

Tanzania

Public Procurement Act

Public Procurement (Selection and Employment of Consultants) Regulations, 2001

Government Notice 137 of 2001

Legislation as at 31 July 2002

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Public Procurement (Selection and Employment of Consultants) Regulations, 2001 (Government Notice 137 of 2001)

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[Section 75; G.N. No. 137 of 2001]

Part I – Preliminary provisions (regs 1-4)

1. Short title

These Regulations may be cited as the Public Procurement (Selection and Employment of Consultants) Regulations.

2. Application

- (1) These Regulations shall apply—
 - (a) to the services of Consultants which are required by a procuring entity in connection with public financed projects;
 - (b) to all acquisition of consultancy services undertaken within the framework of financing through other sources of funds managed by public bodies, except where the protocol of agreement between Tanzania and the sources of funds concerned requires a specific procedure and has provided conditions for capacity building and participation by local consultants;
 - (c) to consulting services of an intellectual and advisory nature.
- (2) These Regulations shall not apply to services in which the physical aspects of the activity predominate.

3. Interpretation

In these Regulations, unless the context otherwise requires—

"**accounting officer**" means a Government officer appointed in accordance with the provisions of the Public Finance Act ¹ or by the Local Government (District Authorities) Act ² or the Local Government (Urban Authorities) ³ to hold a vote and account for all monies expended from that vote;

"**Act**" means the Public Procurement Act ⁴;

"**appeals authority**" means the accounting officer, tender board, public procurement appeals authority or a court of law;

"**approving authority**" in relation to approval of procurement, that is undertaken by a procuring entity, means an accounting officer, a ministry tender board, a regional tender board, a district tender board, a local government authority tender board, a parastatal tender board or Central Tender Board, when approving procurement that is undertaken by a procuring entity;

"**board**" means the Central Tender Board established under section [5](#) of the Act or ministry tender board established under section [11](#) of the Act or regional tender board established under section [12](#) of the Act or district tender board established under section [13](#) of the Act or local government authority tender board established under section [14](#) of the Act or parastatal tender board established under section [15](#) of the Act;

"**competitive selection**" means the method of procurement of services whereby a limited number of consultants or providers of services are invited by a procuring entity to compete with each other in submitting either unpriced or priced proposals and where such proposals are evaluated either on the basis of quality alone or on the basis of a combination of quality and cost;

"**consultant**" means a company, corporation, organisation, partnership or individual person registered or capable of being registered by the relevant professional regulatory body engaged in or able to be engaged in the business of providing services in architecture, economics, engineering, surveying accountancy, auditing, taxation, management or any field of professional activity including technical assistance, and who is, according to the context, a potential party or the party to a contract with the procuring entity;

"**contract**" means the contract or agreement made between a procuring entity and a consultant or provider of services as a result of procurement proceedings for the provision of services;

"**corrupt practice**" means the offering, giving, receiving, or soliciting anything of value in order to influence the action of a public officer in the procurement process or contract execution;

"**department**" in relation to a ministry of Government or other public authority or public body, means and includes any division or unit by whatever name known of that ministry, authority or other body;

"**foreign consultant**" means either an individual consultant whose nationality is that of a foreign country or a consulting firm whose registered office and centre of activities are located in a foreign country and the majority of its share capital, as far as the ownership thereof is or can be publicly known, is owned by citizens of foreign countries;

"**fraudulent practice**" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the procuring entity and includes collusive practices among consultants or providers of services (prior to or after proposal submission) designed to establish proposals at artificial non-competitive levels and to deprive the procuring entity of the benefits of free and open competition;

"**government**" means the Central Government or the local government authority;

"**Government Gazette**" means the official periodic bulletin published with the authority of the Government;

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[Cap. 287](#)

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[Cap. 288](#)

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[Cap. 410](#)

"**limit of authority**" means the maximum value of any single contract that may be approved by an approving authority, or entered into by a procuring entity without prior approval of an approving authority;

"**majority**" means share capital of more than fifty percent;

"**Minister**" means the Minister responsible for matters relating to finance;

"**minor value**" means an amount of money up to a maximum limit for the procurement of services of a minor nature as specified in the Second Schedule to these Regulations or as may be determined by the Minister;

"**national consultant**" means either an individual consultant whose nationality is that of Tanzania or a consulting firm whose registered office and centre of activities is located in Tanzania and the majority of whose share capital, as far as the ownership thereof is or can be publicly known, is owned by citizens of Tanzania;

"**organisation**" means an institution having rules and procedures in the public, private or civil society and includes non-governmental, community based organisations and academic institutions;

"**parastatal organisation**" means:

- (a) Any body corporate established by any written law other than the Companies Act ⁵; or
- (b) any corporation registered under the Companies Act, in which not less than fifty percent of the share capital is owned by the Government or by another parastatal organisation or in the case of a company which is limited by guarantee, where the Government has undertaken to meet fifty percent or more of the liabilities of that company; or
- (c) any company, management, board, association or statutory body in which the Government has a majority or controlling interest and includes a government agency established under the Executive Agencies Act ⁶;

"**procurement**" means buying, purchasing, renting, leasing or otherwise acquiring any services by a procuring entity spending public funds on behalf of a ministry, department or regional administration of the Government or public body and includes all functions that pertain to the obtaining of any services including description of requirements, selection and invitation of tenders or proposals, preparation and award of contracts;

"**procurement agent**" means a person specialised in procurement business and acts for another called the principal in dealing with third parties in matters relating to procurement;

"**procurement contract**" means the contract between the procuring entity and a consultant, resulting from procurement proceedings;

"**procurement proceedings**" means the proceedings to be followed by a procuring entity or any approving authority when engaging in procurement;

"**procuring entity**" means ministry, Government department, agency, parastatal organisation, a regional or a local government authority as the case may be;

"**public body or public authority**" means:

- (a) The Government;
- (b) any Ministry department or agency of Government;

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[Cap. 212](#)

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[Cap. 245](#)

- (c) any body corporate or statutory body or authority established for the purposes of the Government;
- (d) any company registered under the Companies Act ⁷ being a company in which the Government, whether by the holding of shares or by other financial input, is in the position to influence the policy of that company;
- (e) any local government authority;
- (f) any parastatal organisation;

"public officer or officer" means—

- (a) any person holding or acting in an office of emolument in the services of the Government;
- (b) any person holding or acting in the office of Minister in the Government;
- (c) an employee of any body corporate such as is referred to in the definition of public body or public authority;
- (d) any person conducting negotiations, for or in relation to a public contract, or a prospective public contract on behalf of a public body or public authority; or
- (e) a person who is a consultant to a public body or public authority;

"Regulations" means these regulations or orders promulgated by the Minister in accordance with section [75](#) of the Act;

"services" means any object of procurement other than goods or works, which involve the furnishing of labour, time or effort including the delivery of reports, drawings or designs, or the hire or use of vehicles, machinery or equipment for the purposes of providing transport, or for carrying out work of any kind, with or without the provision of drivers, operators or technicians;

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

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

"time interval to submit proposal" means the interval between the date of the mailing of invitations and the closing date.

4. Observance of international obligations

- (1) To the extent that these Regulations conflict with an obligation of the United Republic under or arising out of any:
 - (a) Treaty or other form of agreement to which the United Republic is a party with one or more other states or political subdivisions of such states; or
 - (b) grant agreement entered into by Tanzania with an intergovernmental or international financing institution,

the requirements of such treaty or agreement shall prevail; but in all other respects, the selection of consultants shall be governed by these Regulations.

- (2) The procuring entity and the Ministry responsible for matters relating to finance shall ensure that both bilateral and multilateral agreements or collaborations provide support for the development and competitive performance of the local construction, manufacturing and consulting industries.

Part II – General provisions (regs 5-23)

5. Language

The request for expression of interest and the request for proposals and other documents for solicitation of proposals shall be formulated in the English language except where:

- (a) The selection is limited solely to domestic consultants pursuant to Regulation 6(2), in which case Kiswahili language may be used; or
- (b) the procuring entity decides, in view of the low value of the services to be procured, that only domestic consultants are likely to be interested, in which case Kiswahili language may be used.

6. Eligibility of consultants

- (1) Consultants are permitted to participate in the selection proceedings without regard to nationality, except in cases where the procuring entity decides, on grounds specified in these Regulations or according to the provisions of any law, to limit participation in selection proceedings on the basis of nationality.
- (2) Foreign consultants shall be eligible if:
 - (a) They are registered or if selected are capable of being registered by the relevant professional registration board; and
 - (b) they have entered into a voluntary joint venture or association with a local consultant or if selected are capable of forming or entering into a voluntary joint venture or association with a local consultant.
- (3) A procuring entity that limits participation on the basis of nationality pursuant to subsection (1) of this regulation shall include in the record of the selection proceedings a statement of the grounds and circumstances on which it relied in making limitation.
- (4) The procuring entity, when first soliciting the participation of consultants in the selection proceedings, shall declare to foreign consultants that they may participate in the selection proceedings regardless of nationality and such a declaration shall not later be altered but if it decides to limit participation pursuant to subsection (2), it shall so declare to them.
- (5) A consultant from a foreign country may be excluded if:
 - (a) As a matter of law or official regulations, Tanzania prohibits commercial relations with that country; or
 - (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Tanzania prohibits any payments to persons or entities in that country;
 - (c) it is proved beyond reasonable doubt that, the consultant does not satisfy the relevant regulations governing the provision of those services in Tanzania.
- (6) Natural persons, companies or firms shall not be eligible for the award of contracts where:
 - (a) They are bankrupt;
 - (b) payments to them have been suspended in accordance with the judgement of a court other than a judgement declaring bankruptcy and resulting, in accordance with their national laws, in the total or partial loss of the right to administer and dispose of their property;
 - (c) legal proceedings have been instituted against them involving an order suspending payments and which may result, in accordance with their national laws, in a declaration

- of bankruptcy or in any other situation entailing the total or partial loss of the right to administer and dispose of their property;
- (d) they have been convicted, by a final decision of any crime or offence with respect to their professional conduct;
 - (e) they are guilty of serious misrepresentation with regard to information required for participation in an invitation to submit proposals;
 - (f) they are in breach of contract on another contract with a procuring entity;
 - (g) they have been declared ineligible due to corrupt or fraudulent practices.
- (7) To be eligible for participation in the invitation to submit proposals and the award of contract, a consultant shall provide evidence satisfactory to the procuring entity eligibility in accordance with Regulation 6, proof of compliance with the necessary legal requirements. To this end, all proposals submitted shall include a document, dated less than 90 days previously, drawn up in accordance with the consultant's national law or practice certifying that none of the situations referred to in Regulation 6(6) applies to such consultant.
- (8) Government - owned enterprises may participate only if they can establish that they:
- (a) Are legally and financially autonomous;
 - (b) operate under commercial law; and
 - (c) are registered by the relevant professional registration board to operate as consultants.
- (9) No dependent agency of government or public organisation or their employees shall be permitted to submit or participate in a proposal for the provision of consulting services under public financed projects except as provided for under Regulation 54.

7. Associations between consultants

- (1) Consultants may associate with each other to complement their respective areas of expertise, or for other reasons in which case such association may be for the long term independent of any particular assignment or for a specific assignment and such association may take the form of a joint venture or of a subconsultancy.
- (2) In case of a joint venture, all members of the joint venture shall sign the contract and be jointly and severally liable for the entire assignment.
- (3) Once the short list is finalised and request for proposals issued, any association in the form of joint venture or subconsultancy among short listed firms shall be permissible only with the prior approval of the appropriate tender board.
- (4) Procuring entities shall not require consultants to form mandatory associations with any specific firm or group of firms but may encourage association with qualified national firms.

8. Conflict of interest

- (1) Consultants are required to provide professional, objective and impartial advice and at all times to hold the clients' interests paramount, without any consideration for future work, and strictly avoid conflicts with other assignments or their own corporate interests.
- (2) Consultants shall not be hired for any assignment that would be in conflict with their prior or current obligations to their clients, or that may place them in a position of not being able to carry out the assignment in the best interests of the procuring entity.

