the major components that will assist in developing concise specification in line with the ultimate use; specific requirements can include the following:
 - Delivery and installation of equipment;
 - Installation of the operating systems;
 - Training component;
 - Serviceability and warranty undertaking.

The Council shall then follow the procurement process as explained in detail in chapter five of this Manual.

10.2 Medicines and Medical Supplies

Definitions related to procurement of medicines and medical supplies include:

- **Department:** means the Medical Stores Department (MSD);
- **Catalogue Items:** means approved list of medicines and medical supplies stocked by the MSD;

- **Medicines:** have the meaning ascribed to it by the Tanzania Food, Drugs and Cosmetics Act;
- **Medical Supplies or Medical Devices:** has the meaning ascribed to it by the Tanzania Food, Drugs and Cosmetics Act; and
- **Non Catalogue Items:** means the list of medicines and medical supplies which are not stocked by the Department.

10.2.1 Procurement Procedures for Medicines and Medical Supplies

Procedures for procurement of catalogue and non-catalogue item are as summarized below:

Procurement Procedures for Catalogue Items: Catalogue items are the approved list of medicines and supplies stocked by MSD. Key provisions for procurement of catalogue medicines and medical supplies through Medical Stores Department include:

- Catalogue items shall be published on yearly basis by MSD in Tanzania Procurement Journal and Tenders Portal;
- Councils are required to submit their provisional annual estimate of catalogue items to MSD by the end of January each year;
- The list shall include descriptions, specifications, statement of requirements and quantities of the items;
- MSD shall arrange for procurement of catalogue items through framework agreements by placing call-off orders;
- PEs shall place an order to MSD of items included in the price catalogue within one (1) day after reaching the buffer stock;
- If an item is not available, MSD shall issue a non-availability certificate to the PE within one (1) day of submission of its request for purchase; and
- Non- availability certificate enables a PE to proceed with the procurement of the said item(s) by using other appropriate procurement methods - **PPR-R140**.

Procurement Procedures for Non-Catalogue Items: Non-Catalogue Items are the list of Medicines and medical supplies not stocked by MSD). Key provision for procurement of non-catalogue medicines and medical supplies through Medical Stores Department include- **PPR -R141:**

- Councils are required to submit their provisional annual estimate of non-catalogue items to MSD by the end of January of each year;

- The list shall include descriptions, specifications, statement of requirements and quantities of the items; and
- MSD shall arrange for procurement of non-catalogue items through framework agreements by placing call-off orders.

Procurement Procedures of MSD: PPR –R142 covers the procurement procedures to be adopted by MSD and include the following:

- Catalogue and non-catalogue items shall be procured from manufacturers, wholesalers or any other source which offer best value for money using framework agreements;
- Subject to the approval of the Tender Board, MSD may conduct mini-competition amongst providers awarded framework agreements;
- Several providers for one product may be awarded framework agreements – this should be clearly stated in the tender documents;
- Framework agreements may last up to three years; and
- MSD is allowed to make a price adjustment at any time during contract execution if such adjustment is justified and using a factor for price adjustment approved by PPRA- **PPR-R143**.

10.3 Agriculture Inputs

Definitions related to procurement of agriculture inputs include

- Agriculture inputs: materials, tools and equipment used in the agriculture sector; and
- Agriculture sector: economic sector which covers farming and livestock keeping.

Agriculture inputs are described in various forms depending on the use and application as appears in the table below.

Table 10.1: Agriculture Inputs and their Application

S/n	TYPE OF AGRICULTURE INPUT	APPLICATION
1.	Tractor and its ancillaries	Cultivation, irrigation, weeding, transporting and milling
2.	Power tillers and its related facilities	Cultivation, and transportation
3.	Trapezes and its related facilities	Cultivation
4.	Spare parts for tractors	Repairs and maintenance
5.	Hand hoes, machetes, axes, hummers, spade, knives and blade	General agriculture equipment

S/n	TYPE OF AGRICULTURE INPUT	APPLICATION
6.	Water pumps, power generators, plastic pipes	Irrigation tools
7.	fumigation machine; manual and Powered	Fumigation tools
8.	Gumboot, groves, masks, element and overall	Farmers' wears
9.	Driving power (fuel like diesel, petrol, kerosene)	Source of power to machines
10.	Sucks and other containers	Packing materials
11.	Fertilizer of all kinds	For fertilization of clops
12.	Pesticides of all kinds	For killing of pests
13.	Insecticides of all kinds	For killing of insects
14.	Weed killers of all kinds	For killing of unwanted plants
15.	Other agriculture chemicals	For general agriculture activities
16.	Animal vaccine	For protection of animals from diseases
17.	Special Animal growing foods	For faster growing of animals
18.	General Animal foods	For general rising of animals
19.	Animal treatment medicines	For treatment of ill animals
20.	Other animals' requirements	For general animal keeping

Procurement Characteristics of Agriculture Inputs

They are supplied in special shops or markets;

- Equipment, inputs and maintenance/repair are procured in function of the season(s), technology and type of business (farming, livestock, horticulture, etc);
- Qualified suppliers are shortlisted by the ministry responsible for agriculture and livestock;
- Councils are required to procure them from the shortlisted suppliers unless otherwise provided by the ministry of agriculture and livestock; and
- There are relatively few suppliers in the market.

10.3.1 Procurement Procedures for Agriculture Inputs

Inputs for agriculture can be procured using different methods and approaches as provided in the regulations and other directives of the Authority.

Inputs included in the Annual Procurement Plan

The Councils are required to submit their provisional annual estimate of agriculture inputs to the Ministry of Agriculture and Livestock. The list shall include descriptions, statement of requirements and quantities of the required agriculture inputs.

On the implementation of the APP, the PMU shall request for the list of shortlisted suppliers and specification for the required agriculture inputs from the Ministry of Agriculture and Livestock.

On receipt of the list of shortlisted suppliers, the Council shall proceed with restricted procurement processes and procedures as stipulated in this manual (Chapter 5).

Inputs not included in the Annual Procurement Plan

Whenever there arise the needs for agriculture inputs, the User Department shall prepare a list of the required inputs and submit to the Procurement Management Unit for recommendation.

The Procurement Management Unit of the LGA shall carry out procurements needs analysis, determine the requirements, recommend for procurement and send for approval to the Council Tender Board after confirmation of availability of budget and funds.

When authorized, the PMU shall request for the list of shortlisted suppliers and specification for the required agriculture inputs from ministry of agriculture and livestock.

On receipt of the specification and the shortlisted bidders the Council shall proceed with restricted procurement processes and procedures stipulated in this manual. (Chapter 5).

10.4 Education Requirements

The Councils are responsible for administration of primary and secondary schools, including the assurance of the availability of training materials, equipment, tools, buildings and other fixed assets requiring in providing education services in LGAs.

Example of Education Requirements

The following table shows examples of education requirements and their procurement categories.

Table 10.2: Education Requirements and Procurement Category

S/N	Education Requirement	Procurement Category
1	Stationeries	Goods
2	Text books	Goods
3	Equipment	Goods

S/N	Education Requirement	Procurement Category
4	Tools	Goods
5	Training guides	Goods
6	Curricular, syllabus	Goods
7	Other training materials	Goods
8	Furniture and fittings	Goods
9	Construction of class rooms	Works
10	Construction of residential houses	Works
11	Construction of office	Works
12	Construction of laboratories	Works
13	Construction of libraries	Works
14	Construction of toilets	Works
15	Construction of sports infrastructure	Works
16	Repair of buildings	Works
17	Decoration/renovation	Works
18	Construction drainage systems	Works
19	Drilling of water wells	Works
20	Plumbing	Works
21	Teachers training seminars	Consultancy
22	Installation of computer systems	Consultancy
23	Development of website	Consultancy
24	Installation of electrical systems	Consultancy
25	Provision of catering services	Non Consultancy
26	Provision of security services	Non Consultancy

10.4.1 Procurement Procedures for Education Requirements

With the exemption of procurement of text books, the Council shall conduct procurement of all the other education requirements by following the processes and procedures set out in this manual.

Procurement of Text Books: Included in APP

The Councils are required to submit their provisional annual estimate of text books to the Ministry of education. The list shall include descriptions, statement of requirements and quantities of the required text books. On the Implementation of the APP, the Council shall request for a list of shortlisted bidders and specification for the required text books from the Ministry of Education.

On receipt of the list of shortlisted bidders and specification for the required text books from the Ministry of Education, the Council shall proceed with restricted procurement processes and procedures as stipulated in this manual (Chapter 5).

Procurement of Text Books: not included in APP

Whenever there arise the needs for text books, the User Department shall prepare a list of the required text books and submit it to the Procurement Management Unit for recommendation. The Procurement Management Unit shall carry out procurements needs analysis, determine the requirements, recommend for procurement and send for approval to the Council Tender Board after confirmation of availability of budget and funds.

When authorized, the PMU shall request shall prepare the list of the required text books and request list of shortlisted bidders for such text books from the Ministry responsible for education.

On receipt of the specified text books and the shortlisted bidders, the Council shall proceed with restricted procurement processes and procedures as stipulated in this manual. (Chapter 5).

10.5 Fishing Facilities

Fishing means any activity concerned with taking, capturing, processing, preserving, storing, transporting, marketing or selling fish or fish products. Fishing facilities include fishing rods, cast nets, fishing lines, etc. In case a need arises for procurement of fishing equipment or any fishing inputs, the Council shall follow the procedures for procurement of agriculture inputs as stipulated in this manual.

CHAPTER 11: DISPOSAL OF COUNCIL ASSETS BY TENDER

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 assets include but are not limited to:

- Furniture and fittings of all kind;
- Plants and machineries;
- Tools and equipment;
- Land and buildings;
- Motor vehicles, plant and motor cycles; and
- Shares or proprietary rights.

