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Fiji Development Bank Procurement Policy and Procedures

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List of Acronyms

APP	Annual Procurement Plan
EA	Executing Agency
EOI	Expression of Interest
FDB	Fiji Development Bank
FDB LPIG	FDB Lending Policy and Implementing Guidelines
FNPF	Fiji National Provident Fund
FRCS	Fiji Revenue and Customs Services
GCF	Green Climate Fund
LPO	Local Purchase Order
PA	Procuring Authority
PO	Procurement Officer
RFT	Request for Tender
SME	Small to Medium Enterprises
TEC	Tender Evaluation Committee
VAT	Value Added Tax

Glossary of Terms

Bank: This refers to the Fiji Development Bank.

Budget Holder: The responsible authority (Head of a Department) that is accountable for a budget that is allocated to his/her department.

Chairperson: The Chairperson of the Tender Evaluation Committee is responsible for ensuring that the Committee's actions are in accordance with the requirements of this Procurement Policy and Procedures and any other internal policies that are applicable to procurement. He/She is also responsible for setting a timetable for evaluation activities and assumes the responsibility for keeping activities on schedule.

Consulting Services: Services that require the employment of a consultant(s) when internal human resources are not available. Consultants include a wide variety of private and public entities, including international and national consulting firms, and individuals.

Contract Variations: Changes to the terms and conditions of a signed contract which may arise due to changes in the Bank's or the EA's operating requirements or for other lawful reasons that both the EA and the supplier and/or service provider agree to.

Executing Agency: The organization responsible for carrying out a GCF-funded project, including all procurement related to the project.

Expression of Interest: A call to potential providers of goods, services and/or works to provide basic information about the capability of suppliers or service providers to satisfy the procurement needs.

Gender Balance: Men and women participate equitably in procurement activities and decision-making processes. (Note: ensuring equal numbers of male and female participants is not necessarily an accurate measure of gender equity as factors related to culture, power and voice also need to be considered.)

Goods: Include supplies, equipment, or machinery that are essential as input to achieving project objectives.

Local Purchase Order: A Local Purchase Order (LPO) is an official document that is issued by a buyer to a seller for the purchase of goods or services. A LPO sets forth the description, quantity, price, payment terms, and the date of delivery for a particular good or service.

Non-consulting Services: Services that are procured by an organisation other than consulting services that are contracted (e.g. catering, cleaning, health care, etc.).

Open LPO: A LPO that is issued to a supplier or service provider without defining the amount and/or quantity of the good or service required.

Performance Bond: A form of security that must be paid or submitted to the procuring agency by the supplier or contractor as a means of security for the due and faithful performance of the contract.

Pre-bid Conference: The initial forum where the EA's representatives and the prospective bidders discuss the different aspects of the procurement at hand. The ground

rules that will govern the procurement are discussed during the conference, e.g. the requirements of this policy. This is also the forum where the participants discuss the legal, technical and financial components of the contract to be bid. It is also an opportunity for the prospective bidders to request for clarifications about the bidding documents.

Pre-qualified Tendering: Used for high value and complex tenders with a view towards identifying prior to the submission of tenders, bidders that are qualified. Prequalification proceedings are intended to eliminate, early in the procurement proceedings, suppliers or contractors that are not suitably qualified or meet the criteria to perform the contract.

Procurement Officer: The Procurement Officer is the individual within the Executing Agency responsible for conducting the procurement process on behalf of the buyer. He/she reviews the purchase request, coordinates with the buyer to select an appropriate procurement method based on the size, complexity and appropriate market (local or international) of the procurement and implements the procurement process from the solicitation of quotes/bids through contract award.

Procuring Authority: The sole authority that is accountable for the organisation's procurement decisions. This may include the Board of Directors, the Chief Executive Officer, or another high authority determined by the organisation.

Selective Tendering: Allows the agency to select the suppliers eligible to tender. This tendering method should only be used when there is known to be a limited number of appropriate suppliers and/or where there is an approved list of contractors/suppliers.

Single-source Procurement: Single-source tenders are used in exceptional conditions where it is determined there is only one supplier capable of supplying the goods, services or works after undertaking a market sourcing exercise.

Shopping Procurement: A procurement method that compares price quotations obtained from at least three suppliers to assure competitive prices.

Surcharge: Surcharge is the act of imposing a charge for the loss that is incurred as a result of negligence (e.g. if a budget holder is delegated a procurement limit of \$2000 and approves, for example, a procurement of \$2500, he/she will be surcharged to pay the unauthorised expenditure of \$500, which is the amount above his/her approved procurement limit).

Two-stage Tendering: A two-stage tender process is normally used for goods, services or works that are of high value and high risk. It is used in more complex procurement activities where the procuring agency needs to learn more about the goods or services in the market. The tender is conducted in two stages:

Stage 1: An Expression of Interest (EOI) is issued to find out more about the goods, services or works or the market and the capability of suppliers or service provider to satisfy the procurement need.