- (3) Without limitation to the generality of the subsections (1) and (2) of this regulation, a consultant shall be hired in the following circumstances, namely:
- (a) A firm or an individual who has been engaged by the procuring entity to provide goods or works for a project, and any of its affiliates, shall be disqualified from providing consulting services for the same project;
 - (b) a firm or an individual who has been hired to provide consulting services for the preparation or implementation of a project, and any of its affiliates, shall be disqualified from subsequently providing goods or works or services related to the initial assignment other than a continuation of the firm's earlier consulting services for the same project—
 - (i) this provision does not apply to the various firms (consultants, contractors or suppliers) that together are performing the contractor's obligations under a turnkey or design-and-build contract;
 - (ii) the services of a construction manager who is to act as a consultant to, or agent for a procuring entity and who shall not take on responsibility for the performance of the works, shall be procured according to these Regulations;
 - (c) consultants or any of their affiliates shall not be hired for any assignment which by its nature, may be in conflict with another assignment of the consultants.

9. Form of communication

- (1) Subject to provisions of these Regulations and any requirement as to form specified by the procuring entity when first soliciting the participation of consultants in the selection proceedings, documents, notifications, decisions and other communications referred to in these Regulations to be submitted by the procuring entity or administrative authority to a consultant or by a consultant to the procuring entity shall be in a form that provides a record of the content of the communication.
- (2) The procuring entity shall not discriminate against or among consultants on the basis of the form in which they transmit or receive documents, notifications, decisions or other communications.
- (3) All communications to a tender board shall be addressed to the Secretary of the board through the postal address of an appropriate tender board.

10. Address to which proposals must be sent or submitted

Every proposal shall be delivered or sent by registered mail to the secretary of an appropriate tender board through the address of the tender board or personally deposited and acknowledged by the secretary of the appropriate tender board or his authorised representative.

11. Rules concerning documentary evidence provided by consultants

Where a procuring entity requires the legalisation of documentary evidence provided by consultants to demonstrate qualifications in procurement proceedings, the procuring entity shall not impose any requirements as to the legalisation of the documentary evidence other than those provided for in the laws of Tanzania relating to the legalisation of documents of the type in question.

12. Record of selection proceedings

- (1) When procuring services, a procuring entity shall maintain a record of the selection proceedings containing, at a minimum, the following information—
 - (a) a brief description of the services to be procured, or of the procurement need for which the procuring entity requested proposals;
 - (b) a record of the procedures used in the shortlisting of consultants;

- (c) the names and addresses of consultants that were shortlisted and were requested to submit proposals;
 - (d) the names and addresses of consultants that submitted proposals, and the name and address of the consultants with whom the procurement contract is entered into and the contract price;
 - (e) information relative to the qualifications, or lack thereof, of consultants that submitted proposals;
 - (f) the price, or the basis for determining the price, and a summary of the other principal terms and conditions of each proposal, and of the procurement contract, where these are known to the procuring entity;
 - (g) a summary of the evaluation and comparison of proposals;
 - (h) if all proposals, were rejected pursuant to Regulation 13, a statement to that effect and the grounds therefore;
 - (i) if, in selection proceedings involving methods of procurement other than competitive selection, those proceedings did not result in a procurement contract, a statement to that effect and of the grounds therefore;
 - (j) the information required by Regulation 84, if proposal was rejected pursuant to that provision;
 - (k) in selection proceedings involving the use of a selection method pursuant to Parts III, IV and V, the grounds and circumstances on which the procuring entity relied to justify the selection of the method of selection used;
 - (l) in selection proceedings in which a procuring entity, in accordance with Regulation 6(1), limits participation on the basis of nationality, a statement of the grounds and circumstances relied upon by the procuring entity for imposing the limitation;
 - (m) a summary of any requests for clarification of the request for expression of interest or request for proposals, the responses thereto, as well as a summary of any modification of those documents.
- (2) The portion of the record referred to in subparagraphs (a) and (c) of subregulation (1) of this regulation shall, on request, be made available to any person after a proposal has been accepted or after selection proceedings have been terminated without resulting in a procurement contract.
- (3) The portion of the record referred to in subparagraphs (d) to (i) of subregulation (1) of this regulation shall, on request, be made available to a consultant who submitted proposals, after a proposal has been accepted or selection proceedings have been terminated without resulting in a procurement contract.
- (4) Disclosure of the portion of the record referred to in subparagraphs (d) to (f), may be ordered at an earlier stage by a court of law.
- (5) Except when ordered to do so by a court, and subject to the conditions of such an order, the procuring entity shall not disclose:
- (a) Information if its disclosure would be contrary to law, would impede law enforcement, would not be in the public interest, would prejudice legitimate commercial interests of the parties or would inhibit fair competition;
 - (b) information relating to the examination, evaluation and comparison of proposals, other than the summary referred to in subregulation (1)(g).
- (6) The procuring entity shall not be liable to consultants for damages owing solely to a failure to maintain a record of the procurement proceedings in accordance with these Regulations.

13. Rejection of all proposals

- (1) Except prior approval by the appropriate tender board being obtained and if specified in the request for proposals or other documents for solicitation of proposals, the procuring entity prior to awarding the contract and notwithstanding the stage reached in the proceedings leading to the conclusion of the contract:
 - (a) Either decide to reject all proposals at any time and to annul the selection proceedings in accordance with Regulation 13.2; or
 - (b) order that the proceedings be recommenced, if necessary, using another method.
- (2) The annulment of a selection proceeding may take place in the following cases:
 - (a) If no proposal is responsive to the request for proposals;
 - (b) if no proposal satisfies the criteria for the award of the contract as set out in Regulation 47;
 - (c) if the economic or technical data of the project have been altered;
 - (d) if exceptional circumstances render normal performance of the contract impossible;
 - (e) if every proposal received exceeds the financial resources earmarked for the contract;
 - (f) if the proposals received contain serious irregularities resulting in interference with the normal play of market forces; or
 - (g) if there has been no competition.
- (3) In the event of annulment of any selection proceedings, all consultants who submitted proposals shall be notified thereof by the procuring entity.
- (4) The procuring entity shall incur no liability solely by virtue of its invoking subregulation (1) and (2) of Regulation 13 towards consultants that submitted proposals.
- (5) When the annulment of the selection proceedings is caused by circumstances which do not necessitate the opening of proposals, the unopened and sealed envelopes containing the price proposals, where appropriate, and in any event, the other elements of the proposal shall be returned to the consultants at the consultant's cost.
- (6) Where all proposals are rejected pursuant to this regulation:
 - (a) The procuring entity shall review the causes justifying the rejection and consider whether revision of the terms of reference or modification in the project or both are required before inviting new proposals;
 - (b) new proposals shall be requested for from at least all who were invited to submit proposals in the first instance as well as the new ones and a reasonable amount of time shall be allowed for the submission of the new proposals. Where the approving entity considers it advisable it may require that the whole selection proceeding be repeated.

14. Public notice of contract awards

The procuring entity shall, within twenty-eight days after obtaining all the relevant approvals required for the specific procurement promptly publish notice of procurement contract awards in newspapers of wide circulation within Tanzania.

15. Rules concerning description of services

Any specifications, and designs setting forth the technical or quality characteristics of the services to be procured, and requirements concerning description of services, that create obstacles to participation,

including obstacles based on nationality, by consultants in the selection proceedings shall not be included or used in the request for proposal or other documents for solicitation of proposals.

16. Information for consultants

- (1) A procuring entity intending to procure services of consultants shall give a press release to the print media containing general project information which will also be published in the *Government Gazette* when budgets have been approved by Parliament and when bilateral or multilateral agreements have been concluded.
- (2) A procuring entity shall publish a General Procurement Notice in a newspaper of wide circulation within Tanzania at least one month prior to any publication or notification of a request for the recruitment of consultants.
- (3) The General Procurement Notice shall also be distributed by the procuring entity to embassies and foreign missions in Tanzania and a copy of the distribution shall be made part of the record to be kept for on the procurement proceedings.
- (4) The General Procurement Notice shall describe and define the nature of the consultancy services sought and indication of the process to be followed for acquiring such services as well as any restrictions attached thereto.
- (5) The notice shall state the name, postal and telegraphic address, telex, e-mail, web-site, facsimile and telephone numbers of the executing agency where available.

17. Planning

- (1) A procuring entity shall forecast its requirements for services as accurately as is practicable with particular reference to services already programmed in the annual work plan and included in the annual estimates. Such forecast shall include an estimate of the optimum time to the nearest month of performance and completion of services, particularly where completion of works is dependent on those services.
- (2) The cost of such requirements shall be estimated and compared with the likely availability of voted or donor funds so that priorities for procurement may be determined in accordance with available funds.
- (3) A procuring entity shall draw up procurement plans for those requirements for which sufficient funds are available in the current vote subhead, or if payment will be due in a subsequent financial year, have been budgeted for that year.
- (4) In compiling plans, a procuring entity shall establish the appropriate method of procurement to be employed for each requirement and the time-scale for each procurement shall be calculated on the basis of the standard processing times at the Fourth Schedule to these Regulations, allowing any necessary margin for delays in transmission of documents or clarification of proposals.
- (5) In the time-scale, the start dates and critical points in the procurement process shall be set out in the procurement plans.

18. Approval to proceed with procurement

- (1) Before the preparation of the request for proposals, there must be a genuine intention to proceed with the procurement.
- (2) Approval of the accounting or chief executive officer must be held either by inclusion of the procurement in a procurement programme or by request as an individual item of procurement.

19. Aggregating requirements

Where several services that are to be procured require co-ordination or collective responsibility of the service providers, a procuring entity shall group these services and seek to employ a single consultant for the performance of those services.

20. Prohibition of splitting contracts

A procuring entity shall not divide its procurement into separate contracts:

- (a) For the purposes of avoiding competitive selection proceedings; or
- (b) so that the procurement may be authorised by a lower level of authority than would be appropriate for the total requirement.

21. Appointment of consultants for procurement of goods or works

Where the appointment of a consultant is considered necessary for the effective procurement of goods or works, a procuring entity must complete selection and enter into a contract with the chosen consultant in accordance with these Regulations in sufficient time for that consultant to undertake all the tasks that are required of it without delay to that procurement, including review of any tender documents prior to their being issued.

22. Commitment of funds

In order to make sure that funds are available to cover the cost of any proposed procurement of services, a procuring entity shall ensure that funds are available and that entry has been made in the relevant Vote Book, recording the estimated or known commitment, before commencing procurement proceedings.

23. Retrospective approval

- (1) In exceptional cases, where an accounting officer considers that it is for the public interest that selection and employment of a consultant should be made, the value of which exceeds the authority limit granted by these Regulations and time does not permit authority being obtained in the usual way, he may on his own responsibility, effect the selection and employment of a consultant, but he will at once report to the Treasury explaining the reasons which induced him to depart from the ordinary cause.
- (2) The officers who select and employ consultants in excess of the amounts allowed by these Regulations may be held personally liable if the expenditure is proved subsequently to have been unnecessary or extravagant, or was occasioned by the officer's lack of foresight in not making arrangements at the proper time and he may be held liable to make good the differences between the actual cost of the services and what its cost would have been through the appropriate channels.
- (3) Tender boards are not authorised to grant retrospective approvals for selection and employment of consultants, but may be prepared to give advice to the Paymaster General, if called upon to do so.

Part III – Selection procedures and conditions for application (regs 24-27)

24. Selection procedures

- (1) The selection procedure and evaluation criteria to be adopted shall be determined by the procuring entity prior to the invitation of consultants to submit proposals. Such criteria shall be considered by the appropriate tender board which will verify their suitability and make possible comments concerning them, and be included in the request for proposals.

- (2) The appropriate tender board reserves the right to give its approval or make comments on the effective application of the selection procedure defined by the procuring entity.
- (3) Three principal types of selection procedures shall be applied according to the characteristics of the services required namely:
 - (a) Selection procedure based solely on technical quality, that is to say, the evaluation of the firm's competence, the staff seconded to the assignment and the technical value of the proposal. This is applicable to assignments of a complex technical nature and those with risks likely to have a negative impact on the resulting final project;
 - (b) selection procedure based on technical quality with price consideration. This is applicable to assignments of variable complexity;
 - (c) selection procedure which establishes the compatibility of technical proposal and the services and makes a selection on the basis of the lowest price.
- (3) The adoption of any of the three principal types of selection procedures shall depend on the complexity of the assignment, the impact of the assignment on the resulting end product and the probability that the proposals will lead to comparable outputs.