Disposal in this context means the divestiture of public assets including intellectual and proprietary rights and goodwill, and any other rights of the Council by any means, including sale, hire-purchase, licences, tenancies, rental, lease, franchise, auction or any combination however classified other than those regulated by the Public Corporation Act.

11.1 Reasons for Disposal of Assets

Prior to commence the proceedings for the disposal of assets, the Council shall identify the assets to be disposed of and in particular provide relevant reasons for the disposing of such assets. Need for disposal of the Council assets may arise as a result of the following:

- Wear and tear;
- Obsolesces effect;
- Diminishing economic significance;
- Divesture;
- Change in technology;
- Surplus; and
- Redundancy.

11.2 Valuations of Council Assets

The Council shall obtain two valuations of the subject asset before commencing any disposal proceedings as follows:

- If required by law, a first valuation shall be obtained from a competent authority and a second independent, market-based valuation shall be obtained from an appropriate authority or provider; or
- Where there is no legal requirement, two independent valuations shall be obtained from appropriate authorities or providers;

The valuations shall be confidential and the identity and recommendations of each valuer shall not be revealed to the other. No valuation of an asset shall be required where the cost of valuation is likely to be in excess of the money expected to be realised through the disposal process.

Basic Requirements

- Where the valuation is within a range specified in the guidelines issued by PPRA, the Council shall use the average of the two valuations to determine a reserve price for the asset, which shall be the minimum sale price of the asset;
- Where the valuations differ by more than the range specified in the guidelines issued by PPRA, the valuers shall be informed of significant difference in their valuation, without specifying the values, and shall be asked to revise their valuation;
- Where the revised valuation is submitted which is within the range specified in the guidelines, the Council shall proceed to set a reserve price;
- Where the valuer confirms the original valuation, or where the revised valuation still differs by more than the range specified in the guidelines, a third independent valuation shall be obtained; and
- Where a third valuation is obtained, Council shall recommend a reserve price, using all three valuations and the range of variation between them.
- Where the highest evaluated tender is less than the reserve price, the CTB in consultation with Council Director may:
 - Obtain further valuation from an independent source;
 - Arrange for new tenders to be submitted;
 - Use an alternative method of disposal, which is likely to obtain a higher price; or
 - Sell the asset at the reduced price subject to obtaining the approval from PPRA.

In deciding on the appropriate action, the Council Tender Board and Council Director shall consider the difference between the highest evaluated tender and the valuation or reserve price, the likely cost of possible action and the possibility of collusion between tenderers.

Qualification of Asset Buyer

For purposes of qualifying to participate in disposal proceedings, an asset buyer shall:

- Have sufficient financial resources to perform the disposal contract;
- Have legal capacity to enter into a disposal contract;
- Not have been convicted of any criminal offence or found to have made false statements or misrepresentations as to his qualification to enter into a disposal contract within a period of five years preceding the commencement of the disposal proceeding, or has not been otherwise disqualified pursuant to administrative suspension or disbarment proceedings; and
- Not be insolvent, in receivership, bankruptcy or being wound up, his affairs are not being administered by a court or a judicial officer, his business activities have not been suspended and is not the subject of legal proceedings for any of the reasons prescribed in this regulation.

Participation by Asset Buyer

A Council may require assets buyers participating in disposal proceedings to provide appropriate documentary evidence or other information as the Council considers necessary. Any requirement established pursuant to this regulation shall be prescribed in the solicitation documents:

- A Council shall impose no criterion, requirement or procedure with respect to the qualifications of asset buyers other than those provided for in the regulations;
- The Council shall evaluate the qualifications of asset buyers in accordance with the qualification criteria and procedures prescribed in the solicitation documents;
- The Council shall establish no criterion, requirement or procedure with respect to the qualifications of asset buyers that discriminates against or among asset buyers on the basis of nationality, or that is not objectively justifiable;
- Except in cases in which a Council decides on grounds specified in Regulations or according to provisions of law, to limit participation in disposal proceedings on the basis of nationality;
- A Council that limits participation on the basis of nationality shall include in the record of the disposal proceedings a statement of the grounds and circumstances on which it relied;
- A Council shall, when first soliciting the participation of buyers in the disposal proceedings, declare to them that they may participate in the

disposal proceedings as appropriate regardless of nationality; the declaration shall not be subsequently altered; and

- Where a Council decides to limit participation, it is required to communicate its decision to the relevant parties.

11.3 Tendering Proceedings and Disposal Process

Tendering proceedings for the disposal of LGA assets by tender follows the same sequence as provided for in the LGA procurement cycle. The process starts with identification of assets to be disposed of, invitation to disposal by tender and advertising, preparation of solicitation documents, receiving and opening of tenders, evaluation of tenders, negotiation with the highest evaluated tenderer, award of contract and record keeping.

11.3.1 Approval of Disposal and Disposal Plan

It is provided under PPR-R 326 that any disposal of assets by tender by the Council shall be authorized by the Paymaster General or competent authority. The procedure for obtaining approval for disposal of public assets by tender shall be in accordance with the Public Finance Act. In other words, the approval shall have to be sought from the Council Finance Committee as well as the Council Tender Board prior to the advertisement of the disposal. The same will appear in the Council Annual Procurement Plan.

Disposal Plan

Assets to be disposed of shall be grouped in lots in a manner which attracts maximum possible competition. Where an asset is to be disposed of by tender, the Council shall maximize the number of assets to be disposed of at a time in order to reduce transaction costs. The Council may group assets for purposes of common disposal.

Environment

The Council shall pay due regard to repair and re-use of goods wherever practicable and economically viable before disposing them by tender and procuring new replacements.

11.3.2 Methods of Disposal and Conditions for Use

The Council that intends to commence a disposal of assets by tender process shall provide all eligible prospective asset buyers with timely and adequate notification of the requirements and ensuring equal opportunity to tender for the required assets to be disposed of. A Procuring Entity may use restricted or direct disposal by tender where:

- The market is limited and few buyers, who are willing to pay the reserve price are identified; or
- National security, public interest, legal or human rights issues or environmental considerations are served by selling to a particular company, group or individual.

Competitive Tendering

All disposals of public assets shall be conducted through competitive tendering except for disposals under regulation 328(2). According to **PPA-S 64** of 2011 the Procuring Entity shall apply the methods prescribed in the regulations depending on the type and value of the procurement or disposal. In any case, the successful tenderer shall be the tenderer evaluated to have the capacity and capability and undertake the contract assignment based on the highest evaluated offer.

International Competitive Tendering

In international competitive tendering a Procuring Entity shall invite asset buyers, by means of a tender notice that shall be advertised nationally and internationally to submit tenders for the purchase of public Assets

National Competitive Tendering

In national competitive tendering, the Procuring Entity shall invite assets buyers regardless of their nationality, by means of a tender notice advertised only in the United Republic of Tanzania, to submit priced tenders for purchase of public assets. The national competitive tendering may be used in cases where:

- Payment may be made wholly in Tanzanian shillings; and
- The estimated value of assets does not exceed the threshold for national competitive tendering prescribed in the Fifteenth Schedule to these Regulations.

11.3.3 Tendering Proceedings

Invitation to Disposal of Assets by Tender and Advertising

The Council which intends to commence competitive tendering proceedings shall prepare a tender notice inviting asset buyers to submit priced offers for buying assets to be disposed of and advertise it in the Journal and Tender Portal in accordance with the First Schedule to the Procurement Regulations.

- The PMU shall table the invitation and the disposal by tender documents to the Tender Board for comment and approval;

- Invitations which are issued without prior approval by the Tender Board shall not be considered as sufficient and adequate and consequently the Procuring Entity will be requested to issue new invitations to tender;
- A tender notice shall be published in sufficient time, to enable prospective buyers to obtain disposal by tender documents, prepare and submit their responses before the deadline for receipt of tenders;
- A Procuring Entity shall offer a reasonable opportunity to potential buyers of public assets to inspect an asset before the date or deadline for tendering; and
- The time specified for the opening of the tenders shall be the same as the deadline for receipt of tenders or immediately thereafter, and shall be repeated in the solicitation document, together with the place for tender opening.

Contents of Invitation to Disposal of Assets by Tender

The invitation of tenders for disposal of assets shall contain the following information:

- a) The name and address of the Council;
- b) Description of the asset to be disposed of, the location of the asset and the arrangements for a potential asset buyer to inspect the asset, including a statement that the asset is sold on “as is, where is” basis;
- c) The means or conditions of obtaining the solicitation documents and the place from which they may be obtained;
- d) The price, if any, charged by the Procuring Entity for the solicitation documents;
- e) The currency and means of payment for the solicitation documents;
- f) The language or languages in which the solicitation documents are available;
- g) The place for the submission of tenders; and
- h) The deadline for the submission of tenders as well as the place, hour and date for Contents of solicitation documents.