Stage 2: A Request for Tender (RFT) is issued requesting suppliers or service providers to submit an offer for goods or services or to propose on a particular project.

Works: These are infrastructure-related activities, such as building of roads, bridges and all other activities related to civil or engineering works.

Overview

The *Procurement Policy and Procedures* set forth in this document establish guidelines and standards that the Fiji Development Bank will adhere to in understanding and managing the procurement of goods, services, and works. This includes goods, service or works acquired by an Executing Agency (EA) through core FDB loaned funds, GCF funded projects/programmes, and funds loaned and managed by the FDB on behalf of other funding institutions.

The *Procurement Policy and Procedures* will be mainstreamed into Volume 3 (General Lending Guidelines) of the FDB's Lending Policy and Implementation Guidelines, (herein referred to as Lending Manuals). The mainstreamed, GCF-compliant Lending Manuals will ensure that external procurement procedures and processes are fair and transparent, promote efficient procurement, provide for a dispute resolution process, and promote public disclosure of contract award.

The *Procurement Policy and Procedures* will also be mainstreamed into Chapter 4 of the FDB Accounting Manual. This will ensure that internal procurement procedures and processes are also GCF-compliant.

There are two parts to this *Procurement Policy and Procedures* document - Part I focuses on the Policy and Legislative Framework and Part II will focus on Procurement Procedures.

Part I – Policy and Legislative Framework

1.0 Introduction

The Fiji Development Bank (FDB) is an autonomous statutory body that provides finance for projects that contribute to the development of Fiji's economy and improve the quality of life for the people of Fiji. The financing that is provided includes core FDB loan funds, GCF-funded projects/programmes, as well as funds loaned and managed by the FDB on behalf of other funding institutions.

This Procurement Policy and Procedures are aligned to Section 10¹ of the FDB Act 1978, which is taken into consideration when procurement is conducted by executing agencies that borrow core FDB loan funds and funds that are loaned and managed by the FDB on behalf of other funding institutions.

1.1 Purpose of the Policy

This Policy and Procedures are developed to provide clear guidelines on the procurement of goods, services, and works acquired by an Executing Agency (EA) through core FDB loaned funds, GCF-funded projects/programmes, and funds loaned and managed by the FDB on behalf of other funding institutions. All procurement activities are to be undertaken in compliance with the procurement practices and procedures set forth in this Policy and Procedures.

1.2 Objectives of the Policy

The fundamental objectives of the Procurement Policy and Procedures are:

- a) to ensure that the procurement process is effective, efficient and carried out within a clearly defined internal controls framework;
- b) to ensure that procurement is conducted in a manner that is independent and professional when dealing with suppliers/representatives;
- c) to ensure that in the performance of their duties, officers involved in purchasing shall undertake their responsibilities uninfluenced by the receipt or prospect of threats, reprimands or rewards, nor shall they accept or seek gifts or other favours in the performance of their duties;
- d) to ensure that sufficient budget allocation and funds exist for planned procurements and value for money is sought in the purchasing of goods, works and services;
- e) to ensure that official requisitions are prepared and duly approved by the delegated officers prior to issue of Purchase Orders for the acquisition of goods and services required by the Bank; and

¹ Section 10 (d) of the Fiji Development Bank Act (Cap 214) mandates the Board to make rules, generally for the exercise of its powers and duties under the provisions of the Act.

- f) to ensure that there is proper control of unissued Purchase Orders, continuous review and follow-up of unmatched and outstanding Purchase Orders and documentation relating to purchase of goods, works and services is kept intact and correctly traced to payments.

1.3 Scope

This Procurement Policy and Procedures will apply to FDB staff when processing core FDB loaned funds, GCF-funded projects/programmes, and loans funded by other funding institutions. The Policy and Procedures are also applicable to all EAs procuring goods, services or works from core FDB loaned funds and the funds loaned and managed by the FDB on behalf of other funding institutions.

Prior to awarding a loan, FDB must evaluate the capacity of EAs to carry out project procurements consistent with this Procurement Policy and Procedures. The FDB may also condition the funding of goods, works and services on the adoption of this Policy and Procedures to ensure compliance of its procurement requirements.

The FDB must ensure that all persons mandated by the EA to be involved in the procurement process are responsible for protecting the integrity of the process and ensure that all bidders/vendors/service providers are treated on a fair and impartial basis.

1.4 Accountability

An EA must appoint a Procuring Authority (PA) (e.g. the Board of Directors, the Executive Management, etc.) who will be accountable for all its procurement decisions. Whilst the PA may delegate its procuring authority to appointed budget holders, the PA remains ultimately accountable for all the EA's procurement decisions. The budget holders are accountable to the PA for all procurement responsibilities delegated to them. This includes oversight and ensuring staff reporting to them are aware of the requirements of this Procurement Policy and Procedures.