25. Selection based on technical quality

- (1) In the selection procedure based solely on technical quality, the firm which has submitted the best technically acceptable proposal shall be the first to be invited for negotiations.
- (2) The envelope containing the financial proposal shall be opened in the firm's presence and its contents examined and where no agreement is reached, then the consultant whose technical proposal is ranked the second shall be invited for negotiations.
- (3) The exercise may continue until an agreement is reached with one of the firms whose technical proposals are considered satisfactory and retained.
- (4) The financial envelopes containing the proposals of firms not invited for negotiations will be returned unopened to the offerers.

26. Selection based on combined technical quality and price consideration

- (1) The selection procedure based on the technical quality with price consideration shall start with the evaluation of technical proposals.
- (2) The technical proposals considered satisfactory and classified by order of merit shall have the corresponding financial proposals opened.
- (3) After the necessary correction of arithmetic errors have been made, a score of 100% shall be given to the lowest financial proposal and the score given to each of the other financial proposals is proportionately reduced.
- (4) The technical and financial proposals are weighted as specified in the request for proposal and the combined value of the two proposals will be calculated for each firm.
- (5) Negotiations shall be initiated with the firm with the highest combined score and shall be conducted in accordance with regulation 46 of these Regulations, until an agreement is reached with one of the firms whose technical proposals are considered satisfactory and retained.

27. Selection based on compatibility of technical proposals and least cost consideration

- (1) The selection procedure based on the compatibility of technical proposals and services involves evaluation of the technical proposal. Firms whose technical proposals are retained shall be those who scored equal or above the minimum specified threshold.

- (2) At the stage of examination of financial proposals, only the envelopes containing the financial proposals of the best ranked consultants shall be opened. The necessary arithmetic corrections will then be made for the purposes of comparison and the consultant whose financial offer is considered the lowest shall be invited for negotiations.
- (3) If an agreement is not reached, the consultant whose financial offer is ranked second lowest, shall in turn be invited to negotiate and so on until an agreement is reached with one of the best ranked consultants.

Part IV – Quality and cost based selection method (regs 28-47)

28. Selection process

- (1) The quality and cost based selection uses a competitive process among short-listed consultants that take into account the quality of the proposal and the cost of the services in the selection of the successful consultant.
- (2) The relative weight to be given to the quality and cost shall be determined for each case depending on the nature of the assignment.
- (3) The normal method of selection is for the procuring entity to invite proposals from five to seven qualified and experienced consultants, and through a suitable selection procedure choose the consultant most qualified for the assignment.
- (4) The principal stages of the selection process shall be as follows:
 - (a) Preparation of the terms of reference;
 - (b) preparation of cost estimate and the budget;
 - (c) advertising the acquisition of services;
 - (d) preparation of the short list of consultants;
 - (e) determination of the selection procedures and criteria for selection;
 - (f) preparation and issuance of the request for proposals:
 - (i) letter of invitation;
 - (ii) information to consultants;
 - (iii) proposed contract;
 - (g) inviting the consultants to submit proposals;
 - (h) receipt of proposals;
 - (i) evaluation of technical proposals; consideration of quality;
 - (j) evaluation of financial proposal;
 - (k) final evaluation of quality and cost;
 - (l) negotiations and award of the contract to the selected firm;
 - (m) signing the contract.

29. Terms of reference

- (1) The procuring entity shall be fully responsible for preparing the terms of reference for the assignment so that the scope of the services described in the terms of reference shall be compatible with the available budget.

- (2) The appropriate tender board may assist a procuring entity in preparing the terms of reference so that the terms of reference shall be agreed to by the tender board and the procuring entity.
- (3) For any consultancy services to be procured by a procuring entity, the terms of reference shall be prepared to inform consultants of the intended scope of work when they are invited to submit proposals and to define the consultants' services in the contract to be negotiated after selection.
- (4) The terms of reference shall provide:
 - (a) A precise statement of the objectives and goals sought;
 - (b) a clear description of the nature and scope of the services required and their context as well as the time interval in which they shall be provided;
 - (c) a description of the duties and responsibilities of the consultant;
 - (d) a description of the duties and responsibilities of the procuring entity;
 - (e) information on any counterpart staff and its role;
 - (f) information on training and the transfer of technology, where necessary; and
 - (g) a summary of the data, a list of all available studies and information on the assignment, facilities and services which the procuring entity will provide to the consultant.
- (5) For very large projects or where the nature of the work requires major inputs from diverse disciplines, it may be necessary to retain more than one consultant so that in such cases the terms of reference shall include specific provisions for co-ordination of the various consultants' works.
- (6) The terms of subcontract agreement between the co-ordinating consultant and the sub-consultant shall be part of the submission to the procuring entity.

30. Procuring entity's contributions

- (1) The contributions which the procuring entity is in a position to make to the consultant's assignment shall be defined in the terms of reference, indicated in the requests for proposals and finalised in the contract, as they may have a significant impact on the estimated budget for the assignment so that the nature and type of the contributions shall be reviewed during negotiations and shall therefore, not be included in the cost of the services.
- (2) With the exception of a budgetary allocation to cover the entire or part of the local expenditure, these contributions include the following items:
 - (a) Office space with electricity, water, telephone, equipment, vehicles and maintenance;
 - (b) housing;
 - (c) support staff such as secretary, messenger, driver, administrative and technical service; and
 - (d) information, documentation and all studies relating to the assignment.
- (3) The value and type of the procuring entity's contributions shall be finally concluded during the negotiations.

31. Counterpart staff

- (1) The Government shall insist that during the acquisition of consultancy services, qualified counterpart staff employed by the procuring entity or its executing agency be involved in the assignment. Ideally, in some types of assignments such as feasibility studies, would be desirable to assign to each key expert of the consultant's team, a counterpart from the executing agency, if possible temporarily released from his functions.

- (2) In view of the staffing constraints of the executing agencies the number of counterparts shall be determined on an individual basis depending on the importance of the assignment, and the requirements of the executing agency or the procuring entity.
- (3) The role of the counterpart staff may vary from assignment to assignment, but shall include the following responsibilities and elements:
 - (a) Through a day-to-day contact with the consultant's experts, benefit from a transfer of skills and thus receive on-the-job training;
 - (b) liaise between the organs of the procuring entity and the consultant and assist the latter with data collection, providing it with all available information, documentation and studies on the assignment.
- (4) Prior to any final decision regarding the level, qualifications, number and responsibilities of each counterpart, discussions shall be held during the negotiations to determine:
 - (a) The number and responsibilities of the counterpart staff co-operating with the consultant's team;
 - (b) the extent to which counterpart staff are released from their normal duties;
 - (c) the extent to which counterpart staff can fit into the consultants' proposed work schedule;
 - (d) the arrangements made to cover field and travel expenses of the counterpart staff; and
 - (e) the arrangements for replacement of unsuitable counter part staff.

32. Training

- (1) The strengthening of the national capabilities of agencies or agents in the procuring entities through a transfer of knowledge and skills to local professionals, is of key concern to the Government.
- (2) It is based on programmes which fall within the frame-work of the assignment whose principal objective may not necessarily be training and transfer of technology, but which meet requirements related to the principal project or its sector and the programmes may provide an opportunity for strengthening the capacity of the counterpart staff involved in the assignment to that of the national staff participating in a joint venture between foreign consultants.
- (3) For the successful implementation of this programme, the procuring entity must be convinced of its necessity, and consequently select the necessary qualified professionals to participate in it, and release these professionals for the duration of the programme. The consultant shall accept the training function and its inclusion as an obligation which is separate and distinct from the other services and propose corresponding costs and an implementation time-frame.
- (4) The objectives of the programme shall be defined and included in the terms of reference sent to the consultants invited to submit proposals; it will be defined during the negotiations both with regard to trainers, trainees, the skills to be transferred both with regard to trainers, trainees, the skills to be transferred and the time-frame.

33. Cost estimate and budget

- (1) The cost estimate shall be made on the basis of the cost of the consulting assignment on the assessment of the resources needed to carry out the assignment, staff time, logistical support, and physical inputs (for example, vehicles, laboratory equipment).
- (2) The cost estimate and budget shall be based on the terms of reference. The budget shall be as detailed and as accurate as possible and shall be broken down into foreign and local currency.

- (3) The principal cost categories and characteristics on which the cost estimate may be based are the following:
 - (a) The consultants' staff, time spent at headquarters and in the field, whose cost in person-months (or person-weeks, person-days) is based on the fixed rate of the cost of one person-month;
 - (b) national professional and support staff, whose cost is, in general, estimated on the basis of local salaries;
 - (c) direct costs such as travel, transport, per diem, etc;
 - (d) the cost of physical inputs and materials such as equipment, vehicles, office supplies;
 - (e) other expenditure such as offices, communications, services; and
 - (f) costs for special services, if any, such as drilling, land surveying, soil study, aerial photography, satellite imagery.
- (4) For the budget, an amount shall always be allocated over and above the basic costs to cover physical and price contingencies.
- (5) Some items of the cost estimate in foreign currency or local currency may be reimbursable and as such, shall be clearly identified so that they may be costs covering travel, vehicles, equipment purchased especially for the assignment and special investigation.
- (6) Any taxes and customs duties component of the cost estimate shall also be identified and appropriately handled by the procuring entity, especially where the project is financed by external sources which do not finance local taxes.

34. Advertising

- (1) To obtain expressions of interest, the procuring entity shall include a list of expected consulting assignments in the General Procurement Notice which shall be updated annually for all outstanding procurement and shall also advertise all contracts in a national newspaper of wide circulation.
- (2) A procuring entity may also advertise these contracts in an international newspaper or a technical magazine, seeking "expressions of interest".
- (3) A copy of the advertisement shall be sent to those who expressed interest in response to the General Procurement Notice.
- (4) The procuring entity may also contact embassies, professional organizations, or firms that it knows.
- (5) A copy of the advertisement shall be posted on the notice board of the procuring entity and on the notice board of the appropriate tender board.
- (6) The information requested shall be the minimum required to make a judgement on the firm's suitability and may not be so complex as to discourage consultants from expressing interest and a minimum period of thirty days shall be provided for submission of expressions of interest.

35. Preparation of short list

- (1) The short list shall be made up of consultants who in the view of a procuring entity and the appropriate tender board, possess the required capabilities and experience to provide the specific services which only consultants appearing on the short list may be invited to submit proposals.
- (2) A procuring entity shall be responsible for the preparation of the short list. The procuring entity shall give first consideration to those firms expressing interest which possess the relevant qualifications.
- (3) A new short list shall be prepared for every new request for proposals.

- (4) Short lists shall comprise five to seven firms and at least one firm from Tanzania, unless qualified firms from Tanzania are not identifiable and for the purposes of establishing the short list, the nationality of a firm shall be that of the country in which it is registered or incorporated.
- (5) A tender board may request the procuring entity to expand or reduce a short list; however, once a tender board has approved a short list, a procuring entity shall not add or delete names without a tender board's concurrence.
- (6) Prior to the issue of the request for proposal documents, the consultants will be requested to confirm their desire to participate in the competition. In order to maintain the minimum number of five on the short list, the procuring entity will, with the tender board's consent, replace firms that have communicated to the procuring entity or tender board in writing they will not participate, by other firms.
- (7) Firms that expressed interest, as well as any other firm that specifically so requests, shall be provided with the final short list of firms.
- (8) If the assignment is small and a sufficient number of qualified firms, not being less than five, are available at competitive costs and competition including foreign firms is *prima facie* not justified, the short list may comprise entirely of Tanzanian consultants being firms with majority Tanzanian ownership and registered or incorporated in Tanzania.
- (9) A procuring entity and an appropriate tender board may make use of several sources when drawing up the short list of consultants as follows:
 - (a) The procuring entity's own experience of consulting firms and individual consultants;
 - (b) the list of consultants who expressed interest in providing the proposed services;
 - (c) the tender board's register of consultants, if available.
- (10) To enable a tender board to judge the acceptability of consultants proposed by a procuring entity, it shall maintain information concerning the capabilities and experience of a large number of consultants.
- (11) The fact that a tender board has been supplied with information about a consultant shall not necessarily mean that a tender board has verified the accuracy of the information provided, or that it has endorsed the consultant's qualifications in general, or that it will approve the consultants appointment for any specific project but tender boards shall not maintain lists of "approved" consultants.
- (12) In the examination of the short list proposed by a procuring entity, a tender board may refer first to its register of consultants. But, in the case where the information available on a given consultant is limited, or non-existent, it shall be necessary to request additional information from a procuring entity in order to allow a tender board to form a judgement on the consultant's capability to carry out the proposed assignment.
- (13) A short list which has not received the prior approval of an appropriate tender board shall not be used for the selection of a consultant for a public-financed project.
- (14) Once a short list has been drawn up, applications from other consultants shall not be considered.
- (15) Notwithstanding the provisions of subregulations (1) to (6) of this regulation, where an eligible consultant has satisfactorily carried out feasibility studies for a project, and is technically qualified to undertake detailed project or engineering design, preparation of tender documents or supervision of implementation, a tender board may not object, if the same consultant is appointed to carry out such subsequent functions, especially where it is probable that this procedure would be substantially advantageous to a procuring entity but the price of such services shall be subject to review, based on current rates of services in the different sectors.