Contents of Solicitation Documents

The solicitation documents shall contain the following instructions to asset buyers:

- a) Criteria and procedures relating to the evaluation of the qualifications of asset buyers and demonstration of qualification;
- b) The requirements as to documentary evidence or other information that must be submitted by asset buyers to demonstrate their qualifications;
- c) The description of the assets, their locations and conditions for sale, responsibilities for the risk and cost for dismantling and removing the asset;

- d) The terms and conditions of the disposal contract, to the extent they are already known to the Procuring Entity, and the contract form, if any, to be signed by the parties;
- e) If asset buyers are permitted to submit tenders for only a portion of the assets to be disposed of, a description of the portion or portions for which tenders may be submitted;
- f) The currency or currencies in which the tender price is to be formulated and expressed;
- g) The language in which tenders are to be prepared;
- h) If an asset buyer may not modify or withdraw its tender prior to the deadline for the submission of tenders without forfeiting its tender security, a statement to that effect;
- i) The manner, place and deadline for the submission of tenders;
- j) The period of time during which tenders shall be in effect;
- k) The place, date and time for the opening of tenders
- l) The procedures for opening of tender and criteria for examining and evaluating tenders;
- m) The currency that will be used for the purpose of evaluating and comparing tenders;
- n) The means by which asset buyers may seek clarification of the solicitation documents, and a statement as to whether the Procuring Entity intends, at this stage, to convene a meeting of asset buyers;
- o) Any requirements of the Procuring Entity with respect to the issuer and the nature, form, amount and other principal terms and conditions of any tender security to be provided by asset buyers submitting tenders, and any such requirements for any security for the performance of the procurement contract to be provided by the asset buyers that enters into the disposal contract;
- p) References to the act, the regulations and other written laws and regulations directly pertinent to the disposal proceedings, provided, however, that the omission of any such reference shall not constitute grounds for review under section 95 of the act or give rise to liability on the part of the Procuring Entity;
- q) The name, functional title and address of one or more officers or employees of the Procuring Entity who are authorized to communicate directly with and to receive communications directly from asset buyers in connection with the disposal proceedings, without the intervention of an intermediary;
- r) Notice of the right provided under section 95 of the act to seek review of an unlawful act or decision of, or procedure followed by, the Procuring Entity in relation to the disposal proceedings;

- s) Where the Procuring Entity reserves the right to reject all tenders pursuant to regulation 16 a statement to that effect;
- t) Any other requirements established by the Procuring Entity in conformity with the act and these regulations relating to the preparation and submission of tenders and to other aspects of the disposal proceedings.

Examination, Evaluation and Comparison of Tenders

The Evaluation Committee shall be appointment in the usual manner, and evaluate on a common basis the opened tenders in order to determine the cost or price to the disposing entity of each tender in a manner that permits a comparison to be made between the tenders on the basis of the evaluated costs or prices. The tender evaluation shall be consistent with the terms and conditions set forth in the tender documents and such evaluation shall be carried out using the criteria explicitly stated in the solicitation documents. Tenders shall be comparable among themselves in order to determine the highest evaluated price for disposal of asset by tender by using the following procedures:

- a) In determining the highest evaluated tender for disposal of asset the preferred evaluation method shall be the evaluation based on price only unless other factors, such as end-user or export restrictions, or a need to attach conditions to a sale are taken into consideration, and stated clearly in the solicitation document;
- b) Where the highest-priced tender has been submitted by more than one tenderer, a Procuring Entity shall invite the tenderers who submitted identically priced tenders to submit a revised tender;
- c) No tenderer, other than those who submitted the identical highest priced tender, shall be permitted to submit a revised tender or participate in the retendering procedure in any way;
- d) A revised tender shall only contain a revised price and a tenderer shall not be permitted to change the terms and conditions, technical details, documentation or any other aspects of their original tender, in any way;
- e) A revised tender shall be written and sealed and submitted in the same way as the original tender;
- f) A tenderer shall be given a reasonable period of time prior to the deadline for submission of their revised tender;
- g) Where evaluation is based on price only and it is reasonable to conduct and conclude the evaluation immediately in the presence of a tenderer at a public tender opening, a disposing entity may, if the tenderer agrees, conduct the re-tendering procedure immediately; and

- h) Where the re-tendering procedure is conducted immediately, a tenderer shall be given access to a private location in which to discuss and prepare the revised tender and the tenderer shall be provided with all reasonable assistance, such as writing and sealing materials calculators and access to a telephone.

Revised Tender

The tender opening procedure for the revised tender shall be the same as that for the original tender and evaluation shall be conducted in the same manner as the original evaluation, except that the price contained in the revised tender shall replace the original price in the following circumstances:

- Where identical highest priced tenders are received during a retendering process, further re-tendering shall be held in accordance with this regulation;
- Where it is subsequently discovered that an error was made in the original evaluation, including, an arithmetic error or application of an exchange rate, and that as a result tenderers had not submitted identical highest priced tenders, the re-tendering procedure shall be declared null and void and the revised tenders shall not be considered;
- Where re-tendering fails, the whole process shall be cancelled and retendered; and
- Where the evaluation is based on price only, a contract shall be awarded to the tenderer with the highest price.

Where written tenders are received, the Evaluation Committee shall:

- Correct any arithmetic errors;
- Convert the tenders to a common currency;
- Where tender prices are expressed in two or more currencies, the tender prices of all tenders shall be converted to the same currency, and according to the rates specified in the solicitation documents, for the purpose of evaluating and comparing tenders;
- The rates of exchange to be used in such valuation shall be the selling rates published by the Bank of Tanzania and applicable to similar transactions;
- Compare the tender price with the value of an asset or reserve price, where appropriate; and
- Contract award shall be recommended to the best evaluated price, which meets the eligibility requirements and passes the evaluation criteria, subject to any reservations in regard to the valuation or reserve price.

In evaluating and comparing tenders, a disposing entity may grant a margin of preference for the benefit of Tanzanian asset buyers provided that the margin of preference shall be calculated in accordance with Regulations 33 and reflected in the record of the procurement proceedings.

Evaluation Report

The Evaluation Committee is required to prepare a detailed report on the evaluation and comparison of tenders, setting forth the specific reasons of which the determination of the highest evaluated price tender is based. The evaluation report shall be submitted to the Procurement Management Unit to check if it is in accordance with the tender document. If found satisfactory, the Procurement Management Unit shall forward the same to the Tender Board for approval; and if not, the PMU will return the evaluation report with reasons to the evaluation team for re-evaluation.

Negotiations

Negotiations shall only be held with the highest evaluated tenderer for disposal of assets. The Council Tender Board shall approve the negotiations plan prior to any negotiations taking place. Prior to confirming any agreement reached, the Procurement Management Unit shall seek approval of the Tender Board.

Negotiation Team

The negotiation team shall prepare a negotiations plan which shall specify the issues to be negotiated as specified in the evaluation report and the objectives to be achieved and whenever possible, quantify the objectives and set maximum and minimum negotiating parameters.

The PMU recommends membership of a negotiation team based on appropriate seniority and experience depending on the value and complexity of the procurement. The membership shall be approved by the Council Director who shall also name the chairman from amongst the members.

The number of members of the negotiation team shall in all cases be a minimum of three and maximum of five, and may include members of the original Evaluation Committee or different officers. The negotiation team shall include members with relevant mix of skills and experience, including:

- Knowledge of end-user requirements;
- Negotiation skills;
- Procurement and contracting skills;

- Financial management skills; and
- Technical skills relevant to the subject of the disposal.

The chairman of the negotiation team shall be responsible for:

- Ensuring all arrangements for negotiation meetings are made;
- Chairing all negotiations;
- Ensuring the negotiations are conducted in accordance with all legal requirements;
- Ensuring all members are aware of their responsibilities, including the need for confidentiality;
- Ensuring all members have a common understanding of the process of negotiations and objectives to be achieved;
- Ensuring members understand their own role in the negotiations and the standard approach of the team;
- Managing communications between the negotiation team and the tenderer or any other body;
- Ensuring that the negotiation team has access to necessary information; and
- Preparing the final report on the negotiation or ensuring that it is prepared.

Recommendation and Award

The negotiation team shall produce minutes of the meeting and shall obtain the tenderer's written agreement that it is a true and accurate record of the negotiations held and submit the minutes to the PMU. The PMU shall submit the recommendations of the negotiation team to the Tender Board to:

- Proceed with contract award to the recommended tenderer, incorporating the agreements reached during negotiations;
- Revise the negotiation objectives and hold further negotiations; or
- Terminate the negotiation and reject the tenderer.

Where the negotiation team recommends rejection of the tenderer, it may also, where appropriate, recommend inviting the next ranked tenderer for negotiations.

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

Where negotiations are commenced with the next ranked tenderer the Procuring Entity shall not reopen earlier negotiations; and the original tenderer shall be informed in writing of the reasons for termination of the negotiations.

However, it should be noted here that “Negotiations” shall not be conducted purely for the purpose of increasing prices. Negotiations with a tenderer are not permitted until the Tender Board has approved the Evaluation Committee’s recommendations of the highest evaluated tenderer and the need to hold negotiations.

Acceptance of Tender and Entry into Force of Contract

The tender which is ascertained to be the successful tender shall be accepted and the notice of acceptance of the tender shall be given promptly to the asset buyer submitting the tender after all necessary approvals have been obtained.

The solicitation documents may require the asset buyer to sign a written disposal contract conforming to the tender. In such cases, the Procuring Entity and the asset buyer shall sign the disposal contract within twenty eight (28) calendar days after the notice of acceptance has been dispatched to the asset buyer.

The disposal contract - made in accordance with ‘the terms and conditions’ of the accepted tender- shall enter into force when the notice referred has been dispatched to the awarded asset buyer. The notice is considered dispatched when it is properly addressed or otherwise directed and transmitted to the asset buyer, or conveyed to an appropriate authority for transmission to the asset buyer by a mode authorized in the regulations.

Where the awarded asset buyer fails to sign a written disposal contract, if required to do so, or fails to provide any required security for the performance of the contract, the Procuring Entity shall, on the prior written approval of the Tender Board, select a successful tender from among the remaining tenders that are in force, subject to the right of the Procuring Entity, to reject all remaining tenders.

Upon the entry into force of the disposal contract and, if required, the provision by the asset buyer of a performance security in respect of the contract, notice of the disposal contract shall be given to unsuccessful asset buyers, specifying the name and address of the asset buyer that has entered into the contract and the contract price.

Confidentiality

The information relating to the examination, clarification, evaluation and comparison of tenders and recommendations for the award of a contract shall not be disclosed to asset buyers or to any other person not involved officially in the examination, evaluation or comparison of tenders or in the decision on which tender should be accepted.