1.5 Effective Date and Revision

This Policy will come into immediate effect following approval of the GCF Board and adoption by the FDB Board.

The Policy will also be formally reviewed every three to five years subject to global changes on procurement, or through the directives of the FDB Board.

2.0 Legislative Environment and Policy Framework

The FDB and the EAs operate within an environment of legislations and relevant internal policies. The FDB and the EAs must ensure that all procurements carried out are in accordance with relevant legislations, which include the Fiji

Development Bank Act², the Employment and Relations Act³ , and the Environment Act⁴. Given the nature of the funding offered and managed, the FDB and the EAs shall have a demonstrated commitment to acceptable performance with and systematic approach to employment relations and environmental management. In addition to the above, the FDB and the EA must also ensure that procurements are carried out in accordance with policies that govern their internal processes, including the FDB Lending Policy and Implementing Guidelines (FDB LPIG). Apart from the FDB LPIG, the FDB and EAs will also need to take into consideration policies that govern conflict of interest, receipt of gifts and hospitalities, etc.

3.0 Procurement Principles

The Policy is underpinned by the five procurement principles that the Bank promotes and supports and the EAs are also required to promote. The five procurement principles include:

- Value for money
- Encouraging competition
- Efficiency, effectiveness and ethical use of resources
- Accountability and transparency
- Promoting integrity, fairness, independence, and professionalism in the procurement process.

3.1 Value for Money

Value for money is the core principle that underpins procurement. Value for money must be obtained when all relevant costs, benefits and options included in the procurement cycle have been considered. In simple terms, it means achieving the desired outcome with the best possible price.

3.2 Encouraging Competition

Encouraging competition requires non-discrimination in procurement and the use of competitive procurement processes.

A competitive procurement environment promotes the inclusion of both international and local competition, as appropriate. Additionally, it is also non-discriminatory, which implies that one rule applies to all, including women- or men-owned and managed businesses, locally- or internationally-based companies, large, medium or small enterprises (SME's), etc.

² <https://fdbintranet/corporate/FDB%20Act.pdf>

³ www.employment.gov.fj/images/640/erlaws/Employment%20Relations%20ACT%202007.pdf

⁴ <http://theredddesk.org/sites/default/files/environment-management-act-2005.pdf>

3.3 Efficiency, Effectiveness and Ethical Use of Resources

Efficient procurement contributes towards sound and ethical management of an agency's resources, which in turn contributes towards the effectiveness of the services that are delivered by the agency. Proper planning and management of procurements must be enhanced to improve efficiency and ensure that value for money is obtained.

3.4 Accountability and Transparency

Accountability and transparency are primary considerations throughout the procurement process that encourage the efficient, effective and ethical use of resources.

Accountability requires all staff to be responsible for the actions and decisions that they take in relation to procurements and for the resulting outcomes. Staffs are answerable for such actions and decisions through established lines of accountability.

The Bank and EAs have responsibility for ensuring that procurement processes are open and transparent, that decisions are justified, and that appropriate scrutiny of procurement activity and procurement-related actions are documented, defensible, accessible and substantiated in accordance with legislations and policies.

3.5 Fairness, Integrity, Independence and Professionalism

The FDB must ensure that the EAs conduct procurement with fairness and integrity. This involves ensuring that procurement decisions are made in an impartial and fair manner, which is consistent, reliable and justifiable.

Procurement procedures must treat potential suppliers and service providers fairly and in a non-discriminatory manner. All candidates must have equal access to identical information and receive impartial consideration following common rules and deadlines.

3.6 Procurement Basics and Exceptions

3.6.1 *What is Procurement?*

Procurement is the process of acquiring goods, works and services from an external source. This includes the identification of procurement needs, requirements and the preparation of all necessary procurement documents. This process continues with the assessment of risk of various procurement alternatives, calling for and evaluating alternative solutions, contract award, and delivery of and payment for the goods, works or services required. All procurement activities will be conducted in accordance with this Policy and Procedures.

3.6.2 *What is not procurement?*

While procurement relates to the acquisition of goods, services and works, it does not include:

- a. grants
- b. investment (or divestment)
- c. sale by tender
- d. loans
- e. engagement of employees.

Part II – Procurement Process and Procedures

4.0 Procurement Process

4.1 Quotations

- 4.1.1 The Shopping Procurement method is applicable for procurement of goods, services or works costing less than F\$100,000, unless the PA has approved an exemption in accordance with Section 6.7 of this Policy.
- 4.1.2 The Shopping Procurement method is appropriate when:
- a) the required goods and/or services are available off-the-shelf;
 - b) the goods and/or services are standard specification commodities;
 - or
 - c). the works are a simple civil works of small value.
- 4.1.3 Three competitive quotes must be obtained when adopting the Shopping Procurement method.