- (16) If, for good reasons, a procuring entity wishes to change a consultant during the course of its works, it shall consult the appropriate tender board before starting the procedure for the selection of the new consultant.
- (17) Where a change of consultant between feasibility studies and detailed project or engineering design is unavoidable, the consultant taking over shall be required to accept full responsibility for the complete project design.

36. Pre-qualification

- (1) In the case of major and complex services, the short list shall be prepared in two stages of which the first is pre-qualification which shall consist of invitations to consultants renowned for their experience and skills or by means of an announcement to consultants to express their interest in the assignment.
- (2) The announcement shall contain a brief outline of the assignment and only request consultants to submit a statement of capability and experience relevant to the assignment.
- (3) The procuring entity shall evaluate the responses and information obtained and shall prepare a short list to be approved by an appropriate tender board, by including the best qualified firms.
- (4) The selection process on the basis of the short list shall remain unchanged.
- (5) The following rules shall be observed during pre-qualification:
 - (a) The number of best qualified firms to be selected on the basis of the classification made following evaluation of the responses shall be a maximum of seven for consulting firms (the seven best qualified);
 - (b) criteria used in pre-qualification shall not be applied during the follow-up evaluation of the technical proposals; and
 - (c) the pre-qualification report and the attendant short list shall be sent by the procuring entity to the appropriate tender board for approval.
- (6) For advertisement for pre-qualification, from the date of first publication of the advertisement to the closing date for submission of expressions of interest, a procuring entity shall allow a minimum of forty-five calendar days.
- (7) Any consultant who wishes to provide the requested services, may express his desire in writing to be shortlisted to the procuring entity concerned. However, an expression of interest to participate in the provision of services shall in no way oblige the procuring entity to include the applicant in the short list.

37. Request for proposals

The request for proposals shall contain:

- (a) A letter of invitation;
 - (b) information to consultants;
 - (c) terms of reference; and
 - (d) proposed contract.
- (2) Whenever possible, procuring entities shall use one of the standard requests for proposals issued by the Central Tender Board and the procuring entities shall list all the documents included in the request for proposals.

38. Letter of invitation

The letter of invitation shall state the intention of the procuring entity to enter into a contract for the provision of consulting services, the source of funds, the details of the client and the date, time, and address for submission of proposals.

39. Information to consultants

- (1) The information to consultants shall contain all necessary information that would help consultants prepare responsive proposals, and shall bring as much transparency as possible to the selection procedure by providing information on the evaluation process and by indicating the evaluation criteria and factors and their respective weights and the minimum passing quality score.
- (2) The information to consultants shall indicate the expected input of key professional staff time and the consultants shall be free to prepare their own estimates of staff time necessary to carry out the assignment.
- (3) The information to consultants shall specify the proposal validity period. The validity period shall not be less than sixty days and may not exceed one hundred and twenty days.
- (4) The information to consultants shall include adequate information on the following aspects of the assignment:
 - (a) A brief description of the assignment;
 - (b) the names and contact information of officials to whom clarifications shall be addressed and with whom the consultants' representative shall meet, if necessary;
 - (c) details of the selection procedure to be followed, including:
 - (i) A description of the two-stage process, if appropriate;
 - (ii) a listing of the technical evaluation criteria and weights given to each criterion;
 - (iii) the details of the financial evaluation;
 - (iv) the relative weights for quality and cost in the case of quality and cost based selection;
 - (v) the minimum pass score for quality; and
 - (vi) the details on the public opening of financial proposals;
 - (d) an estimate of the level of key staff inputs (in staff-months) required of the consultants; and indication of minimum experience, academic achievement, and so forth, expected of key staff or the total budget, if a given figure cannot be exceeded;
 - (e) details and status of any external and internal financing;
 - (f) information on negotiations; and financial and other information that shall be required of the selected firm during negotiation of the contract;
 - (g) the deadline for the submission of proposals;
 - (h) currency in which the costs of services shall be expressed, compared, and paid;
 - (i) reference to any laws in Tanzania that may be particularly relevant to the proposed consultants' contract;
 - (j) a statement that the firm and any of its affiliates shall be disqualified from providing downstream goods, works, or services under the project if, in the procuring entity's judgement, such activities constitute a conflict of interest with the services provided under the assignment;

- (k) the method in which the proposal shall be submitted, including the requirement that the technical proposals and price proposals be sealed and submitted separately in a manner that shall ensure that the technical evaluation is not influenced by price;
- (l) a request that the invited firm—
 - (i) acknowledges receipt of the request for proposal; and
 - (ii) informs the procuring entity whether or not it will be submitting a proposal;
- (m) the short list of consultants being invited to submit proposals, and whether or not associations between short listed consultants are acceptable;
- (n) the period for which the consultants' proposals shall be held valid ordinarily between sixty to one hundred and twenty (60 - 120) days, and during which the consultants shall undertake to maintain, without change, the proposed key staff, and shall hold to both the rates and total price proposed; in case of extension of the proposal validity period, the right of the consultants not to maintain their proposal;
- (o) the anticipated date on which the selected consultant shall be expected to commence the assignment;
- (p) a statement indicating:
 - (i) Whether or not the consultants' contract and personnel shall be tax-free or not;
 - (ii) what the likely tax burden will be or where this information can be obtained, and a statement requiring that the consultant shall include in its financial proposal a separate amount clearly identified, to cover taxes;
- (q) if not included in the terms of reference or in the draft contract, details of the services, facilities, equipment, and staff to be provided by the procuring entity;
- (r) phasing of the assignment, if appropriate; and likelihood of follow-up assignments;
- (s) the procedure to handle clarifications about the information given in the request for proposals; and
- (t) any conditions for subcontracting part of the assignment.

40. Contract

- (1) A procuring entity shall use the appropriate Standard Form of Contract issued by the Central Tender Board with minimum changes, acceptable to the Central Tender Board as necessary to address specific project issues.
- (2) Any such changes shall be introduced only through Contract Data Sheets or through Special Conditions of Contract and not by introducing changes in the wording of the General Conditions of Contract included in the Central Tender Board's Standard Form.
- (3) These forms of contracts cover the majority of consulting services and where such forms are not appropriate for example, for pre-shipment inspection, procurement services, training of students in universities, advertising activities in privatisation, or twinning, procuring entities shall use other contract forms acceptable to the Central Tender Board.

41. Receipt of proposals

- (1) The procuring entity shall allow enough time for the consultants to prepare their proposals depending on the assignment, but normally shall not be less than thirty days and not more than ninety days with a minimum of forty-five days when foreign consultants participate in the competition.

- (2) During such interval, the firms may request clarifications about the information provided in the request for proposals and the procuring entity shall provide the clarification in writing and copy them to all firms on the short list who intend to submit proposals and where necessary, the procuring entity shall extend the deadline for submission of proposals.
- (3) The technical and financial proposals shall be submitted at the same time, no amendments to the technical or financial proposal shall be accepted after the deadline.
- (4) To safeguard the integrity of the process, the technical and financial proposals shall be submitted in separate sealed envelopes. The technical proposals shall be opened in public immediately by the appropriate tender board after the closing time for submission of proposals.
- (5) The proposals shall be numbered serially and the last one endorsed with "and last".
- (6) The financial proposals shall remain sealed and shall be deposited with the secretary of the appropriate tender board until they are opened publicly.
- (7) Any proposal received after the closing time for submission of proposals shall be returned unopened.

42. Evaluation of proposals: Consideration of quality and cost

The evaluation of the proposals shall be carried out in the following two stages:

- (a) The quality; and
 - (b) the cost.
- (2) Evaluators of technical proposals shall not have access to the financial proposals until the technical evaluation, including any tender board and donor agency reviews and approval, are concluded.
 - (3) The financial proposals shall be opened only thereafter and the evaluation shall be carried out in full conformity with the provisions of the request for proposals.
 - (4) The evaluation process shall begin as soon as possible after the opening of the proposals.

43. Evaluation of the quality

- (1) The selection shall always begin with the evaluation to be conducted separately from and independently of any financial consideration.
- (2) The evaluation of technical proposals shall be carried out on the basis of the principal criteria to which merit points are accorded so that each proposal is scored out of a hundred. If a minimum qualifying technical score of seventy is accepted, the total number of points obtained by the consultants retained shall lie between seventy and one hundred and the firms shall be ranked by order of merit on the basis of the highest score.
- (3) A procuring entity shall evaluate each technical proposal by using an evaluation committee of three or more specialists in the sector, taking into account several criteria which had previously been disclosed in the request for proposals.
- (4) A procuring entity shall consider mainly each consultants' current professional qualifications, its recent performance on similar assignments, its undertaking of the particular assignment at hand and the qualification of the staff assigned to the execution of the services.
- (5) As a guide to evaluating technical proposals, a procuring entity shall use numerical ratings for each of the following criteria:
 - (a) Experience of the consultant in the same field as that of the assignment and on similar projects;

- (b) professional reputation of the consultant and previous performance and experience with the procuring entity;
 - (c) knowledge of the project environment in the country and in the region and their implications for the project;
 - (d) understanding of the terms of reference;
 - (e) overall quality of the proposal, plan and methodology proposed;
 - (f) qualification of experts and experience in the field of the assignment; and
 - (g) ability to deal with national personnel and agencies and language proficiency.
- (6) The procuring entity shall divide these criteria into subcriteria which may be under methodology, might be innovation and level of detail, but the number of subcriteria should be kept to the essential.)
- (7) The use of exceedingly detailed lists of subcriteria that may render the evaluation a mechanical exercise more than a professional assessment of the proposals is prohibited. The weight given to experience can be relatively modest, since this criterion has already been taken into account when short listing the consultant but more weight shall be given to the methodology in the case of more complex assignments, multidisciplinary feasibility or management studies.
- (8) The relative importance of the subcriteria specified under Regulation 43(5) rated out of one hundred will vary with the type of services to be performed and as a guide, the following relative merit points may be attributed to the different criteria, some of which have been grouped together:
- (a) 5% to 15% for the firm's general experience, reputation and experience in previous similar assignments;
 - (b) 25% to 50% for understanding of the terms of reference, methodology and the overall quality of the proposal;
 - (c) 30% to 60% for the qualification of key personnel;
 - (d) 0% to 10% for transfer of knowledge;
 - (e) 0% to 10% for participation by nationals;
 - (f) 5% to 10% for knowledge of the country.
- (8) Greater weight shall be given to the firm's experience and less to its key personnel where project design is concerned while in the case of training, priority shall be given to the key personnel and as regard to inspection and supervision services, greater weight shall be given to key personnel than for a feasibility study.
- (9) The technical criteria for pre-qualification are limited to factors (a), (b) and (c) of Regulation 43(5) to which, as a guide, the following numerical ratings can be given:
- (a) Overall experience in the field of the assignment and in comparable assignments: 40% to 60%;
 - (b) Professional reputation of the firm and its experience in previous assignments: 20% to 40%;
 - (c) Knowledge of project environment in Tanzania and of the regional countries and their implications for the project: 15% to 25%.
- (10) Factors (d), (e), (f) and (g) in regulation 43(5) shall be indicated in the request for proposals and used in the evaluation of proposals to which other numerical ratings could also be attributed to attain the score of 100. As a guide, the factors would be as follows:
- (a) Understanding of terms of reference: 10% to 20%;
 - (b) Overall quality of the offer, quality of the work plan and methodology: 20% to 30%;

- (c) Qualifications of experts and experience in the field of the assignment: 40% to 60%;
 - (d) Ability to deal with local personnel and agencies: language proficiency: 5% to 15%.
- (11) The qualifications and experience of proposed key personnel are important in the evaluation of technical proposals and the curricula vitae of key staff members shall be reviewed so that they are accurate, complete and must be signed by an authorised official of the consultant and the individual proposed. The individuals shall be rated in the following three subcriteria, as relevant to the task:
- (a) General qualifications: general education and training, length of experience, positions held, time with the consulting firm as staff, experience in developing countries, and so forth;
 - (b) adequacy for the assignment: education, training, and experience in the specific sector, field, subject, and so forth, relevant to the particular assignment; and
 - (c) experience in regional countries: knowledge of the local language, culture, administrative system, government organization.
- (12) The procuring entity shall evaluate each proposal on the basis of its responsiveness to the terms of reference and a proposal shall be considered unsuitable and shall be rejected at this stage if it does not respond to important aspects of the terms of reference or if it fails to achieve a minimum technical score specified in the request for proposals.
- (13) The numerical ratings as set out in the request for proposals for each factor, shall be attributed for each proposal received and then tabulated on a summary weighted accordingly and summed up and such method shall provide consistent assessment of the various proposals received and that the proper weight is given to each proposal.
- (14) At the end of the process, the procuring entity shall prepare an evaluation report of the "technical quality" of the proposals which report shall substantiate the results of the evaluation and describe the relative strengths and weaknesses of the proposal and all records relating to the evaluation, such as individual mark sheets, shall be retained until completion of the project and its audit.
- (15) The procuring entity shall submit the evaluation report on the technical proposals to the tender board whose limit of authority is appropriate to the estimated value of the services required and the tender board shall review, comment on the evaluation report and where appropriate, approve the evaluation report and the scores.