Any effort by a tenderer to influence the Procuring Entity's or approving authority award decision may result in the rejection of his tender.

Record of Proceedings

A Procuring Entity shall maintain a record of its disposal proceedings and contract management pursuant to PPR-R 15 of 2013. Where a contract is on-going or is challenged, the records shall be kept for one additional year after the completion of the contract or the settlement of the dispute, whichever comes earlier. The following records of a disposal proceeding shall be maintained by the Council:

- Records of the disposal process;
- Records relating to contracts management; and
- Records of investigations of complaints or any other matter related to the Act or the regulations.

The records of disposal of a public asset by tender shall contain the following documents, where appropriate:

- a) Request to initiate disposal proceedings, including a report of a board;
- b) Copy of an invitation notice;
- c) Copies of solicitation documents, their amendments or clarifications and any additional information;
- d) Report of inspection of the assets by potential tenderers;
- e) Record of the tender openings;
- f) Copy of all tenders evaluated, clarifications requested and responses received;
- g) Evaluation report;
- h) Minutes of meetings on the disposal, including negotiation proceedings;
- i) Copy of a letter of tender acceptance to a successful tenderer, if any;
- j) The contract, if any;
- k) All documents related to contracts management, including records of receipts of payment and handing over certificates;
- l) Copy of the update to the Procuring Entity asset register;
- m) All correspondence between a disposing entity and a tenderer or a third party disposal agent; and
- n) Copy of all submissions to the tender board and all decisions related to the disposal, including, the choice of disposal method, approval of solicitation documents, approval of an evaluation report, approval of negotiations, contract award decision, approval of contract documents and any decision to suspend or cancel disposal proceedings;
- o) The write-off approval from the Paymaster General.

CHAPTER 12: PROCUREMENT CONTRACT MANAGEMENT AND QUALITY ASSURANCE

In accordance with the PPA 2011, management of procurement contracts is part of the responsibility of the PMU and contract managers/supervisors of the Council.

However it must be noted that the beneficiary department plays a crucial role in contract management and quality assurance. As the department with vested interest in the success of the contract they have to play a very big part in receiving the supplies and quality assessment and acceptance. Effective management of contracts is essential to ensure that the objectives of the procurement process are achieved and that all contractual obligations and activities are completed efficiently by both parties to the contract. The User Department and the PMU must ensure that routine monitoring of all current contracts is maintained so that swift remedial measures can be taken when problems arise, or preventative action taken when problems are foreseen.

If during contract implementation there are any serious disputes with the supplier, contractor, consultant or Service Provider regarding the interpretation of the provisions of the contract, the PMU should refer the issue(s) to the Council Legal Officer for advice or to the attorneys of the Council.

Contract management is based on the principle that the contract is a legal agreement, a partnership with rights and obligations that must be met by both sides to achieve the goal. Contract management is aimed not at finding fault, but rather at identifying problems and finding solutions together with all contracting parties involved. Quality assurance has the aim to ensure contract performance as per terms, conditions and requirements. The stages of contract management are intended to ensure that the parties work together to achieve the objectives of the contract. This requires systematic monitoring and actions to resolve issues before the contract reaches its conclusion on aspects including but not limited to:

- Contract effectiveness;
- Delivery and inspections;
- Insurance claims;
- Payments to the consultant, supplier or contractor;
- Performance monitoring for services and works;
- Contractual disputes;
- Delays in performance;

- Claims for damages;
- Initial and final handing-over of construction works;
- Installation and commissioning of equipment;
- Acceptance of deliverables;
- release of performance securities and retentions; and
- Contract closure.

12.1 Contract Management of Goods

Once the contract has been signed there shall be arrangements for the delivery of the goods as per terms and condition of the signed contract. The Procurement Management Unit will:

- Monitor the delivery schedules of all purchases to ensure that they are dispatched, delivered or collected on time;
- Receive reports on pre-shipment inspection of goods and contact the Supplier in writing requesting rectification of any discrepancies or deficiencies;
- Contact the Supplier or shipper to identify the causes of any delay in delivery;
- Initiate and supervise any process for claims against insurance or the supplier; and
- Report to the Tender Board any failure by the Supplier in his contractual obligations.

12.1.1 Inspection and Acceptance of Goods

Goods delivered shall be inspected, sampled and tested by the Council and they shall not be accepted if they are below the standards stipulated in the contract. This is done by the appointed Inspection and Acceptance Committee.

Technical or Scientific Test

In case a technical or scientific test is needed, an expert or qualified person in respect of the goods may be invited for consultation, or the goods may be sent to that qualified person for test. Contracts shall contain a clause that the supplier shall be responsible for all costs and expenses incurred due to a justified rejection of his goods on the ground that they are below the standards stipulated in the contract.

Goods found to be correct and complete

Where goods are found to be correct and complete, the goods shall be accepted, and the supplier shall be regarded as having effected delivery on the day the goods were brought to the place of delivery. After acceptance, the goods shall be handed over to the responsible officer within the Procuring Entity.

Goods found to be incorrect or incomplete

When the supplier delivers the correct goods, but deficient in number, or free from deficiency in number but not altogether correct, only the correct ones shall be inspected and accepted. This shall be promptly reported to the Procuring Entity who shall notify the supplier within three (3) working days from the date of the finding, Provided that this shall not deprive the Procuring Entity the right to impose a fine on the supplier for the incomplete and incorrect delivery.

Goods Acceptance Certificate

Where goods are accepted, a signed Goods Acceptance Certificate shall be issued to the supplier and a copy of the certificate shall be kept by the Procuring Entity to support the processing of payment.

Inspection and acceptance of goods in set or unit

In case of goods which are in a set or unit, with any missing component which would render the use incomplete, the supplier shall not be considered to have delivered the goods. This shall be promptly reported to the Procuring Entity which in turn shall notify the supplier within three (3) working days from the date of the finding.

Refusal to accept delivery

In case any member of the Inspection and Acceptance Committee refuses to accept delivery by making a written dissenting opinion, the committee shall submit it to the Accounting Officer for consideration and decision. Where the Council Director agrees with acceptance of delivery, the committee shall proceed.

Period of inspection and acceptance

The inspection and acceptance of goods shall be completed within the time specified in the contract. Where receipt of goods is delayed, or is likely to be delayed beyond the time for delivery prescribed in the contract, the Council shall seek reports and explanations from the suppliers or their agents and may institute liquidated damages as may be provided for in the contract. Goods rejected shall be collected by the supplier from the premises of the Procuring Entity within seven (7) working days from the date of rejection of the goods.

Pre-Shipment Inspection

Pre-shipment inspection of goods is required for imports into Tanzania. It is also essential for expensive imported goods and items likely to suffer damage or deterioration during transit if not packed in accordance with the specifications in the

contract. The requirement of pre-shipment inspection of goods needs to be specified in the contract.

The inspection will normally be undertaken by a nominated international third-party agent for imported goods. The inspector (who must be experienced and appropriately skilled) will carry out tests – on a random sampling basis where appropriate – to ensure that the goods and packing are in strict conformity with the requirements.

Payment of Goods

The report on the receipt and acceptance of goods, which are delivered against contracts, constitute the basis to commence the payment process.

For payments against invoices, the Procurement Management Unit will complete a payment request ensuring the deduction of any advance payments already made, any contractual penalties incurred by the Supplier and forward to the Finance Department for processing with the following supporting documents attached:

- Original invoice from the supplier;
- The shipping documents, airway bill or a delivery note;
- Original of the inspection report;
- Original Goods Receipt Note;
- Results of any laboratory analysis;
- Calculation of any penalties if allowable under the contract; and
- Copies of relevant information from the contract document and records of approval;

The PMU will record the payment in the contract register and on expiry of any guarantee period release the balance to the Supplier.

12.2 Contract Management of Works

Contract supervision and administration of works contracts is often more complex than for goods due to the variety of factors which cannot always be foreseen at the start of the works. The use of Supervising Engineers and Project Managers means that daily control and supervision is done by the User Department, which must ensure to inform the Council is kept informed of progress and problems which arise through inspection and supervision reports.

12.2.1 Contract Supervision

Works supervision services is carried out by the Council Engineer, registered consultancy firms or any registered individual consultant who may conclude a contract with the client. They act on behalf of the Council to supervise and administer the contract. For large contracts this may involve a team of engineers, inspectors, quantity surveyors etc.

Claims by Contractors for additional work or costs which are not covered under the terms of the existing contract and total contract value, must be referred to the Tender Committee for approval. Claims for extension of time, with or without additional costs, or for additional payment to the contractor must be resolved quickly, subject to the approval of the Accounting Officer.

The Supervising Engineer / Project Manager usually acts at the first level in settlement of disputes and he should ensure that the Council is informed of any disputes and their resolution. Any serious disputes which may require an amendment or addendum to the original contract must be reported to the Tender Board for review and approval.

12.2.2 Payment for Works

Payment for works contracts will normally be made against Payment Certificates approved by the supervising engineer. For all works contracts, materials delivered to the site but not yet used will be excluded from the works measurement approved and the value of Payment Certificates. Supervision and approval of the handing-over of buildings and construction works is the responsibility of the Council for which the issuance of a Certificate of Completion is required before payments due to the Contractor may be made.

The Supervising Engineer will ensure that:

- Any required retention specified under the contract is deducted from the value of the certificate before payment;
- Agreed deductions in respect of the repayment schedule for any advance payment are deducted from the value of the certificate before payment;
- On issue of an interim takeover certificate, part of any retention monies held may be paid to the contractor if specified in the contract; and
- On issue of a final takeover certificate, the balance of any retention monies is paid to the contractor.