4.2 Requisition

- 4.2.1 An internal requisition must be raised for any procurement that is required. This shall include details of the supplier or service provider, the goods, services or works that are required, the price and quantity, and the account code to be debited.
- 4.2.2 Requisition to procure goods, services or works must not be placed unless an approved budget exists to cover the anticipated expenditure.
- 4.2.3 All requisitions should be accompanied with supporting documents.
- 4.2.4 The requisition must be approved by a budget holder for the account code that is to be debited.

4.3 Local Purchase Orders

- 4.3.1 A Local Purchase Order (LPO) shall be issued when procuring any goods, services or works from an organisation within Fiji, unless a contract or agreement is required to be entered into.
- 4.3.2 An LPO shall only be issued after a requisition has been raised and approved.
- 4.3.3 The LPO must agree with the requisition, including the names of the supplier and address, the description of the goods or services, the quantity of goods being ordered, the price of the goods or services, and the account code to be debited.
- 4.3.4 An “open” LPO must not be issued to a supplier or service provider.
- 4.3.5 LPOs shall be prepared in triplicate. The original copy will be presented directly to the supplier or service provider or handed over to an authorised officer of the requesting Department and then to the supplier or service provider.

4.3.6 The duplicate copy of the LPO will be sent to the Finance Section for payment and must be accompanied with supporting documents (including the internal requisition and invoice). The triplicate copy will be retained in the LPO book.

4.3.7 An invoice must be obtained from a supplier or service provider upon receipt of the goods or services provided.

4.4 Procurement Authorities/Limits

4.4.1 The PA may delegate the authority to procure goods, services or works to budget holders. Details of the delegated authorities are shown in Table 1.

4.4.2 In delegating the procurement authority, the PA must take into account the level of skills and experience of the budget holder.

4.4.3 Budget holders must ensure that they do not authorise procurements that are above their limit.

4.4.4 A budget holder who authorises an expenditure exceeding his/her procurement limit, including by splitting purchase orders, contracts or payments to circumvent the requirements of this Policy, shall be liable for surcharge to repay the unauthorised amount.

Table 1: Procurement Limits and Documentation

Procurement Amount (F\$)	Procurement Authority	Documentation
Less than \$100,000	Budget Holders/Heads of Department	3 quotations required
\$100,000 and above	Procuring Authority	Call for tender -- prepare and issue a Request for Tender

4.5 Open Tender Procurement as the Preferred Tender Method

4.5.1 Open tendering shall be the preferred tender method used unless the nature of the tender or its complexity justifies the use of another of the procurement methods outlined in Section 4.6.

4.5.2 Public tenders must be called for any procurement of goods, services or works valued at F\$100,000 or more, unless the PA has approved an exemption in accordance with Section 6.7 of this policy.

4.5.3 Prior to calling for a Public Tender, specifications for the goods, services or works required shall be formulated and approved by the requesting Department. The requesting Department shall ensure that the specifications also include information concerning the EA, the scope of the procurement, the contact details of the EA, and other relevant information that may need to be accessed to assist in fully responding to a tender.

- 4.5.4 Tenders will normally be called through advertisements in the daily newspapers and/or relevant websites to encourage open and competitive bidding. Tenders will indicate that women and local companies are encouraged to apply.
- 4.5.5 The EA may require that bidders remit F\$500 as tender deposit. The tender deposit is refundable.
- 4.5.6 The EA may charge a fee for the supply of documents relating to tenders. The rate of the document fee to be charged will be at the discretion of the Procurement Officer and is non-refundable.

4.6 Other Methods of Procurement

- 4.6.1 An EA may opt to engage in any of the following procurement methods, provided that all the conditions for the use of that method are satisfied:
 - a) Single-source procurement
 - b) Selective tendering
 - c) Two-stage tendering
 - d) Pre-qualified tendering.

4.7 Procurement Planning

- 4.7.1 Annual Procurement Plans (APP) must be prepared by budget holders and submitted to the Procurement Officer (PO).
- 4.7.2 The APP must contain the following:
 - a) the procurement of all goods, services and works required for the year;
 - b) the appropriate procurement method that is to be adopted for each of the goods, services and works required; and
 - c) the forecasted quantity, budget and timing for each purchase.
- 4.7.3 Upon receipt of APPs, the PO may assess and identify common goods and services that are required for the benefit of more than one Department. With the identification of such common goods and services, a tender may be called for the supply of such goods and services and an annual standing offer contract entered into with an agency.
- 4.7.4 Purchase of non-budgeted items is not permissible unless approved by the PA. The PA's approval to procure non-budgeted items is subject to the requesting budget holder providing the following:
 - a) proper justifications for the need to procure the goods, services or works;
 - b) the account code from which the required budget would be transferred; and
 - c) the consent of the Budget Holder that will be transferring the budget.