44. Evaluation of cost

- (1) After the evaluation of technical quality is completed, the procuring entity shall notify those consultants whose proposals did not meet the minimum qualifying mark or were considered non-responsive to the request for proposals and terms of reference, indicating that their financial proposals will be returned unopened after completing the selection process.
- (2) A procuring entity shall simultaneously notify the consultants that have secured the minimum qualifying mark, and indicate the date and time set for opening the financial proposals.
- (3) The opening date shall not be sooner than two weeks after the notification date. Financial proposals shall be opened publicly in the presence of representatives of the consultants who choose to attend.
- (4) The name of the consultant, the quality scores, and the proposed prices shall be read aloud and recorded when the financial proposals are opened and the appropriate tender board shall prepare the minutes of the public opening.
- (5) A procuring entity shall review the financial proposals and if there are any arithmetical errors, they shall be corrected. For the purpose of comparing proposals, the costs shall be converted to a common currency selected by the procuring entity as stated in the request for proposals.
- (6) The procuring entity shall make this conversion by using the selling (exchange) rates for those currencies quoted by an official source such as the Bank of Tanzania or by a commercial bank, or by an internationally circulated newspaper for similar transactions.

- (7) The request for proposals 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 four weeks prior to the deadline for submission of proposals, nor later than the original date of expiration of the period of validity of the proposals.
- (8) For the purpose of evaluation, "cost" shall include other reimbursable expenses, such as travel, translation, report printing, or secretarial expenses. The proposal with the lowest cost may be given a financial score of one hundred and other proposals given financial scores that are inversely proportional to their prices and in the alternative a directly proportional or other methodology may be used in allocating the marks for the cost. The methodology to be used shall be described in the request for proposals.

45. Combined quality and cost evaluation

- (1) The total score shall be obtained by weighting the quality and cost scores and adding them and the weight for the "cost" shall be chosen taking into account the complexity of the assignment and the relative importance of quality.
- (2) Notwithstanding subregulation (1), the weight for cost shall normally be in the range of ten to twenty points, but in no case shall exceed thirty points out of a total score of one hundred.
- (3) The proposed weightings for quality and cost shall be specified in the request for proposals and the firm obtaining the highest total score shall be recommended for contract award and for negotiations.
- (4) On completion of the combined quality and cost evaluation, a procuring entity shall prepare an evaluation report of the combined quality and cost comprising the forms together with the recommendations concerning the selection of the consultant and be submitted to the appropriate tender board for review, and where appropriate approval with all copies of the proposals attached to it.
- (5) The tender board whose limit of authority is appropriate to the cost shall comment on the winning proposal before the procuring entity invites the consultant to negotiate a contract, in order to satisfy itself of the adequacy of the proposed work plan and approach and the qualifications and experience of the personnel proposed for the assignment.

46. Contract negotiations

- (1) After the appropriate tender board has approved the award recommendations, the procuring entity shall promptly invite the selected consultant to negotiate, in order to finalise the terms of the contract based on the model contract on the one hand and the consultant's proposal on the other hand.
- (2) In the invitation, the consultant shall be informed of any special problems found in the proposal review which may be discussed during the negotiation.
- (3) Negotiations shall include discussions on:
 - (a) The terms of reference;
 - (b) comments made by the consultant on the scope of services;
 - (c) the methodology;
 - (d) staffing;
 - (e) procuring entity's inputs, and special conditions of the contract;
 - (f) consultant proposed work programme.
- (4) The discussions shall not substantially alter the original terms of reference or the terms of the contract, lest the quality of the final product, its cost, and the relevance of the initial evaluation

be affected and the major reductions in work inputs shall not be made solely to meet the budget provided that the final terms of reference and the agreed methodology shall be incorporated in "Description of Services" which shall form part of the contract.

- (5) The selected firm shall not be allowed to substitute key staff between the time of receipt of proposals and commencement of the services unless both parties agree that undue delay in the selection process makes such substitution unavoidable or that such changes are critical to meet the objectives of the assignment and where that is not the case and if it is established that key staff were offered in the proposal without confirming their availability, the firm may be disqualified and the process continued with the next ranked firm. The key staff proposed for substitution shall have qualifications equal to or better than the key staff initially proposed.
- (6) Financial negotiations shall include clarification of the consultants' tax liability in Tanzania and how tax liability has been or would be reflected in the contract. Proposed unit rates for staff-months and reimbursables shall not be negotiated, since these have already been a factor of selection in the cost of the proposal, unless there are exceptional reasons.
- (7) If the negotiations fail to result in an acceptable contract, the procuring entity shall terminate the negotiations and invite the next ranked firm for negotiations in which case the procuring entity shall consult with the appropriate tender board prior to taking this step.
- (8) The consultant shall be informed of the reasons for termination of the negotiation and once negotiations are commenced with the next ranked firm, the procuring entity shall not reopen the earlier negotiations.

47. Award of contract

- (1) The award of contract shall be made to the consultant whose proposal has been selected and with whom contract negotiations have been successfully completed.
- (2) After concluding a contract, the procuring entity shall inform the other consultants who have responded to the invitation within a period of one week that their proposals have not been successful.
- (3) The award of contract shall be published by the appropriate tender board or by the appropriate parastatal organisation or appropriate public body in the *Government Gazette* and in at least one local newspaper of wide circulation in Tanzania.

Part V – Other methods of selection (regs 48-54)

48. General

- (1) In some circumstances, quality and cost based selection is not the most appropriate method for selecting consultants, and other methods are more appropriate and in particular selection methods and the type of services to which they apply shall be determined by agreement between the appropriate tender board and the procuring entity.
- (2) This section describes other selection methods and the circumstances under which they are generally appropriate. In respect to advertisement and preparation of the short list, the relevant provisions of Part IV (quality and cost based selection) shall apply whenever competition is used.

49. Quality based selection

- (1) Quality based selection is appropriate for the following types of assignments:
 - (a) Complex or highly specialised assignments for which it is difficult to define precise terms of reference and the required input from the consultants, and for which the client expects the consultants to demonstrate innovation in their proposals such as country economic or

sector studies, multisectoral feasibility studies, design of a hazardous waste redemption plant urban master plan or financial sector reforms;

- (b) assignments that have a high downstream impact and in which the objective is to have the best experts such as feasibility and structural engineering design of such major infrastructure as large dams, policy studies of national significance, management studies of large government agencies; and
 - (c) assignments that can be carried out in substantially different ways, such proposals will not be comparable, such as management advice, sector and policy studies in which the value of the services depends on the quality of the analysis.
- (2) In quality based selection, the request for proposals may request submission of a technical proposal only or request for submission of both technical and financial proposals at the same time, but in separate envelopes that is, two - envelope system and the request for proposals shall not provide the estimated budget, but it may provide the estimated number of key staff time, specifying that this information is given as an indication only, and that consultants shall be free to propose their own estimates.
 - (3) If technical proposals alone were invited, after evaluating the technical proposals using the same methodology as in quality and cost based selection, the procuring entity shall ask the consultant with the highest ranked technical proposal to submit a detailed financial proposal so that the procuring entity and the consultant shall then negotiate the financial proposal and the contract.
 - (4) All other aspects of the selection process shall be identical to those of quality and cost based selection and if however, consultants were requested to provide financial proposals initially together with the technical proposals, safeguards shall be built in as in quality and cost based selection to ensure that the price envelope of only the selected proposal is opened and the rest returned unopened, after the negotiations are successfully concluded.

50. Selection under fixed budget

- (1) This method is appropriate only when the assignment is simple and can be precisely defined and when the budget is fixed.
- (2) The request for proposals shall indicate the available budget and request the consultants to provide their best technical and financial proposals in separate envelopes, within the budget.
- (3) Terms of reference shall be prepared to make sure that the budget is sufficient for the consultants to perform the expected tasks.
- (4) Evaluation of all technical proposals shall be carried out first as in the quality and cost based selection method and the price envelopes shall be opened in public.
- (5) Proposals that exceed the indicated budget shall be rejected. The consultant who has submitted the highest ranked technical proposal among the rest shall be selected and invited to negotiate a contract.

51. Least cost selection

- (1) This method is more appropriate to selection of consultants for assignments of a standard or routine nature as audits, project or engineering design of non-complex works, and so forth where well-established practices and standards exist, and in which the contract amount is small.
- (2) Under such method, a "minimum" qualifying mark for the "quality" is established and the proposals to be submitted in two envelopes are invited from a short list.
- (3) Technical envelopes are opened first and evaluated. Those securing less than the minimum are rejected and the financial envelopes of the rest are opened in public and the firm with the lowest price shall then be selected.

- (4) Under such method, the qualifying minimum mark shall be established, keeping in view that all proposals above the minimum compete only on "cost".
- (5) The minimum mark shall be stated in the request for proposals.

52. Selection based on consultants' qualification

- (1) This method may be used for very small assignments for which the need for preparing and evaluating competitive proposals is not justified. For the purposes of this regulation and regulation 53 "very small assignments" means services whose value does not exceed the value of minor procurement as specified in the Third Schedule to these Regulations.
- (2) In such cases, the procuring entity shall prepare the terms of reference, request expressions of interest and information on the consultants' experience and competence relevant to the assignment, establish a short list, and select the firm with the most appropriate qualifications and references.
- (3) The selected firm shall be asked to submit a combined technical financial proposal and then be invited to negotiate the contract.

53. Single-source selection

- (1) Single-source selection of consultants does not provide the benefits of competition in regard to quality and cost and lacks transparency in selection, and could encourage unacceptable practices.
- (2) The single-source selection shall be used only in exceptional cases.
- (3) The justification for single-source selection shall be examined in the context of the overall interests of a procuring entity and the project, and a tender board's responsibility to ensure economy and efficiency and provide opportunity to all consultants to the extent possible.
- (4) Single-source selection may be appropriate only if it presents a clear advantage over competition in which case single source selection may be justified:
 - (a) For tasks that represent a natural continuation of previous work carried out by the firm;
 - (b) where a rapid selection is essential such as in an emergency operation;
 - (c) for very small assignments; or
 - (d) when only one firm is qualified or has experience of exceptional worth for the assignment.
- (5) When continuity for downstream work is essential, the initial request for proposals shall outline this prospect and, if practical, the factors used for the selection of the consultant shall take into account the likelihood of continuity for downstream work.
- (6) Continuity in the technical approach, experience acquired, and continued professional liability of the same consultant may make continuation with the initial consultant preferable to a new competition subject to satisfactory performance in the initial assignment and for such downstream assignments, the procuring entity shall ask the initially selected consultant to prepare technical and financial proposals on the basis of terms of reference furnished by the procuring entity which shall then be negotiated.
- (7) If the initial assignment was not awarded on a competitive basis or was awarded under tied financing or reserved selection or if the downstream assignment is substantially larger in value, a competitive process acceptable to the appropriate tender board shall normally be followed in which the consultant carrying out the initial work is not excluded from consideration if it expresses interest and the appropriate tender board will consider exceptions to this rule only under special circumstances and only when a new competitive process is not practicable.