The supervising Technical Department (or in its absence the PMU) shall complete the financial statement ensuring the deduction of repayments for any advance payment, retention sums and penalties incurred by the Contractor and forward the approved payment with supporting documents to the Finance Department:

- Payment Certificate;
- Report for interim or final takeover (if appropriate);
- Calculations of any retentions, liquidated damages or other penalties applicable under the contract;
- Copies of relevant information from the contract document, records of approval and financial authorizations;
- Record the payment in the contracts register; and

12.3 Contract Management for Consultancy and Non-Consultancy Services

Contract supervision and administration for routine services such as office cleaning, provision of transport or contract maintenance, will be undertaken by the User Department and the Procurement Management Unit as appropriate. The contract may specify payments on the basis of inputs (time), deliverables, retainers, unit rates or commission fees, and administrative and supervision activities must therefore be based on the specific terms of each contract.

For consultancy services, the Council will usually nominate a Project Manager to coordinate supervision and administration and responsible for:

- Monitor the activity and performance in accordance with the contract to ensure that levels of service are maintained and that deliverables are submitted or completed on time.
- For consultancy services, the contract may specify key reports to be submitted, or timesheets and routine reports to be submitted on a monthly or quarterly basis;
- Ensure that all contractual obligations of the Council are performed promptly and efficiently;
- Ensure that all deliverables (and especially reports) are reviewed immediately and responded to in writing where necessary;
- Contact the Service Provider to identify the causes of any failings in performance or failure to meet targets;
- Issue a formal letter to the Service Provider detailing the complaint if the explanation given is unsatisfactory or if performance is not improved within a reasonable period of time; and

- Report to the Tender Board any continued breach by the Service Provider of his contractual obligations.

12.3.1 Payment for Services

Payment for service contracts will be made according to the specific terms of each contract against invoiced claims by the Service Provider. The Procurement Management Unit and Project Manager will ensure that:

- The invoice claim is justified by the evidence of timesheets, submission and acceptance of deliverables, or other criteria as specified in the contract;
- Agreed deductions in respect of the repayment schedule for any advance payment are deducted from the value of the invoice before payment;
- Any retention sum specified in the contract is deducted from the value of the invoice before payment.

The Procurement Management Unit and Project Manager will complete the payment request ensuring the deduction of repayments for any advance payment, retentions or penalties specified in the contract and forward the payment request and supporting documents to the Finance Department, including:

- The invoice;
- Calculations of any retentions, liquidated damages or other penalties applicable under the contract;
- Copies of relevant information from the contract document, records of approval and financial authorizations.

The PMU will record the payment in the Contracts Register of the Council.

12.4 Contract Performance

Monitoring Obligations of Consultants, Suppliers or Contractors

The performance of Consultants, Suppliers and Contractor against the contract must be monitored on a routine basis. The Procurement Management Unit or Project Manager will:

- Notify the Service Provider immediately in writing of any failings in performance and seek an agreed solution;
- In the case of a consultant this takes the form of comments on consultancy reports;

- Update the contract file and Contract Register regularly to reflect the monitoring of performance; and
- Ensure that the Tender Boards is informed of any serious failings in performance.

Monitoring Obligations of the Council

The contract may impose certain conditions on the Council which, if not complied with, may affect the Supplier or Contractor's performance including:

- Payment of stage payments within the contracted time limits;
- Assistance with import licences, exemptions, etc.;
- Approval of drawings or reports within the set time periods;
- Provision of storage or working facilities and access permits;
- Conditions relating to the supplier's provision of staff services (e.g. letters of invitation for visas, provision of office space, etc.); and
- Ensure that all such obligations of the Procuring Entity are planned and performed without undue delay.

Delays in Performance

Delivery and performance of services should be completed in accordance with the time schedule prescribed in the Schedule of Requirements. Where delays occur in terms of the contract conditions:

- The Service Provider must notify the Council in writing of the conditions delaying performance, including full details of the delay, the likely duration and the cause(s);
- The Council will assess the situation, and may at its discretion extend the time for performance, with or without liquidated damages as specified in the Contract;
- If the time for performance is extended, both parties shall ratify such extension by a formal addendum to the Contract as approved by the Tender Board;
- A delay in the performance of his obligations may render him liable to liquidated damages if specified in the contract document, except where the delay is as a result of Force Majeure; and
- If there is no provision for liquidated damages in the contract, an extension of time is agreed between the two parties without the application of liquidated damages.

The Procurement Management Unit or Project Manager will:

- Refer to the relevant clauses in the General or Special Conditions of Contract for the procedure to be followed to apply, calculate and claim liquidated damages;
- Update the Procurement Dossier and Contract Register to reflect any delays in the supplier's performance; and
- Notify the end-User Department immediately of all such delays.

12.5 Resolution of Disputes

Most minor disputes may be resolved by sensible discussion and agreement between the responsible officer and the Supplier or Contractor to rectify the cause of complaint.

Any formal written complaints received from a Supplier or Contractor should be fully investigated and referred to the Accounting Officer to authorise correspondence or formal negotiations with the Supplier or Contractor. In this case the Procurement Management Unit will:

- Examine the Contract carefully to be aware of all contract conditions relating to the Resolution of Disputes;
- Determine if the Council is at fault or partly at fault, and if so, take appropriate action to rectify the problem;
- Invite the Supplier or Contractor to a formal meeting to discuss the issues and try to agree a compromise acceptable to both parties;
- Ensure that accurate written Minutes are kept of any such meeting;
- If an agreement is reached which changes any of the conditions of the Contract, the PMU shall consider and recommend and the Tender Board shall approve before the agreement can be implemented;
- If no initial agreement is reached and negotiations conducted by the Accounting also fail, consider the use of conciliation or arbitration services as specified in the contract;
- Prepare any necessary addendum to the Contract for signature; and
- On contracts funded by a donor, ensure that the donor is kept informed of disputes and seek advice, and a formal "no objection" where required, before any contract addendum is signed.

12.6 Contract Amendment

Contract amendments may become necessary as a result of the application of price variations specified in the contract, the resolution of disputes, additional or reduced requirements by the Council, agreements to extend the time schedule, or from accepted increases or decreases in prices. The contract may allow the Council to modify contract values by a pre-determined percentage when this is in the public interest and essential for the work of the Council.

All other amendments to costs, quantities, time-period and other terms and conditions of the contract must be recommended by the PMU or Project manager subject to approval by the Tender Board and confirmed in a formal contract amendment or addendum. The Procurement Management Unit/Project Manager will:

- Identify and agree with the Supplier or Contractor the specific clauses in the contract which need to be changed, and the new values or terms and conditions which are to apply;
- Prepare a draft contract amendment document for Tender Board for approval together with a report justifying the reasons for the amendment;
- Record any change in contract value and conditions in the Contract Register;
- Obtain from the supplier/contractor any necessary addition to the performance security; and
- Distribute contract amendment copies in the same way as the original contract.

12.7 Termination of Contract

The parties to the contract normally have the right to terminate the contract. In order to protect the Council, advice of the Legal Department should always be sought if the Council is considering such action. For donor funded procurements, donor “no objection” must be sought before any action to terminate a contract is initiated.

Contracts should normally not be terminated without examining all possible alternatives, unless the termination is agreed by all parties to the contract. Therefore, examine the Contract carefully to be aware of all contract conditions and penalties relating to the Termination of Contract. Secondly, it is important to follow the advice of the Legal Department in the preparation of any correspondence and settlement of any contractual penalties.

12.8 Contract Closure

Contract closure is concerned with completing and settling the terms of the contracts of the project. It supports the project completion process because the contract closure process determines if the work described in the contracts was completed accurately and satisfactorily. Contract closure updates the project records, detailing the final results of the work on the project. Contracts may have specific terms or conditions for completion.

The contract closure is an administrative procedure, which is aimed at consolidating that both parties (Contractor and Council) have fulfilled their contractual obligations and there are no unexecuted tasks or other types of pending issues. The last stage of the project procurement cycle includes the payment of the bills and closing of procurement contracts. Suppliers provide commodities that should meet standards of quality. The project team must check the records of deliveries made and determine that they were acceptable quality. If any items were rejected for poor quality or not delivered, the final payment is adjusted accordingly.

12.8.1 Actions for Contract Closure

During the contract closure procedure the Contract Supervisor should:

- a) Check that all products have been delivered and accepted (case of supply contract), all works have been completed and accepted (case of building works or civil engineer's works), all services have been rendered and their deliverables have been accepted (case of service contracts);
- b) Check that the initiation and completion Reports (case of supply contracts) or the interim and final Progress Reports (case of service or public works contracts) have been submitted and have been accepted;
- c) Check that all interim payments as well as the final payment have been effected and that the Performance Guarantee has been returned to the Contractor;
- d) Check that all issues that resulted during the execution of the contract have been dealt with and there are no open issues;
- e) Ensure that all of the rights, including copyrights, and other intellectual and industrial property rights that were ensured during the execution of the contract are devolved to the ownership of the Council;
- f) See to the return to the Council of its assets that were made available to the Contractor in the context of execution of the contract and check that these have not suffered damages. In the same context, he also handles issues of equipment and license disposal (e.g., software) which were used by the Contractor during the execution of the contract;

- g) Check that all of the data like charts, diagrams, drawings, specifications, plans, statistical data, calculations, operation and maintenance manuals (service and public works contract) and any other relevant document or material acquired, collected or drafted by the Contractor during the execution of the contract have been submitted to the Council, otherwise sees to their collection;
- h) Complete the filing of the material related with the execution of the contract like: Contractual documents, plans for the implementation of the contract scope (activities schedule, resource plan, cost plan, risk management plan, issue management plan, etc), communication and reporting plans, deliverables, correspondence, requests for changes and claims, invoices, payment receipts. All files are kept by the Council for as long as provisioned in the section 61 of PPA of 2011 depending on the type of documents (e.g., accounting files and entries must be kept pursuant to the Accounting and Fiscal Guidelines for a period of 5 years);
- i) Submit as-built drawings for works contract;
- j) Notify all stakeholders that the contract has been completed;
- k) Release the resources (human resources, machinery, equipment, materials and infrastructures) of the Council that were utilised in the execution of the contract;
- l) Provide the Contractor with a Good Performance Certificate as long as it is requested by him;
- m) See to the return to the Council of its assets that were made available to the Contractor in the context of execution of the contract and check that these have not suffered damages; and
- n) In the same context, handles issues of equipment and license disposal (e.g. software) which were used by the Contractor during the execution of the contract.