4.8 Qualification of Suppliers and Contractors

- 4.8.1 The qualification of suppliers'/service providers shall be made on the basis of the following:

- a) that they have the legal capacity to enter into a contract;
- b) that they have sound financial stability;
- c) that they possess the necessary professional and technical qualifications, professional and technical competence, capability and experience, reputation to perform the contract and reputation to provide post-award and implementation support;
- d) that they are not bankrupt, insolvent, involved in fraudulent or corrupt activities, suspended from operating a business or awaiting legal proceedings that may warrant the entity to cease operations;
- e) that they have been compliant with the Fiji Revenue and Customs Services Value Added Tax (VAT) payment requirements during the course of their operations; and
- f) that they have been compliant with the Fiji National Provident Fund requirements.

4.8.2 The PA may disqualify a supplier/service provider if he/she establishes that the information provided as part of the qualification of supplier/service provider was false and incomplete or does not meet minimum criteria.

4.9 Establishment of a Tender Evaluation Committee

4.9.1 A Tender Evaluation Committee (TEC) is to be established for all procurements valuing F\$100,000 and above.

4.10 Role of the Tender Evaluation Committee

4.10.1 The TEC will be responsible for the evaluation of all bids received.

4.10.2 The TEC will also be responsible for the following:

- a) develop and agree on the evaluation criteria that are to be used for the evaluation of the bids;
- b) declare and document their contacts with potential suppliers, and recognize, identify, and address any actual or perceived conflicts of interest;
- c) attend all meetings and ensure that any absence is recorded and explained in the evaluation report;
- d) ensure that the entire evaluation is conducted in an impartial and thorough manner using the agreed criteria;
- e) document the evaluation process;
- f) prepare and sign off on a detailed evaluation report that recommends and justifies the selection of the preferred supplier/service provider to the PA; and
- g) recommend to the PA any variation(s) to a contract.

4.10.3 The TEC must take into consideration that the general principle behind the evaluation process is the selection of a quote/bid/proposal that provides the best value taking into account technical, organizational and financial considerations stated in the specifications or criteria.

4.11 Appointment of a Tender Evaluation Committee

- 4.11.1 The PA will be responsible for the appointment of the TEC. The PA must ensure that there is gender (i.e. gender balance as per the FDB's Gender and Social Inclusion Policy) and ethnic diversity on the Committee.
- 4.11.2 The PA must ensure that the selected members of the TEC have the technical and administrative ability to give an informed opinion on the tender. All TEC members must attend all meetings and any absence must be recorded and explained in the evaluation report.
- 4.11.3 In appointing the members of the TEC, the PA must also appoint a Secretariat for the TEC. The Secretariat will not have any voting rights and will only be responsible for the following:
- a) documenting the minutes of the discussions, findings and decisions of the TEC;
 - b) preparing the Tender Evaluation Report based on the outcome of discussions and decisions of the TEC; and
 - c) ensuring that all meeting minutes are eventually attached to the final TEC Report that will be signed by the members of the TEC for onward submission to the PA.

4.12 Composition of the Tender Evaluation Committee

- 4.12.1 The TEC, at a minimum, shall comprise the following members:
- a) a representative from Executive Management as Chairperson of the TEC;
 - b) a senior representative from the Department that is calling for the tender;
 - c) a Finance representative;
 - d) a Human Resource representative; and
 - e) the Procurement Officer.
- 4.12.2 A minimum of three members of the TEC needs to be represented to form a quorum.
- 4.12.3 In instances where the TEC composition stated in 4.12.1 is not applicable, the EA must advise and obtain the consent of the Bank on a practical composition.
- 4.12.4 Subject to the consent of the PA, the TEC may co-opt an external member depending on the complexity or technical nature of the tender.
- 4.12.5 External members of the TEC that are co-opted for their technical expertise and knowledge will be eligible for sitting fees. The rate of the sitting fee will be at the discretion of the PA.

5.0 Preparing the Request for Tender

5.1 Request for Tender

- 5.1.1 A RFT shall be prepared for all contracts valued at F\$100,000 and above, particularly for goods, consulting services, non-consulting services or works with complex requirements.
- 5.1.2 For procurement of goods, non-consulting services and works, the RFT must contain all necessary information to enable potential bidders to prepare and submit responsive tenders. This information includes:
- a) the specifications of the goods, non-consulting service or works to be procured;
 - b) the evaluation criteria for the award of the procurement contract; and
 - c) the tender deadline.
- 5.1.3 For procurement of consulting services, the Terms of Reference must include:
- a) background information on the program funding the services;
 - b) objective(s) of the services;
 - c) description of tasks/activities;
 - d) required reports/deliverables;
 - e) an indicative budget;
 - f) period of performance providing time for review and approval of final deliverables;
 - g) minimum and desired qualifications of consulting service providers; and
 - h) description of how performance will be monitored and evaluated.
- 5.1.4 The process to formulate the RFT must ensure that the FDB procurement principles are upheld.
- 5.1.5 The RFT must be endorsed and signed by the Head of the Division that is calling for the tender. For consultancy services, the endorsement of the Head of the Human Resources Division must also be obtained.
- 5.1.6 Where goods, services or works to be procured cannot be described in detail in the advertisement, additional information must be readily available on the relevant website(s).