54. Commercial practices

In the case of financing by a financial intermediary to private sector enterprises or autonomous commercial enterprises in the public sector, the procuring entity may follow well-established private sector or commercial practices acceptable to the appropriate tender board and consideration may be given to the use of competitive procedures outlined earlier, particularly for large assignments.

Part VI – Selection of particular types of consultants (regs 55-61)

55. Selection of public bodies, agencies as consultants

Consulting firms which are partially or totally controlled or sponsored by government or public authorities may be eligible for public financed projects, provided that:

- (a) Their qualification and experience are suitable for the assignment in question;
- (b) their structure and legal status are such that they can enter into a legally binding agreement with the public authorities' project implementation agency; and
- (c) privileges, as well as other advantages such as tax exemptions and other facilities and special payment provisions, shall be evaluated and neutralized in the cost comparison to ensure fair competition.

56. Selection of United Nations Agencies as consultants

- (1) United Nations agencies may be hired as consultants, where they are qualified to provide technical assistance and advice in their area of expertise.
- (2) United Nations agencies shall not receive any preferential treatment in a competitive selection process, except that a procuring entity may accept the privileges and immunities granted to United Nations Agencies and their staff under existing international conventions and may agree with United Nations Agencies on special payment arrangements required according to the agency's charter, provided these are acceptable to the appropriate tender board.
- (3) Privileges, as well as other advantages such as tax exemptions and other facilities and special payment provisions, shall be evaluated and neutralized in the cost comparison to ensure fair competition.
- (4) United Nations Agencies may be hired on a single-source selection basis if the criteria outlined in Regulation 53 are fulfilled.

57. Selection of non-governmental organizations

- (1) Non-governmental organisations are voluntary non-profit organizations that may be uniquely qualified to assist in the preparation, management and implementation of projects, essentially because of their involvement and knowledge of local issues, community needs, and/or participatory approaches.
- (2) Non-governmental organisations may be included in the short list if they express interest and provided that a procuring entity and a respective tender board are satisfied with their qualifications and eligibility to participate.
- (3) For assignments that emphasise participation and considerable local knowledge, the short list may comprise entirely non-governmental organisations and if so, the quality cost based selection procedure shall be followed, and the evaluation criteria shall reflect the unique qualifications of non-governmental organisations, such as voluntarism, non-profit status, local knowledge, scale of operation, and reputation.

- (4) A procuring entity may select a non-governmental organisation on a single-source basis provided the criteria outlined in regulation 53 are fulfilled.
- (5) Privileges as well as other advantages such as tax exemptions and other facilities, and special payment provisions shall be evaluated and neutralized in the cost comparison to ensure fair competition.

58. Selection of procurement agents

- (1) When a procuring entity lacks the necessary organization, resources, or experience, it may be efficient and effective for it to employ, as its agents, a firm that specialises in handling procurement.
- (2) Procurement agents shall be paid a percentage of the value of the procurements handled, or a combination of such a percentage and a fixed fee.
- (3) Procurement agents shall be selected using quality and cost based selection procedures with cost being given a weight up to fifty percent.
- (4) The standard contract form applicable for procurement agents, with payments based on a percentage of the total procurements and/or staff-month rates, shall be used.
- (5) When procurement agents provide only advisory services for procurement and do not act as "agents" and are not paid a percentage fee at all, they shall be selected following the appropriate procedures as for other consulting assignments, specified in these Regulations.

59. Inspection agents

- (1) A procuring entity may wish to employ inspection agents to inspect and certify goods prior to shipment or on arrival in Tanzania in which case inspection by such agents shall cover the quality and quantity of the goods concerned and reasonable prices.
- (2) Inspection agents shall be selected using quality and cost based selection procedures giving cost a weight up to fifty percent and using a contract format with payments based on a percentage of the value of goods inspected and certified.

60. Auditors

- (1) Auditors shall carry out auditing tasks under well-defined terms of reference and professional standards.
- (2) Auditors shall be selected according to quality and cost based selection, with cost as a substantial selection factor that is, forty to fifty points or by the "least-cost selection" outlined in Regulation 51.

61. Service delivery contracts

- (1) Projects in the social sector in particular may involve hiring of large numbers of individuals who deliver services on a contract basis for example, social workers, such as nurses and paramedics.
- (2) The job descriptions, minimum qualifications, terms of employment, selection procedures, and the extent of tender board review of these procedures and documents shall be described on a case by case.

Part VII – Selection of individual consultants (regs 62-64)

62. Selection of individual consultants

- (1) Individual consultants are normally employed on assignments for which:
 - (a) teams of personnel are not required;
 - (b) no additional outside professional support is required; and
 - (c) the experience and qualifications of the individual are the paramount requirement.
- (2) When co-ordination, administration, or collective responsibility may become difficult because of the number of individuals, it would be advisable to employ a firm.
- (3) Individual consultants are selected on the basis of their qualifications for the assignment and may be selected on the basis of references or through comparison of qualifications among those expressing interest in the assignment or approached directly by the procuring entity.
- (4) Individuals employed by a procuring entity shall meet all relevant qualifications and shall be fully capable of carrying out the assignment
- (5) Capability shall be judged on the basis of academic background, experience and, as appropriate, knowledge of the local conditions, such as local language, culture, administrative system, and government organization.
- (6) From time to time, permanent staff or associates of a consulting firm may be available as individual consultants. In such cases, the conflict of interest provisions described in these Regulations shall apply to the parent firm.
- (7) In the selection and use of individual consultants, special attention shall be paid to national consultants.

63. Types of services

- (1) The types of services for which a procuring entity may require services of individual consultants are the following:
 - (a) Preparation of terms of reference;
 - (b) opening and evaluation of tenders for works contracts and supplier and consultant's proposals;
 - (c) preparation of the brief where architectural services are to be procured;
 - (d) revision and updating of feasibility studies;
 - (e) preliminary project or engineering design;
 - (f) technical assistance for the planning of development, economic or sectoral planning, organization and management;
 - (g) application as the recommendations formulated in a study;
 - (h) training;
 - (i) assistance of the procuring entity with project implementation, and in particular for the monitoring and supervision of project implementation, as well as for investigations and technical advice;
 - (j) preparation of project completion reports;
 - (k) all other necessary assistance decided upon by the procuring entity.

64. Selection process

- (1) The selection process for individual consultants comprises the following stages:
 - (a) Preparation of the terms of reference and contract format;
 - (b) advertisement of the consultancy job;
 - (c) preparation of the estimated budget;
 - (d) preparation of the short list;
 - (e) evaluation of qualification and experience;
 - (f) negotiation of fees and contract terms;
 - (g) signing of contract;
 - (h) supervision and evaluation of services.
- (2) For short term assignments of a few weeks to one or two months, the procuring entity may, after approval by the appropriate tender board, recruit a qualified individual consultant directly on the basis of information available to it.
- (3) The procuring entity shall consider the consultant's *curriculum vitae* and reference and if these are satisfactory and the latter is available, the fees and the contract terms may be negotiated.
- (4) For longer term assignments, the procuring entity shall prepare a short list of three to seven consultants selected on the widest possible geographical base, containing no more than two consultants of the same nationality and includes at least one national consultant using the procuring entity's own sources of information. The individual consultant may also be recruited through governmental or international academic organizations or consulting firms.
- (5) Once the short list is established the procuring entity shall, on the basis of the *curriculum vitae* and other relevant information available to it, evaluate the qualifications and experience of each consultant, particularly in the field of the assignment concerned and classify them by order of merit.
- (6) The criteria to be used in the evaluation are the following (numerical ratings are given as examples):

(a) General qualifications and suitability for the task to be performed	45%
(b) experience in the specific assignment described in the terms of reference	40%
(c) language proficiency	10%
(d) knowledge of the country	5%

- (7) A procuring entity shall contact the first individual consultant on the ranking and if he is available, fees and contract terms shall be negotiated.
- (8) The negotiations, which may sometimes begin with interviews continue until one of the short listed individual consultants is definitively retained for the assignment.

Part VIII – Types of contracts, their conditions for use and important provisions (regs 65-70)

65. Lump sum (firm fixed price) contract

- (1) The lump sum contracts are used mainly for assignments in which the content and the duration of the services and the required output of the consultants are clearly defined.
- (2) The lump sum contracts are widely used for simple planning and feasibility studies, environment studies, detailed design of standard or common structures, preparation of data processing systems, and so forth.
- (3) Payments are linked to outputs (deliverables), such as reports, drawings, bills of quantities, bidding documents, and software programs.
- (4) Lump sum contracts are easy to administer because payments are due on clearly specified outputs.

66. Time based contract

- (1) Time based contracts are appropriate when it is difficult to define the scope and the length of services, either because the services are related to activities by others for which the completion period may vary, or because the input of the consultants required to attain the objectives of the assignment is difficult to assess.
- (2) Such contracts are widely used for complex studies, supervision of construction, advisory services, and most training assignments. Payments are based on agreed hourly, daily, weekly, or monthly rates for staff (who are normally named in the contract) and on reimbursable items using actual expenses and, or agreed unit prices and the rates for staff include salary, social costs, overhead, fee or profit, and, where appropriate, special allowances.
- (3) Such contracts shall include a maximum amount of total payments to be made to the consultants and the ceiling amount should include a contingency allowance for unforeseen work and duration, and provision for price adjustments, where appropriate.
- (4) Time based contracts need to be closely monitored and administered by the client to ensure that the assignment is progressing satisfactorily, and payments claimed by the consultants are appropriate.

67. Retainer and/or contingency (success) fee contract

- (1) Retainer and contingency fee contracts are widely used when consultants that is, banks or financial firms, are preparing companies for sale or mergers of firms, notably in privatisation operations.
- (2) The remuneration of the consultant includes a retainer and a success fee, the latter being normally expressed as a percentage of the sale price of the assets.

68. Percentage contract

- (1) Percentage contracts are commonly used for architectural services and may also be used for procurement of inspection agents.
- (2) Percentage contracts directly relate the fees paid to the consultant to the estimated or actual project construction cost, or the cost of the goods procured or inspected.
- (3) The contracts are negotiated on the basis of market norms for the services and, or estimated staff-month costs for the services, or competitively bid and in the case of architectural or engineering services, percentage contracts implicitly lack incentive for economic design and are hence discouraged.

- (4) The use of such a contract for architectural services is recommended only if it is based on a fixed target cost and covers precisely defined services.

69. Indefinite delivery contract (price agreement)

- (1) Indefinite delivery contracts are used when a procuring entity needs to have "on call" specialised services to provide advice on a particular activity, the extent and timing of which cannot be defined in advance.
- (2) This type of contract is commonly used to retain "advisers" for implementation of complex projects (for example, dam panel) expert adjudicators for dispute resolution panels, institutional reforms, procurement advice, technical troubleshooting, and so forth, normally for a period of a year or more.
- (3) The procuring entity and the firm agree on the unit rates to be paid for the experts, and payments are made on the basis of the time actually used.

70. Important provisions in contracts

- (1) Currency:

Request for proposals shall clearly state that firms may express the price for their services in Tanzanian shillings, or in other convertible currencies. If the consultants wish to express the price as a sum of amounts in different foreign currencies, they may do so, provided the proposal includes no more than three foreign currencies. The procuring entity may require consultants to state the portion of the price representing local costs in Tanzania shillings. Payment under the contract shall be made in the currency or currencies in which the price is expressed in the proposal.

- (2) Price adjustment:

To adjust the remuneration for foreign and/or local inflation, a price adjustment provision shall be included in the contract if its duration is expected to exceed 18 months. Exceptionally, contracts of shorter duration may include a provision for price adjustment when local or foreign inflation is expected to be high and unpredictable.

In such a case, time based rates and reimbursable costs may be adjusted by the use of a prescribed formula (or formulae) which breaks down the fee rates and costs into components that are adjusted by price indices specified for each component or on the basis of documentary evidence (including actual invoices) provided by a consultant. The method to be used, any formula that may be applicable and the base date for application shall be clearly defined in the solicitation documents. If the currency of payment is different from the source of the input and corresponding index a correction factor shall be applied in the formula to avoid incorrect adjustment.