It is the responsibility of the Council to ensure that the deliverables, goods or works under a contract have been completed and the contract is ready for close-out prior to final payment.

It is a good practice to use a checklist as a tool to assist the Council during the closeout process (see Annex 5).

CHAPTER 13: PROCUREMENT REPORTING, RECORDS, MONITORING AND EVALUATION

In accordance with section 9 of PPA of 2011 as Amended 2016, all public procurement proceedings shall be subject to regular monitoring by the Public Procurement Regulatory Authority to ensure compliance with the prevailing Procurement legal framework. Besides its internal procurement reporting and monitoring, every Council and anybody in charge of procurement contracts is required to cooperate with PPRA in carrying out this mission.

13.1 Procurement Reporting

Routine reporting of procurement activities by all Procuring Entities including the Councils is essential for procurement planning and budgeting, and for the monitoring, tracking and evaluation of procurement by the Council. The Public Procurement Regulations stipulate that monthly, quarterly and annual reports must be submitted to the PPRA showing how the Annual Procurement Plan (and ad-hoc procurement) is being implemented. The reports will provide the following information:

- Procurement which is in progress and at various steps of the procurement cycle;
- Procurement contracts signed and date signed during the period;
- Procurements which have been cancelled, when they were cancelled and reasons for cancellation;
- Procurement Contracts completed and dates completed during the period
- Procurements scheduled to have started but yet to commence; and
- Procurement plan performance as indicated by procurements on schedule versus the total procurements on the procurement plan.

13.2 Procurement Monitoring and Evaluation

Monitoring and evaluation of procurement compliance and performance is a process that must be systematically and periodically conducted both by Procuring Entities and the PPRA. The PPRA has introduced a checklist for all Procuring Entities that acts as a monitoring tool to ensure that procurement processes are carried out according to the standards derived from the procurement legislation. The monitoring tool covers the following seven (7) main procurement indicators:

- 1) Institutional Set up and Performance;
- 2) Appropriate preparation and implementation of APP;

- 3) Appropriateness of the Tender Process;
- 4) Appropriateness of contract implementation;
- 5) Procurement Record Keeping;
- 6) Implementation of systems prepared by PPRA (PMIS/CMS); and
- 7) Handling of complaints.

PPRA regularly reviews the procurement procedures, systems, guidelines and standard procurement documentation and makes recommendations for improvement of the indicators.

13.3 Monitoring by the Council

The Procurement Management Unit in collaboration with User Departments are required to submit monthly and quarterly procurement and contract execution reports to the Council Management Team and Full Council. The reports are partly informed by site meetings where required, as well as regular supervision and inspection meetings by Council stakeholders.

Council's monitoring of procurement is also done by the Internal Audit Unit. It is a requirement that quarterly Internal Audit Reports are submitted to the National Audit Office, Internal Auditor General (Ministry of Finance), Regional Secretariat as well to PPRA on Council's procurement. This has to be done within 14 days after the same have been submitted to the Accounting Officer.

- All reports to the PPRA from the PMU and IAU should be submitted electronically by using the Procurement Management Information System;
- Councils without adequate internet connectivity / facility are allowed to send reports in hard copy.

If the PPRA finds any violation or issues, it shall require the Council Director to submit more details of the procurement concerned (Reg PPR 86).

13.4 Communication and Information

All procurement correspondence and communications issued by the Council shall be made by persons authorised in accordance with their duties and responsibilities. In accordance with PPA of 2011 any communication between the Council and the bidder shall be made in writing. Therefore it is important that such communication is done after careful consideration to ensure that the Council is not unintentionally or mistakenly legally bound which can result in unnecessary financial implications.

13.4.1 Procurement Management Information System

The Council is required to use the Procurement Management Information System (PMIS), which is used by the PPRA in collecting, storing and sharing of procurement information between the Authority and stakeholders of public procurement. The following information shall be submitted in to PPRA as shown in the table below:

Table 13.1: Required Information and Timeline for Submission to PPRA

S/n	Required Information	Timeline for Submission
1	Quarterly Internal Audit Report	14 days after its submission to the Accounting Officer
2	Annual Procurement Plan	Not later than 14 days after approval in Council (by BAA)
3	Tender, Quotation and Request for Proposal Invitation	7 days after the invitation
4	Monthly and Quarterly procurement Implementation Report	7 days after the end of Month or Quarter
5	Annual Procurement Implementation Reports	30 days after the F/Y end
6	Required Information	Timeline for Submission
7	Award of Contract for Emergency Procurement, Single Source or Direct Contracting	7 days after the award
8	Name of Firm awarded contract and the amount of tender	30 days after the award
9	Termination of Contract	14 days after the date of termination
10	Amendment or alteration to a contract	7 days after issuing the instruction to amend
11	Decision on Complaints by Accounting Officer of PE or by PPAA	14 days after issuing the decision.

This information is available for use by internal and external stakeholders of the LGA procurement process.

13.5 Procurement Record Management

Documentary records both in print or electronic format are essential for efficient and effective management of activities, provide evidence in support of decisions and actions taken, and provide an audit trail for verification of transparency, accountability and effectiveness. Efficient records management is essential to ensure effective storage, retrieval and use with due regard to security, integrity and confidentiality.

All Council officers shall ensure they obtain, retain and maintain appropriate documentation supporting the activities for which they are responsible. Senior officers involved in approval or authorisation shall ensure that any transactions they approve or authorise are backed by appropriate supporting documentation.

The requirement of procurement record keeping is further emphasized by GN. 446-R.10 (1) & (2) so as to ensure transparency and fairness, and GN.446-R.15 gives a list of records that can be kept and how such records can be shared. These include description of goods or services, the procurement process/method adopted, names of all participating firms, the evaluation process and the contract award process.

In accordance with Public Procurement Act, the Council shall keep record of the procurement proceedings containing the following information for a minimum period of five (5) years from the period of the award of tender. Section 61 of PPA 2011 requires a PE to maintain records of procurement contracts for a period of not less than five years from the date of completion of the contract.

The kept records must be made available when required by the Minister of Finance and CAG.

13.5.1 Record Management System

The Procurement Management Unit has the general responsibility for maintaining procurement documents. To this effect each Council must ensure that complete documentation is maintained in respect of all procurement activities and for contracts and agreements entered into. The responsibility for the official maintenance of procurement files, records and authority to access files and coordination of management and follow-up actions must be clearly defined in each Council to avoid:

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

- For the purpose of keeping procurement and contract management records, a Procuring Entity is required to open a procurement file and a contract file respectively, each with unique file number; and
- The PPRA has issues a guide on numbering on tenders which is accessible on the website of the Authority.

The **procurement file** is important in the management of a procurement contract. The file is opened by the PMU for the purpose of processing and tracking procurement when an individual procurement commences. It contains the following:

- Procurement initiation requisition;
- All correspondence on the procurement;
- Bid document;
- Bids received;
- Bid opening, evaluation and tender award notification;
- Information on the award of the contract and particulars of the contract.
- Contract concluded between the Procuring Entity and the bidder;
- All correspondences between the Procuring Entity and the bidder; and
- Any other useful information, instructions and reports that are related to the tender

Archived public procurement documents may be consulted from where they are kept by any authorized person.

The **contract file** shall be opened by the contract manager after the procurement contract is signed. The file shall be used for recording the actual performance of the requirements indicated in the contract. The file should contain the following:

- Signed original procurement contract;
- Any signed modifications to the contract;
- Contract correspondence between the parties;
- Information on the performance;
- Correspondence on the contract;
- Management progress reports;
- Minutes of meetings of project team;
- Payment records and close up documents;
- Copy of performance security (where required); and
- Any other relevant information.