5.2 Terms and Conditions of the RFT

- 5.2.1 The terms and conditions of all RFTs must provide clear details that will allow the bidders to submit a responsive tender describing how it proposes to meet the stated requirements and a detailed cost estimate.
- 5.2.2 The RFT must not be formulated to benefit a particular supplier(s) or service provider(s).

5.3 Distribution of the RFT - include dissemination of RFT on FDB website

- 5.3.1 RFTs should be published to allow the widest distribution and maximum competition and should provide the bidders with adequate time to respond, normally between two to six weeks.
- 5.3.2 Modes of distribution of the RFTs may include the following:
 - a) by email;
 - b) by posting on websites; and
 - c) through physical collection from the Procurement Officer.

6.0 Tendering Process

6.1 Expression of Interest

- 6.1.1 An EOI can be used as a preliminary step to a tender to gauge whether there are potential suppliers or service providers that are interested in and capable of satisfying the procurement need. It can also be used as a preliminary stage of selecting a panel of contractors or a supplier list.

6.2 Receipt and Opening of Tenders

- 6.2.1 The procedures pertaining to receipt and opening of tenders must guarantee fairness and impartiality and must ensure that submissions are treated in confidence. Where necessary, pre-bid conferences and site visits may be arranged, depending on the nature of the procurement.
- 6.2.2 A tender box shall be provided in respect of all tenders.
- 6.2.3 The tender box must be locked and the key shall be kept by the Internal Auditor.
- 6.2.4 Any unidentified tender which is opened inadvertently shall be placed in a sealed envelope and placed in the tender box with the time, date, place of receipt and the initials of the receiving officer noted on the envelope.
- 6.2.5 Tender submissions that are presented in packages larger than the Tender Box window shall be received by the PO and kept safely without opening them.
- 6.2.6 An independent designated officer appointed by the PA and a senior representative from the Department calling for the tender shall open, register and sign all tenders received on the specified date and submission time. The time for the bid opening shall be the same as for the deadline for receipt of bids or promptly thereafter. This, together with the place for the bid opening, shall be clearly specified in the invitation to bid.

- 6.2.7 Any tenderer or a representative of the tenderer may be present at the time the tenders are received and opened. However, neither tenderer nor the representative who is present at the time the tenders will be opened shall be given any information other than confirmation that their tender has been received and recorded.
- 6.2.8 The PO must ensure that receipts are issued for any moneys received in the form of tender deposits.

6.3 Late Submissions

- 6.3.1 Late submissions will not be accepted unless the submission is late as a consequence of mishandling by the EA. Potential suppliers whose submissions are received after the specified deadline must not be penalised if the delay is due solely to mishandling by the EA.
- 6.3.2 Mishandling by the EA does not include mishandling by a courier or mail service provider engaged by the potential supplier or service provider to deliver a tender. It is the responsibility of the potential supplier to ensure that the tender is dispatched in sufficient time for it to be received by the deadline.
- 6.3.3 Late submissions should be returned unopened to ensure that they are not evaluated or compared with submissions submitted by the due date and time to demonstrate to other tenderers that the process of receiving tenders is fair and impartial.

6.4 Receipt of Valid Tenders

- 6.4.1 All tenders received on or before the due date and time are deemed valid and shall be opened, registered and signed before they are passed to the PO.
- 6.4.2 All valid tenders received before or on the due date and time shall remain valid for four (4) weeks after the due date and time.
- 6.4.3 The PO will be required to prepare a tender summary outlining each bidder's compliance with the key deliverables in the specification (e.g. technical requirements, cost of the proposal, etc.) in order to facilitate the evaluation process.
- 6.4.4 Bidders shall not be requested or permitted to alter their bids, including through any voluntary increase or decrease in bid prices, after the deadline for receipt of bids.
- 6.4.5 The EA shall ask bidders for clarification needed to evaluate their bids but shall not ask or permit bidders to change the substance or price of their bids after the bid opening. Requests for clarification and the bidders' responses shall be made in writing, in hard copy or by an electronic system.

6.5 Invalidation of Tenders

- 6.5.1 The Department initiating the procurement must clearly define the criteria that are to be used by the TEC for invalidating a tender. These may include but not limited to the following:
- a) fraudulent conduct;
 - b) provision of false information;
 - c) violation of instructions to bidders; and
 - d) failure to meet the qualification criteria of suppliers.

6.6 Withdrawal of Tenders

- 6.6.1 The decision to withdraw a tender must be published in the same manner in which the original tender invitation was advertised. A tender may be withdrawn due to:
- a) change in circumstances where there is no longer a need for the goods or services specified in the RFT or the scope in the tender procedure is no longer necessary;
 - b) no tender submitted within specified time and date;
 - c) tender document containing technical specifications that are written for a specific supplier and cannot be met by other potential suppliers;
 - d) bid prices unrealistic;
 - e) inadequate bids received; and
 - f) evidence of collusion and improper tender practice.