- (3) Payment provisions:

Payment provisions, including amounts to be paid, schedule of payments, and payment procedures, shall be agreed upon during negotiations. Payments may be made at regular intervals (as under time based contracts) or for agreed outputs (as under lump sum contracts). Payments for advances (for example, for mobilisation costs) must be backed by advance payment securities.

Payments shall be made promptly in accordance with the contract provisions. To that end:

- (a) Consultants can be paid exceptionally through a Letter of Credit;
- (b) only disputed amounts shall be withheld, with the remainder of the invoice paid in accordance with the contract; and
- (c) the contract shall provide for the payment of financing charges if payment is delayed due to the client's fault beyond the time allowed in the contract; and rate of charges shall be specified in the contract.

(4) Bid and performance securities:

Bid and performance securities are not recommended for consultants' services. Their enforcement is often subject to judgement calls, they can be easily abused, and they tend to increase the costs to the consulting industry without evident benefits, which are eventually passed on to the procuring entity.

(5) Procuring entity's contribution:

A procuring entity normally assigns members of its own professional staff to the assignment in different capacities. The contract between the procuring entity and the consultant shall give the details governing such staff, known as counterpart staff, as well as facilities that shall be provided by the procuring entity such as housing, office space, secretarial support, utilities, materials and vehicles. The contract shall indicate measures the consultant can take if some of the items cannot be provided or have to be withdrawn during the assignment, and the compensation the consultant will receive in such a case.

(6) Conflict of interest:

The consultant shall not receive any remuneration in connection with the assignment except as provided in the contract. The consultant and its affiliates shall not engage in consulting activities that conflict with the interest of the client under the contract, and shall be excluded from downstream supply of goods or construction of works or purchase of any asset or provision of any other service related to the assignment other than a continuation of the "services" under the ongoing contract.

(7) Professional liability:

The consultant is expected to carry out its assignment with due diligence, and in accordance with prevailing standards of the profession. As the consultant's liability to the procuring entity will be governed by the applicable law, the contract need not deal with this matter unless the parties wish to limit this liability. If they do so, they should ensure that—

- (a) there must be no such limitation in case of the consultant's gross negligence or wilful misconduct;
- (b) the consultant's liability to the procuring entity may in no case be limited to less than the total payments expected to be made under the consultant's contract, or the proceeds the consultant is entitled to receive under its insurance, whichever is higher; and
- (c) any such limitation may deal only with the consultant's liability towards the client and not with the consultant's liability towards third parties.

(8) Staff:

During an assignment, if substitution is necessary (for example, because of ill health or because a staff member proves to be unsuitable), the consultant shall propose other staff of at least the same level of qualifications for approval by the procuring entity.

(9) Applicable law and settlement of disputes:

The contract shall include provisions dealing with the applicable law and the forum for the settlement of disputes. International commercial arbitration may have practical advantages over other methods for the settlement of disputes. A tender board shall not be named an arbitrator or be asked to name an arbitrator.

Where local consultants, who have not formed joint ventures or associations with foreign consultants, are involved, the arbitration rules and procedures in force in Tanzania shall be used.

Part IX – Financial provisions and selection authorisation limits (regs 71-83)

71. Scheduling the selection process

- (1) The appropriate tender board shall review the selection process for the hiring of consultants proposed by a procuring entity, including the cost estimate, the contract packaging, applicable procedures, the short list, selection criteria, and so forth, for its conformity with these Regulations and the proposed implementation program.
- (2) A procuring entity shall promptly inform the appropriate tender board of any delay, or other changes in the scheduling of the hiring process, which could significantly affect the timely and successful implementation of the project, and agree with such tender board on corrective measures.

72. Prior review

- (1) Before inviting proposals, a procuring entity shall furnish to the appropriate tender board for its review the short list and the proposed request for proposal and shall make such modifications to the short list and the documents as the tender board shall reasonably request.
- (2) Any further modification shall require the tender board's prior approval before the request for proposal is issued to the short-listed consultants.
- (3) After the technical proposals have been evaluated, the procuring entity shall furnish to the appropriate tender board, in sufficient time for its review, a technical evaluation report and copies of the proposals.
- (4) If the appropriate tender board determines that the technical evaluation is inconsistent with the provisions of the request for proposals, it shall promptly inform the procuring entity and state the reasons for its determination.
- (5) A procuring entity shall request the appropriate tender board's approval if the evaluation report recommends rejection of all proposals.
- (6) After receiving the tender board's approval to the technical evaluation, the procuring entity shall proceed with opening of the financial envelopes and then the financial evaluation will be undertaken in accordance with the provisions of the request for proposals.
- (7) A procuring entity shall furnish to the appropriate tender board in sufficient time for its review, the final evaluation report along with its proposed selection of the winning firm and if the appropriate tender board determines that the evaluation and proposed selection are inconsistent with the provisions of the request for proposals, it shall promptly inform the procuring entity and state the reasons for its determination and where such determination has not been made the tender board shall advise its approval to the proposed selection.
- (8) The description and amount of the contract, together with the name and address of the firm, shall be subject to release by the tender board upon confirmation by the procuring entity of contract award.

73. Modifications of contract

Before granting a substantial extension of the stipulated time for performance of a contract, agreeing to any substantial modification of the scope of the services, substituting key staff, waiving the conditions of a contract, or making any changes in the contract that would in aggregate increase the original amount of the contract, a procuring entity shall inform the appropriate tender board of the proposed extension, modification, substitution, waiver, or change, and the reasons for such changes.

74. Approval of selection

- (1) Any selection, by a ministry or department of Government, local authority or parastatal organisation or agency of government, must be authorised by a procuring entity and endorsed by an approving authority whose limit of authority, as laid down in the Second Schedule to these Regulations, is appropriate to the value of the services being procured.
- (2) The accounting officer or chief executive officer shall consult the Central Tender Board for its approval on the selection provisions under any international, bilateral or multilateral agreement.
- (3) Each tender board established under sections [11](#), [12](#), [13](#), [14](#) and [15](#) of the Act shall constitute a procurement management unit which shall consist of the head of procurement or purchasing and supplies and not more than six other procurement specialists.
- (4) The functions of the procurement management unit shall be to invite, receive, process and make recommendations on tenders for the procurement of goods, works and services for approval by the appropriate tender board.
- (5) The Central Tender Board shall on such terms and conditions as it thinks fit, certify a procurement management unit constituted under Regulation [74](#) in categories as specified in the Fifth Schedule to these Regulations.

75. Accounting officers and delegated powers

- (1) An accounting officer of a Ministry, independent department or region shall be responsible for the selection of consultants. The accounting officer is ultimately accountable for the use made of the funds voted by Parliament to that ministry or department and for the justification for the requirements that are procured.
- (2) Any contract or local purchase order entered into by the ministry or department shall be signed by the accounting officer or by a Government officer acting with powers delegated in writing by the accounting officer.
- (3) An accounting or chief executive officer may delegate his or her powers of procurement as follows:
 - (a) Within a ministry or department to:
 - (i) A procurement officer; or
 - (ii) the head of a procurement management unit; or
 - (iii) head of a department; or
 - (iv) supervising officer; or
 - (v) an engineer in-charge of a project; or
 - (vi) any other public officer who is properly nominated;
 - (b) within a region, to a regional officer;
 - (c) within a district, to a district administrative secretary.
- (3) In each case, the delegated powers of procurement shall not exceed the maximum appropriate limit of authority laid down in Second Schedule to these Regulations.
- (4) An accounting officer shall delegate such powers in writing for a period not exceeding that during which he or she shall remain in post.

76. Ministries and regions

- (1) Where the value of the services being procured exceeds the limit of authority of the accounting officer, procurement must be reviewed and approved by either:
 - (a) The tender board of that Ministry established under the provisions of section 11 of the Act; or
 - (b) a regional tender board, as established under the provisions of section 12 of the Act, in cases where procurement is being undertaken by a regional administration or by another Government department within that region; or
 - (c) the Central Tender Board, as established under the provisions of section 5 of the Act, where the value of the goods or works being procured exceeds the limit of authority of a ministry or regional tender board.
- (2) A procuring entity acting for a government department in regions may request approval for selection of consultant of which the value is above its delegated powers, from the accounting officer and the tender board of the appropriate Ministry instead of from a regional tender board.

77. Districts

- (1) Procurement that is being undertaken by a district administration or by another Government department within a district, may be authorised by the district administrative secretary where the value of the services being procured is within his or her limit of authority.
- (2) Any such procurement where the value exceeds the limit of authority of the district administrative secretary shall be reviewed and approved by either—
 - (a) a district tender board of that district, as established under the provisions of section 13 of the Act, provided that the value of such services are within its limit of authority; or
 - (b) a tender board of a region which contains that district; or
 - (c) the Central Tender Board, where the value of services being procured exceeds the limit of authority of the regional tender board.
- (3) A procuring entity acting for a Government department in a district may request approval for procurement of services of which the value is above its delegated powers, either from the accounting officer and the tender board of the appropriate Ministry or from a regional officer of the Ministry and the regional tender board instead of from a district tender board.

78. All requests for proposals

- (1) Requests for proposals may only be issued with the approval of the appropriate tender board, which may examine the draft request for proposals before approving the issue of the invitation for proposals.
- (2) A tender board shall establish a time and place for the return of the proposals and the public tender opening in accordance with the procedures set out in Part IV of these Regulations.
- (3) Only when the procurement has been approved by the relevant tender board is the accounting officer or his or her delegate authorised to award a contract to the successful consultant.

79. Emergency procurement

- (1) If a procurement entity finds that it is in the interest of the Government that services, the value of which exceeds his or her authority, ought to be procured as a matter of urgency, the procuring entity shall:
 - (a) Evaluate the need for such urgent procurement and decide which procurement method shall be followed in order to guarantee economy and efficiency, with due regard to circumstances of urgency and without regard to his limit of authority;
 - (b) procure the services in accordance with the method of procurement selected; and
 - (c) immediately thereafter, present the unauthorised procurement to the Paymaster-General for retrospective approval.
- (2) A procuring entity engaging in procurement in excess of its limit of authority may be held personally liable for the value of the unauthorised procurement in accordance with sections [16](#), [17](#) and [64](#) of the Act if the Paymaster-General decides that the procurement was unnecessary, extravagant, occasioned by the procuring entity's lack of foresight or timely action, or otherwise could not be justified.
- (3) An award of a contract made by a procuring entity beyond his or her authority and not approved in retrospect shall nevertheless be valid.

80. Alteration and amendment

A procurement contract shall not be altered or amended in any way after it has been signed by both parties unless such alteration or amendment is:

- (a) To the benefit of the Government or is not disadvantageous to the Government; and
- (b) is endorsed by the approving authority that reviewed and approved the original procurement.

81. Additions to contract value

Any additions to the value of a procurement contract:

- (a) Shall be reviewed and agreed by the approving authority that endorsed the original contract provided such increased value does not exceed its authority limit;
- (b) all contract amendments resulting in the revised contract value exceeding the approving authority limit shall be reviewed and approved by the next higher approving authority.

82. Procurement authorisation limits

- (1) The procurement authorisation limits are given in the Second Schedule to these Regulations and in setting these thresholds the Central Tender Board shall devolve more powers to institutions having established working procurement or supplies units.
- (2) The Central Tender Board shall, as more and more institutions establish these units and gain experience, make necessary reclassification and devolution of authority but in that regard, accounting officers and chief executive officers in institutions or bodies which, by their nature and constitution, have small establishments, shall not strive to create fully fledged procurement units for the sake of qualifying for higher spending limits.
- (3) Except in special cases that may be directed as such by the Minister, the authority to approve or award a contract for services shall be that of the persons holding the positions shown in Second Schedule to these Regulations as long as they are exercised within the corresponding procurement limits.

83. Validity of procurement authorisation

Where an approval to award a contract has been given but the procuring entity is unable to conclude a contract with the approved consultant, the authority given by a tender board shall be valid for a period of —

- (a) six months for a local contract, which may be extended for a further period of three months without changing the terms and conditions of the original contract; or
 - (b) six months for an international contract which may be extended for a further period of six months without changing the terms and conditions of the original contract.
- (2) Subregulation (1) shall apply only where the approved consultant has not been notified of the award of contract.
- (3) Where the authority granted by a tender board expired in accordance with subregulation (1) but approved consultant has not been notified of the award of contract, all proposes received shall be treated as having been rejected and the selection process annulled and new request for proposals be made provided that firms which had submitted proposals in the first instance are equally invited to submit proposals.