PPRA has prepared a guide of records to be maintained in the procurement and contract file as shown in Table 13.2 below:

Table 13.2: Records to be included in Procurement and Contract Files

Procurement Records as per PPA and Regulations	
S/n	Record
A: RECORDS TO BE MAINTAINED IN PROCUREMENT FILE	
1.	Copy of Annual Procurement Plan
2.	Minutes of Management Meeting which approved the Procurement Plan
3.	Requisition of Procurement to initiate Process;
4.	Approval of Procurement Method
5.	Minutes of TB Meeting that approved tender advert, bidding documents (advert/ specifications/TOR/ Statement of Requirements);
6.	Copy of Adverts/Invitation for Tenders/Quotations where non- open method was employed
7.	Tender Document/ RFP issued to Bidders (if any);
8.	Clarifications received & Issued to Bidders (if any);
9.	Minutes of Pre-bid meeting (if any);
10.	Amendments/addendum to Bidding Document/RFP issued to bidders (if any) including Notice of Extension of time for submission of bids (if any);
11.	Minutes of Tender Opening;
12.	Tenders submitted
13.	Letter of appointment of Evaluation Committee;
14.	Evaluation report with all the necessary attachments, particularly all correspondences with bidders regarding notification of arithmetic errors and acceptance of the same
15.	Deficiencies noted by Procurement Unit while reviewing the evaluation report and correspondence with the Evaluation Committee on the same
16.	Any Declaration of Interest by members of Tender Committee before adjudicating on a particular tender;
17.	Deficiencies noted by the Tender Committee while adjudicating on the Tender and their directives to Procurement Unit on the same;
18.	Minutes of the Tender Committee that approved recommendations of award;
19.	Letter of appointment of negotiation team (if any);
20.	Approval of negotiation plan;
21.	Letter inviting firm to negotiate (letter of intent);
22.	Minutes of Negotiation
23.	Approval of contract award recommendation
24.	Letter of Intent to award
25.	Report on any complaints received from the bidders;
26.	Letter of award/Letter of Acceptance;
27.	Letter of Notification of Unsuccessful bidders;
B: RECORDS TO BE MAINTAINED IN THE CONTRACT FILE	
28.	Contract documents
29.	Approval of Contract documents
30.	Approval of contract amendments (if any);

Procurement Records as per PPA and Regulations	
S/n	Record
31.	Copy of performance guarantee where applicable;
32.	Copy of Signed Contract;
33.	Copy of advance payment guarantee, where applicable
34.	Records for site handover where applicable;
35.	Notice to commence works/services where applicable;
36.	Instructions or Formal Communications;
37.	Approval for variation orders/ contract amendments where applicable;
38.	Variation orders/change order;
39.	Progress reports, where applicable;
40.	Letter of appointment of Inspection and Acceptance Committees for Goods
41.	Inspection and Acceptance Committee report;
42.	Certificates/Delivery Reports/ Goods Receiving Notes;
43.	Payment Certificates (Buildings and Civil Works) to be accompanied by testing results & measurement sheets where applicable;
44.	Letter of Credit/Invoices/ Payment Vouchers (for goods);
45.	Claims submitted by the supplier, Contractor, consultant or Service Provider
46.	Claim Valuation Reports
47.	Disputes (if any) and how they were handled – Records of settlement proceedings
48.	Snag list (list of defect works) to be corrected during defect liability period, if any
49.	Final Inspection and Handover Report;
50.	Final Account and Contract Closure Report

ANNEXES

Annex 1: Procedural Forms, Standard Bidding and Contract Documents

List of Procedural Forms (for Downloads)

<http://www.ppra.go.tz/index.php/component/phocadownload/category/51-ProceduralFormsEnglish>

1. Letter for appointment of Tender Board Chairperson/Members/Secretary.
2. Procurement requisition - submission to procurement management unit (PMU).
3. Request for approval of procurement/selection method - submission to Tender Board.
4. Request for approval of pre-qualification document/expression of interest and notice - submission to Tender Board.
5. Request for approval of bidding document/request for proposal and bid notice/shortlist - submission to Tender Board.
6. Request for approval of addendum to bidding document/request for proposal - submission to Tender Board.
7. Minutes of pre-bid meeting.
8. Record of receipt of bids.
9. Record of Bid/Proposal Opening.
10. Membership of evaluation committee - submission to Accounting Officer.
11. Request for approval of evaluation report and recommendations - submission to Tender Board.
12. Membership of negotiation team - submission to Tender Board.
13. Request for approval of negotiation plan- submission to Tender Board.
14. Record of negotiations.
15. Request for approval of negotiations - submission to Tender Board.
16. Request for approval of contract award recommendations - submission to Tender Board.
17. Request for approval of contract amendments - submission to Tender Board.

Consult: <http://www.ppra.go.tz>

Annex 2: Bid Receipt Form

BID RECEIPT FORM

1. Date:

.....

2. Time:

3. Tender No:

4. Council stamp (and officer's names and signature):

Bidder's/Representative's names and
signature:.....

.....

Annex 2: Letter for Appointment of Contract Supervisor

HALMASHAURI YA WILAYA YA ABC

(Barua zote ziandikwe kwa Mkurugenzi Mtendaji Wilaya)

*Simu Na XXX
Faksi Na. XXX*

<<< **NEMBO**>>>

S.L.P XXX,
**WILAYA,
MKOA.**

Unapojibu tafadhali taja:

Kumb. Na. XXX/C/B/85/VOL.II/
10/05/2016

Ndugu,
Jina.....
Cheo.....
S.L.P XXX
WILAYA.

YAH: KUTEULIWA KUSIMAMIA MRADI WA MATENGENEZO YA
UJENZI/UKARABATI WA

Tafadhali husika na kichwa cha habari hapo juu.

Nimekuteua kusimamia mradi wa Matengenezo ya (Mara kwa mara,sehemu korofi,Muda maalumu). Barabara ya

Ambao utafanya na Mkandarasi M/S....., ambao utanza tarehe hadi tarehe

Majukumu yako ni kama ifuatavyo.

- (i). Kusimamia kwa karibu mradi huu kwa kufuata taratibu za mikataba.
- (ii). Kusimamia ubora wa viwango kazi vinavyokubalika kwa mujibu wa mkataba.
- (iii). Kusimamia utekelezaji wa mradi kwa kufuata mpango kazi "Work programme" ya Mkandarasi kama zipo dalili za kutotekelezeka mpango kazi.
- (iv). Kuandaa malipo kulingana na kazi zilizokamilika na zinazostahili kulipwa kwa uhalisia na sio kufuata' BOQ' lipa "actual works"
- (v). Kuandaa vikao vya maeneo ya kazi "site meeting" zitakazo wahusisha, Mwajiri, PMU,

Viongozi wa serikali za vijiji/kata waliopo karibu na eneo la mradi pamoja na Mkandarasi kila mwezi.

- (vi). Kusimamia upimaji na ubora wa kazi inavyofanywa na Mkandarasi ukishirikiana na TANROADS.
- (vii). Kushirikisha Wananchi walio karibu na eneo la mradi katika utekelezaji wa mradi ikiwa Ni pamoja na kuwapa taarifa juu ya maendeleo ya mradi.
- (viii). Kumsimamia mkandarasi kuhusu masuala mtambuka katika eneo la mradi huu ikiwa ni Pamoja na ushiriki wa sawa wa kijinsia (wanawake na wanaume) katika kuajiri vibarua, Ugawaji wa vipeperushi na “condom” katika maeneo ya mradi ili kupunguza maambukizi ya VVU.
- (ix). Kusimamia kwa karibu rasilimali zilizopo barabarani (existing road structure and Furnitures) ili zisiharibiwe wakati wa utekelezaji wa mradi huu ili kupunguza gharama Za kurudia kazi.
- (x). Kumshauri Mhandisi wa ujenzi **pale inapobidi** juu ya kuongeza na kupunguza kazi Kulingana na mkataba.
- (xi). Kutoa mapendekezo kwa maandishi na vitendo juu ya Wananchi wanaofanya shughuli Zozote katika eneo la barabara (yaani, umbali usiozidi mita 15 kila upande wa barabara).

Hakikisha unatekeleza majukumu yote hayo kwa umakini na kuhakikisha utekelezaji wa mradi huu unakamilika kama ulivyo katika mkataba. Iwapo mradi huu utatekelezwa chini ya kiwango utawajibishwa kwa mujibu wa sheria na taratibu za kiutumishi.

Nakutakia kazi njema.

XXXXX

MKURUGENZI MTENDAJI (W)

WILAYA.

Nakala 1. Mhandisi wa Ujenzi (W)

2. Afisa Ugavi (W)

Annex 3: Request for Approval of Contract Amendment

[For Submission to Tender Board]

Name of the Procuring Entity: *[insert name of Procuring Entity (PE)]*

Tender ID No.: *[Insert tender identification number]*

Subject of Procurement: *[insert subject of procurement]*

Method of Procurement: *[insert method of procurement]*

SUBMISSION INFORMATION		
1.	How many times (if any) has the contract been amended?	
2.	Insert: <ul style="list-style-type: none"> • Original contract value • Total value of any previous amendments (+ / - currency and amount) • percentage of original contract value 	
3.	Describe proposed amendment to contract	
4.	Reason for amendment of contract	
5.	Insert: <ul style="list-style-type: none"> • Value of proposed contract amendment (+/- currency and amount) • percentage of original contract value 	
6.	Any other relevant information	

Documents attached: *(list any other documents attached)*

Draft Contract Amendment

Related Documents Submitted previously: *(available for reference from Secretary to Tender Board)*

Previous Submission: <i>(Section letter and title)</i>		Date Approved:	
--	--	-----------------------	--

Contract Document and all previous amendments

The Tender Board *[insert either "has" or "has not"]* approved Contract amendment number *[insert number of amendment]* amounting to *[insert currency and amount of the proposed contract amendment]* to an amended Contract value of *[insert amended Contract value in currency and amount]*.

The information contained in this form and the attached documents is complete, true and accurate and in accordance with the Public Procurement Act No. 7 of 2011, it's Regulations and funds available for this contract amendment:

Secretary of the Tender Board	Chairperson of the Tender Board
Signature:	Signature:
Name:	Name:
Date:	Date:

Annex 4: Sample Contract Completion Statement

1. Contract Administration Office* (* only if different from the contracting office, below)	Complete Name & Address
2. Contracting Office	Complete Name & Address
3. Contract Number	
4. Last Modification Number	
5. Last Call or Order Number	
6. Contractor Name and Address	Complete Name & Address TIN:
7. Dollar Amount of Excess Funds	
8. Voucher No. & Date (Cost Re-imbursement Contract)	
9. a. Final Invoice Number (Fixed Price Contract)	
9. b. Final Invoice Date	
10. All contract administration functions have been fully and satisfactorily completed. As a result of a final review of the contract file, it is determined that, to the best of my knowledge, all terms and conditions of the subject contract have been met and the file so documented. The checklist has been completed indicating that all requested deliverables, as modified, have been received and are acceptable, and all services have been satisfactorily performed. Actions relating to the settlement and to the disposition of the Government property have been documented. The final invoice has been received and processed, giving consideration for any adjustments, which may be necessary as a result of the above. Consequently, all necessary actions required to close the subject contract are hereby considered complete as evidenced by the closeout checklist contained in this file.	