6.7 Waiver of Tender Procedures

- 6.7.1 Tender procedures may be waived in exceptional circumstances where:
- a) the goods or services are only available from a sole or single source;
 - b) matters of extreme urgency involving immediate risk to persons, property or serious disruption to services; and
 - c) extension of an existing contract is preferable to a change of supplier, which could cause significant disruption.

7.0 Tender Evaluation

7.1 Evaluation of Bids

- 7.1.1 The evaluation of bids to identify the preferred bidder must be carried out by a suitably competent TEC and in compliance with the general law and principles of equal treatment, non-discrimination and transparency.
- 7.1.2 The TEC must ensure that tenders received are complete and comply with all the requirements set by the Bank and the EA in the tender documents. Tender evaluation must include:
- a) formal compliance checks;
 - b) technical and substantive compliance checks;
 - c) selection of the best tender on the basis of *best value*; and
 - d) recommendation for the award of the contract.

7.1.3 The TEC must prepare a detailed report on the tender evaluation and comparison of bids, setting forth the specific reasons on which the recommendation is based for the award of contract.

7.2 Conflict of Interests

7.2.1 Conflict of interests refers to a conflict in the execution of official duties, where private or personal interest may influence the way official duties are executed.

7.2.2 Officials undertaking procurement must recognise and deal with actual, potential and perceived conflicts of interest by reporting potential conflicts in writing or excuse themselves from further involvement in deliberations of a tender award.

7.3 Confidentiality

7.3.1 The confidentiality of all tender-related information must be preserved to ensure that sensitive information related to pre-evaluation and post- evaluation of proposals is not released to bidders until the publication of the award of contract.

7.4 Receipt of Gifts

7.4.1 Gifts received in whatever form by an officer in an official capacity are the property of the agency.

7.4.2 Details of gifts received and any condition(s) attached to them must be entered and accounted for in a gift register.

7.5 Selection of Preferred Bidder

7.5.1 The TEC will be responsible for assessing the bids and recommending the preferred bidder to the PA.

7.5.2 The TEC must appropriately justify the selection of the preferred bidder to the PA. Justifications must conclude that the preferred bidder:

- a) satisfies the criteria specified in the RFT;
- b) is capable of fully delivering and sustaining the goods, services or works that are to be provided; and
- c) provides the best value for money in accordance with the criteria specified in the RFT.

7.5.3 Best value does not necessarily mean the lowest submitted offer, although price will have a greater weight when evaluating proposals for goods, works and non-consultant services. Rather, selection of the preferred bidder represents a trade-off between price and non-price factors (such as product performance, delivery schedule, technical capacity, past performance, etc.) that provide the greatest overall benefit to the Bank and the EA.

7.6 Approval of Evaluation Report

7.6.1 All the members of the TEC must sign the evaluation report prepared by the Secretariat to indicate that the selection of the Committee is correctly captured and reflected prior to the endorsement of the PA.

7.7 Tender Negotiations

7.7.1 Negotiations must be conducted with the preferred bidder to obtain the best value for money for the Bank and the EA.

7.7.2 The Chairperson and another selected member of the TEC must be designated to co-ordinate negotiations with the preferred bidder(s).

7.7.3 Tender negotiations shall clarify matters regarding pricing and quality of the proposed goods and services, conditions of contract, etc.

7.7.4 The record of agreements reached during negotiations needs to be formally documented and signed by both parties (i.e. the procuring agency and the selected bidder).

8.0 Awarding of Contracts

8.1 Drawing of contract

8.1.1 The Procurement Section or the Department initiating the procurement will prepare a letter of acceptance of the successful bid for the PA's signature and will notify the successful bidder accordingly.

8.1.2 Upon notification of the award of contract, the successful bidder may be required to submit a performance bond/security before commencing performance under the contract. The PO, in consultation with the Department initiating the procurement, will fix the amount of the performance bond/security, as appropriate, at an amount that will not be less than 10 percent of the contract value.

8.1.3 In consultation with the Legal Department/Legal Advisor and the Department initiating the procurement, a contract will be drawn up and negotiated with the successful bidder. The contract will specify the proposed general and special contract terms.

8.1.4 The general and special contract terms should include:

- Technical Specifications and Statement of Work/agreed Terms of Reference;
- Period of Performance;
- Quantity of goods and unit prices or daily rates for consultant services;
- Deliverables and reporting requirements;
- Payment Terms;
- Name and address of the successful bidder;
- General and special terms and conditions;
- Termination clause;

- Scope of liabilities including the defects liability period;
- Performance Bond payable;
- Successful bidder's commitment to comply with applicable laws and standards on environmental protection, corporate social responsibility, and fraud and corruption; and
- Dispute Resolution and the governing law and arbitration clauses.

8.1.5 The TEC Chairperson and the Head of the Department initiating the tender must ensure that critical issues raised in the evaluation report are also covered in the draft contract.

8.1.6 The final contract with the selected bidder must be duly signed by the PA or his/her delegate 12 days after public disclosure of the tender award.

8.2 Advising Unsuccessful Bidders

8.2.1 Once an award is made, the EA should notify unsuccessful bidders in writing that their bids/proposals were not selected.

8.2.2 For highly complex awards, the EA may conduct a debriefing upon request from unsuccessful bidders. The debriefing could be verbal or in writing and is limited to the identification of strengths and weaknesses in the unsuccessful bidders' proposals.

8.3 Post Award Information

8.3.1 The PO must inform suppliers that have submitted a bid of the contract award decision.

8.3.2 Tender awards must also be publicly disclosed (i.e. through the Bank's or the EA's websites). Information that is to be disclosed should include:

- a) a description of the goods or services procured;
- b) the name and address of the successful supplier or service provider;
- c) the value of the successful tender; and
- d) the date the contract was awarded.

8.4 Contract Variations

8.4.1 Variation(s) to a contract must be recommended to the PA by the TEC.

8.4.2 Any variation(s) to the contract must be approved by the PA.

8.4.3 Contract variation refers to, but is not limited to, the following:

- a) extension of the contract period;
- b) change in the total value of the agreement or the rates of a specific service, or both, or a certain portion of the agreement;
- c) changes in the specification of services or support schedule, or both, but without changes to the value of the agreement;
- d) terms of payment for services;
- e) frequency of services to be rendered; or
- f) any combination of the above.

9.0 Complaints/Procurement Dispute Resolution

9.1 Right to Complain or Dispute Tender

- 9.1.1 Any unsuccessful supplier, service provider, contractor or member of the public who claims to have suffered or may suffer from loss due to breach of duty by the EA during the tender process may seek review in accordance with this part of the Policy and Procedures. However, the process for dealing with disputes which arise during the Agreement period will be dealt within the Agreement.
- 9.1.2 Complaints must to be filed prior to the execution of the contract for the tender that is under dispute.
- 9.1.3 Complaints will need to be formalised in writing and lodged with the PA within seven working days of the publishing of the award of contract notice. The formal complaint should outline the name of the tender and the details of the complaint.
- 9.1.4 All formal complaints must be recorded in the Complaints Register and referred to the Internal Auditor, who will acknowledge their receipt within three working days. The Internal Auditor will investigate the complaint and where necessary convene an independent Procurement Complaints Committee (PCC) to preside over the complaint.
- 9.1.5 The PCC will comprise the following:
- a) the Internal Auditor (Chairperson);
 - b) the Legal Officer/Advisor; and
 - c) a Head of Department who is independent of the tender that is the subject of the complaint.
- 9.1.6 The PCC will attempt to resolve the complaint by holding discussions with the supplier, service provider or contractor making the complaint and the Chairperson of the TEC.
- 9.1.7 The decision of the PCC will be discussed with the complainant and formally conveyed in writing.

9.2 Review by the Procuring Authority

- 9.2.1 Where a supplier, service provider, contractor or member of the public remains dissatisfied with the decision of the PCC, she/he may lodge a request in writing to the PA, if she/he wishes to pursue the issue. The issue will then be examined by the PA, who will issue a decision within 14 days of receipt of the PCC's decision, as discussed in Section 9.1.7.
- 9.2.2 The PA's written decision shall state the reasons for the decision and the corrective measures that are to be taken.
- 9.2.3 If the PA fails to issue a decision within the number of days stated in Section 9.2.1, the complainant is entitled to immediately institute proceedings under Section 9.3.

9.3 Judicial Review

- 9.3.1 If a supplier, service provider, contractor or a member of the public continues to be dissatisfied with the decision of the PA or the PCC, and although the procurement contract with the successful supplier has commenced execution, the supplier, service provider contractor or member of the public has the right to instigate court proceedings.
- 9.3.2 The supplier, service provider, contractor or member of the public may proceed with a judicial review if it remains dissatisfied with the decision issued by the PA within the 14-day period stated in Section 9.2.1. The supplier, service provider, contractor or member of the public must ensure that the PA is advised within 5 days following the 14-day period, if it remains dissatisfied with the decision issued by the PA, of its intention to proceed with a judicial review.
- 9.3.3 Subject to Sections 9.3.2 and 9.3.3 above, the EA must advise the Bank of the anticipated judicial review and the potential delay in loan execution, if any.

9.4 Disclosure of Judicial Review Resolution Decisions

- 9.4.1 All procurement dispute resolution decisions must be publicly disclosed (i.e. through the Bank's or the EA's websites). Information that is to be disclosed should include:
- a) a brief description of the procurement dispute;
 - b) the final decision on the dispute; and
 - c) the date the decision was finalised.