Signature

Date

Contracting Officer

Type or Print Name

Email Address

Annex 5. Checklist for Contract Closure

Contractor Name	Contract Number	Project Completion Date	
Person Completing Checklist	Project Title/Name		
Task	Date Completed	NA	Task
ADMINISTRATIVE ISSUES			
Contract administration files are consolidated and turned over to PMU upon completion of the closeout process			
The central file is complete, organized and conforms to regulations governing contract administration as specified by the PPA of 2011. [Reference Formal Contract Administration File].			
The Contractor has notified the Council that all work required by the contract is complete			
The Contractor has complied with all contractual terms and Conditions			
All file documents have been signed with the original signatures. This include invoices, /vouchers, letters to contractor, memoranda, official correspondence etc.			
All final determination have been completed			
All optional provisions have expired			
All time extensions have expired			
All change orders, modifications, have been signed, defined and included in the central file			
Settlement of subcontract by the prime contractor completed			
MONITORING			
All monitoring issues have been resolved			
The monitoring plan updated and documentation of all monitoring requirements accurately reflects the status of all monitoring activities as outlined in the monitoring plan.			
The Risk Assessment is updated and completed to reflect the status of all monitoring activity			
All Council specific required approvals have been received			
The Contractor has complied with all contractual terms and conditions			
DELIVERABLES			
All Contract deliverables have been received, inspected, and accepted including All required reports			

Contractor Name	Contract Number	Project Completion Date	
Person Completing Checklist	Project Title/Name		
Task	Date Completed	NA	Task
FINAL PROPERTY CLOSE OUT			
The property inventory report has been received from the contractor			
All Council –owned property, real or person, either furnished by the government or acquired by the contractor for the account of the Government has been accounted for			
All property inventory and ownership issues are resolved including disposition of any equipment, licenses purchased, or warranty information under the contract.			
FINAL SECURITY CLOSE OUT (IF APPLICABLE)			
There has been a Disposition of all Classified Material (Proprietary, Trade secrets, Sensitive, Confidential, Personal /Privacy) generated to or accessed by the contractor in the performance of the contract.			
FINAL PATENTS CLOSEOUT (IF APPLICABLE)			
Final New Technology disclosure report received			
Final invention, patents, and copyright disclosure reports received			
Report affirming that no technology, inventions, patents or copyrights resulted from the contract			
FINAL ROYALTY REPORT CLOSEOUT (IF APPLICABLE)			
Final Royalty Report has been received			
FINAL PAYMENTS AND INVOICES			
All disallowed payments, performance, deliverables, or suspended costs been resolved.			
All reconciliation has been completed in conjunction with a financial report to verify that all payments have been paid			
Refunds, rebates, and/or credits have been annotated in the file			
The contract file contains a record of all payments made to the contractor.			
All excess funds, such as un-liquidated obligations have been verified and the de-obligations of funds have been accomplished, if required?			

Contractor Name	Contract Number	Project Completion Date	
Person Completing Checklist	Project Title/Name		
Task	Date Completed	NA	Task
Final invoice has been received, reviewed, accepted and paid.			
CONTRACT COMPLETION STATEMENT			
After final acceptance and final payment has been made, a Contract Completion Statement is prepared and issued officially stating that the contract is complete in its entirety and may be closed and properly archived.			
CONTRACTOR'S PERFORMANCE REPORT			
A contractors Performance Report has been prepared			
CONTRACT ADMINISTRATION ANALYSIS OR POST CONTRACT EVALUATION			
The contractor and end-user has completed a contract analysis report card			

Annex 6. Changes as per Public Procurement (Amendment) Act of 2016

S/n	Change / Issue	Particular of Amendment
1.	General Improvements	<ul style="list-style-type: none"> • Prudent use of market prices • Reducing procurement process / transaction costs • Increasing opportunity for participation of special social groups e.g. women, youth, elderly, people with disabilities • Promotion of industrial development using locally produced raw materials, products and services • Establishing and adopting government approved standards • Making special procedures for commercial oriented entities to procure inputs of production, etc
2	Specific Issues (PPRA related)	<ul style="list-style-type: none"> • PPRA in collaboration with AGO & Professional Bodies preparing, updating and issuing of authorized versions of standard Bidding Documents and other documents • PPRA to build capacity of stakeholders involved in public procurement • PPRA to obtain price information for standardized common items and services from relevant public bodies • Under Sect. 10(3) PPRA may order suspension of proceedings/implementation of any matter under investigation
3	Powers of PPRA	<ul style="list-style-type: none"> • Section 18(1): Powers of the authority • (e) excludes “tenderers” because of complaints review mechanism already in place • Section 23(2): Appointment of the CEO (of PPRA) need not be “registered” for professionals as there are other professions without registration
4	Functions of AO	<ul style="list-style-type: none"> • Section 36: Functions of the AO (l): emphasizes on submitting “details” and not just a list of procurement contracts awarded and Annual Procurement Plan (APP) for the next Financial Year (FY) (n): emphasizes on the use of Procurement Management Information System (PMIS) and e-procurement
5	Witnessing on Contract Signing	<ul style="list-style-type: none"> • New section 46A: Witnessing on contract signing As per the law or legal instrument establishing the Procuring Entity (PE) , or where not available any person enumerated under the Notaries Public and Commissioner for Oaths Act
6	Removal of “Closed” Framework Agreements	<ul style="list-style-type: none"> • Section 50(1): Removal of “closed” framework agreements within the procurement of Common Used Items and Services (CUIS) • (3): Open framework agreement contains specific terms and conditions but does not contain agreed price • New sections 55A-55D: Local content • Emphasis on local firms with 100% local ownership
7	Cool off Period Reduced to 7 Working Days	<ul style="list-style-type: none"> • Section 60 • (3): Cool off period reduced to 7 days • Contract is formed when a written acceptance is communicated to the successful tenderer

S/n	Change / Issue	Particular of Amendment
8	Procurement Contract Entering Into Force	<ul style="list-style-type: none"> (10): A procurement contract “enters into force” when the formal contract is signed by parties to the contract
9	Selection of Procurement Methods	<ul style="list-style-type: none"> Section 64: Selection of methods of procurement (2)(c): Includes special groups, e.g. Women, youth, elderly, and persons with disability Instead of “restricting the issue of tenders” PE’s to set aside a specific percentage of the procurement volume to special groups
10	Procuring directly from Manufacturers, Dealers, Wholesalers or Service Providers	<ul style="list-style-type: none"> Section 65A: Procuring directly from manufacturers, dealers, wholesalers or service providers Certain goods and services Procedure to be prescribed in Regulations
11	Emergency Procurement	<ul style="list-style-type: none"> Section 65: Emergency procurement (1)-(2): Emphasis on “emergency” and not “urgent” Former subsection (3) and (4) deleted: GPSA no longer involved in approving emergency procurement
12	Established and Approved Standards of Items or Services to be Procured for Government Use	<ul style="list-style-type: none"> Section 65B: Established and approved standards of items or services to be procured for Government use: Standards to be issued by relevant Government organs Manner to be prescribed in Regulations Certain goods for Government use may not need approved procurement standards
13	Fraud, Corruption and Debarment	<ul style="list-style-type: none"> Section 83: Fraud, corruption and debarment (2): PE is expected to conduct due diligence and not investigation; Can only declare a bidder ineligible Corrupt practices can only be established by court of law and not by a PE Emphasizes that debarment can only be declared by the Authority and not by a PE
14	Establishment of Appeals Authority	<ul style="list-style-type: none"> Section 88: Establishment of Appeals Authority (4): Deleted; to enhance good governance and avoid dual role within the institutional framework Dual roles: resolving disputes and complaints while also serving as governing board (budget approving authority) Section 89: Appointment of Executive Secretary (3): Executive Secretary will not be supervised or directed by Appeals Authority Section 91: Funds of the Appeals Authority (3): deleted as the Appeals Authority is no longer a governing board for approving banks for its accounts Section 93: Annual Management Plan and Budget The authority for approval is now the PS of the ministry responsible for finance, and not the members of PPAA

S/n	Change / Issue	Particular of Amendment
15	Right to Review	<ul style="list-style-type: none"> • Section 96: Settlement of complaints/ disputes by AO <ul style="list-style-type: none"> (4): Bidder given 14 days instead of 28 days (6): AO given 7 days instead of 14 days • Section 97: Review by Appeals Authority <ul style="list-style-type: none"> (2): Bidder given 7 days instead of 14 days (after AO decision or expiry of time given to AO without decision) (3): Bidder given 7 days instead of 14 days (for contract already in force) (5): More remedies: <ul style="list-style-type: none"> (g) Compensation to PE for costs incurred if it wins the case; (h) Set aside, vary or confirm decision by PPRA to blacklist; (i) Any other order or relief as it may deem fit to grant
16	Review Proceedings and Judicial Review	<p>Section 99: Certain rules applicable to review proceedings (1) & (2): deleted to reduce time and cost of occasioned complaints by unsuccessful bidders</p> <p>Section 101: Judicial review</p> <ul style="list-style-type: none"> (2)(b): A tenderer who is a public institution or a PE challenging the decision of the Appeals Authority: To state their positions to the AG immediately after the leave has been granted by the High Court (3): AG to state case containing positions of both parties and file a case marked "Case Stated" to the High Court for opinion.
17	E-procurement	<ul style="list-style-type: none"> • New Section 63: e-procurement • (1): Emphasis on the use of e-procurement including PMIS by PEs; Manual procedures only where electronic facility is not available