Part X – Prohibition (regs 84-92)

84. Fraud and corruption

- (1) Procuring and approving entities as well as consultants under public financed contracts shall proceed in a transparent and accountable manner during the selection and execution of such contracts.
- (2) A procuring entity or an approving authority may, if satisfied after appropriate investigations and determination in accordance with its procedures, that any person or firm has engaged in corrupt or fraudulent practices in competing for the contract in question:
 - (a) Reject a proposal for award of such contract;
 - (b) declare any person or firm ineligible for a period of ten years to be awarded a public financed contract.
- (3) A procuring entity or an approving authority may, after determination by a court of law or following a special audit by the Controller and Auditor-General, that corrupt or fraudulent practices were engaged in by any person or firm during the selection, award of contract or the execution of that contract—
 - (a) cancel the portion of the funds allocated to a contract for services;
 - (b) declare any person or firm ineligible for a period of ten years to be awarded a public financed contract.
- (4) Any member of a procuring entity or approving authority who engages in corrupt or fraudulent practices during the selection proceedings or the execution of the public financed contract shall be dealt with in accordance with section 64 of the Act.
- (5) A procuring entity shall, in any request for proposals for public contracts, include an undertaking of the consultant to observe the country's laws against fraud and corruption including bribery in competing for and executing a contract as per the Memorandum given under the Sixth Schedule to these Regulations.

85. Improper inducement

- (1) No person, whether such person has made an offer or not, shall, with intent to gaining any advantage or concession for himself or any other person—
 - (a) offer any member or an associate of a member of a tender board or its committee thereof or any employee or any associate of an employee of the tender board or committee or any consultant or an associate of any consultant or person or an associate of any person providing services, a gift of money or other thing; or
 - (b) approach any member or any associate of a member of the tender board or its committee or any of its officer or any associate of any officer with respect to any matter that is before the tender board or committee or that is expected to come before the tender board or committee.
- (2) No procuring entity, member of an approving authority or any current or former public officer or other Government authority shall accept a gratuity in any form, any offer of employment or any other thing of service or value as an inducement with respect to an act or decision of, or procedure followed by, the procuring entity or by the approving authority in connection with any procurement proceedings or tender; and a procuring entity shall promptly reject the proposal of any consultant who gives, agrees to give or offers directly or indirectly, any such inducement.
- (3) Procurement shall not be made from a public officer or associate of a public officer acting in a private capacity, either alone or as a partner in a partnership or as an officer of a company.
- (4) A procuring entity shall not include in any request for proposal any condition or specification such as to favour any consultant.
- (5) A member of an approving authority or a member of its staff of a procuring entity thereof or of a procuring entity or member of staff shall declare any interest that they may have in any consultant, and shall take no part in, nor seek to influence in any way, selection proceedings in which that consultant is involved or liable to become involved.
- (6) Any tender proved to have been awarded on the basis of inducement as described in the preceding subsections shall be revoked forthrightly and the same shall be reported to the relevant professional body for ethical proceedings.
- (7) A consultant whose proposal has been rejected or revoked on the grounds of inducement and corrupt practices shall not be able to qualify or pre-qualify in any selection proceeding during the ten years following the date of the notice of such rejection or revocation.
- (8) Any rejection or revocation on the grounds of inducement or corrupt practices shall be notified to the Executive Secretary of the Central Tender Board who shall in turn take effect to notify all Government procuring entities and approving authorities for the sake of effecting the contents of subsection (7).

86. Disability of members of the procuring entity and the approving authority on account of interest in contracts

- (1) If a member of the procuring entity or a member of an approving authority has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the procuring entity or approving authority at which the contract or other matter is the subject of consideration, he shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not take part in the evaluation, consideration or discussion of the contract or other matter or vote on any question with respect to it.
- (2) A member of a procuring entity or a member of an approving authority who has disclosed an interest in accordance with this regulation shall forthwith withdraw from the meeting.
- (3) If any person fails to comply with the provisions of subregulation 86(1) or subregulation 86(2), he shall for each offence be liable to the provisions of section 64 of the Act unless he proves that he did

not know that the contract, proposed contract or other matter in which he had a pecuniary interest was the subject of consideration at that meeting.

87. Pecuniary interests for purposes of regulation 86

- (1) For the purposes of regulation 86 a person shall be treated, subject to regulation 87(2) and regulation 87(3), as having indirectly a pecuniary interest in a contract, proposed contract or other matter, if:
 - (a) He or any nominee of his 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
 - (b) he 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.
- (2) Regulation 87(1) does 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.
- (3) In the case of married persons living together, the interest of one spouse shall, if known to the other, be deemed for the purposes of regulation 86 to be also an interest of the other.

88. General notices and recording of disclosure for the purposes of regulation 86

- (1) A general notice given in writing to the head of the procuring entity, in case of an employee of the procuring entity, or to the secretary of the tender board whose authority limit is appropriate to the value of the procurement under consideration, by a member thereof to the effect that he or his spouse is a member or in the employment of a specified company or other body, or that he or his spouse is a partner or in the employment of a specified person, shall unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any contract, proposed contract or other matter relating to that company or other body, or to that person which may be the subject of consideration after the date of the notice.
- (2) The head of the procuring entity, in the case of an employee of the procuring entity or the Secretary of a tender board, in the case of an approving authority, shall cause to be recorded in a book to be kept for the purpose, particulars of any disclosure made under regulation 86 and of any notice given under this regulation, and the book shall be open at all reasonable hours to the inspection of any member of the public.

89. Prohibition of running contracts

- (1) A procuring entity shall not invite, accept or place a running contract for the provision of services. All contracts shall have a specific starting and completion target date.
- (2) For the purposes of this regulation, "running contract" means a contract extending over a period of time for an estimated or variable quantity of services obtained through request for submission of unit rates which are applied over an extended period of time and which offer the procuring entity to engage such consultants without further competitive selection.

90. Non-anticipation of contracts

Acceptance of any proposal shall not be anticipated and orders shall not be placed until the necessary authority has been received from the appropriate tender board or appropriate approving authority.

91. Tampering with submitted proposals

- (1) No person shall:
 - (a) Open an envelop or other container in which a proposal is contained, other than in the due and proper execution of his duties under these regulations;
 - (b) burn, tear or otherwise destroy any proposal; or
 - (c) erase or do any other act which falsifies or renders incomplete or misleading any proposal.
- (2) For the purposes of this regulation, "proposal" includes documents or things submitted together with the proposal and which are relevant to the proposal and which are in the possession of a tender board, evaluation committee, procuring entity or any person.

92. Institution of criminal proceedings

The measures provided by the Act shall not preclude the institution of criminal proceedings pursuant to the Penal Code ⁸, the Prevention of Corruption Act, 1971 ⁹ or any other written Law against any person discharging functions or exercising powers under the Act or these Regulations.

Part XI – Review of procurement decisions and resolution Of disputes (regs 93-105)

93. Right to review

- (1) Subject to regulation 93(2) of these Regulations, any consultant who claims to have suffered, or that may suffer any loss or injury as a result of a breach of a duty imposed on a procuring entity or an approving authority by the Act or these Regulations, may seek a review in accordance with Regulations 93 and 94 provided that the application for a review is received by the procuring entity or approving authority within twenty-eight days of the consultant becoming aware of the circumstances giving rise to the complaint or of when the consultant should have become aware of those circumstances.
- (2) The review referred to in subregulation (1) shall not apply to:
 - (a) The selection of a method of procurement and the choice of a selection procedure;
 - (b) the limitation of eligibility on the basis of nationality in accordance with section 22 of the Act or with these Regulations;
 - (c) a decision by the procuring entity to reject all proposals further to section 28 of the Act;
 - (d) failure to cite the Act, or these Regulations or any other law relating to the procurement proceedings.

94. Settlement of disputes by a procuring entity and approving authority

- (1) Disputes between a procuring entity and a consultant which arise in respect of selection proceedings and awards of contracts; and which cannot be resolved by mutual agreement, shall be reviewed and decided upon in a written decision by the accounting officer or chief executive officer, unless the procurement has been reviewed and approved by an approving authority, in which case that approving authority shall review and decide on the dispute and give reasons for its decision in writing.

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- (2) The head of the procuring entity or of the approving authority shall not entertain a complaint, unless it is submitted within twenty-eight days from the date the consultant submitting it became aware of the circumstances giving rise to the complaint or when that consultant should have become aware of those circumstances, whichever event occurs earlier.
- (3) The head of a procuring entity or of the approving authority need not entertain a complaint, or continue to entertain a complaint, after the procurement contract has entered into force.
- (4) Unless the complaint is resolved by mutual agreement of the consultant that submitted it and the procuring entity, the head of the procuring entity or of the approving authority shall, within thirty days after the submission of the complaint, issue a written decision in which case the decision shall:
 - (a) State the reasons for the decision; and
 - (b) if the complaint is upheld in whole or in part, indicate the corrective measures that are to be taken.
- (5) Where the head of the procuring entity or of the approving authority does not issue a decision by the time specified in subsection (4) of this section, the consultant submitting the complaint or the procuring entity is entitled immediately thereafter to institute proceedings under regulations 95, 96 or 105 and upon such institution of such proceedings, the competence of the head of the procuring entity or of the approving authority to entertain the complaint shall cease.
- (6) The decision of the procuring entity or approving authority shall be final unless the consultant applies for administrative review by the Central Tender Board further to section 8 of the Act except for complaints made against the Central Tender Board which shall be submitted to the Public Procurement Appeals Authority in accordance with regulation 96.

95. Administrative review

- (1) A consultant who is aggrieved by the decision of a procuring entity or approving authority may refer the matter to the Central Tender Board for review and administrative decision, except for complaints against the Central Tender Board which shall be referred to the Public Procurement Appeals Authority.
- (2) The decision of the Central Tender Board shall be final unless an action is commenced under regulation 96 or regulation 105 of these Regulations.

96. Review by the Public Procurement Appeals Authority

- (1) Disputes not amicably settled by the Central Tender Board and disputes against the Central Tender Board shall be referred to the Public Procurement Appeals Authority.
- (2) The Public Procurement Appeals Authority shall entertain appeals against tender boards, clarify the issues in dispute between the parties and shall endeavour to bring about agreement between the parties upon mutually acceptable terms, and the parties shall co-operate in good faith with the Public Procurement Appeals Authority in order to enable it to carry out its functions and they shall be bound by its decisions.
- (3) A consultant entitled under regulation 93 to seek review may submit a complaint to the Public Procurement Appeals Authority—
 - (a) if the complaint cannot be submitted or entertained under regulations 94 or 95 because of entry into force of the procurement contract, and provided that the complaint is submitted within 20 days after the earlier of the time when the consultant submitting it became aware of the circumstances giving rise to the complaint or the time when that consultant should have become aware of those circumstances;

- (b) if the head of the procuring entity does not entertain the complaint because the procurement contract has entered into force, provided that the complaint is submitted within twenty days after the delivery of the decision not to entertain the complaint;
 - (c) pursuant to regulation 94(5) provided that the complaint is submitted within twenty days after the expiry of the period referred to in regulation 94(4); or
 - (d) if the consultant claims to be adversely affected by a decision of the head of the procuring entity or of the approving authority under Regulation 95, provided that the complaint is submitted within twenty days after the delivery of the decision.
- (3) Upon receipt of a complaint, the Public Procurement Appeals Authority shall give notice of the complaint to the procuring entity or the approving authority.
- (4) The Public Procurement Appeals Authority may, unless it dismisses the complaint, recommend one or more of the following remedies:
- (a) Declare the legal rules or principles that govern the subject-matter;
 - (b) prohibit the procuring entity from acting or deciding unlawfully or from following an unlawful procedure;
 - (c) require the procuring entity that has acted or proceeded in an unlawful manner, or reached an unlawful decision, to act or to proceed in a lawful manner or to reach a lawful decision;
 - (d) annul in whole or in part an unlawful act or decision of the procuring entity, or approving authority other than any act or decision bringing the procurement contract into force;
 - (e) revise an unlawful decision by the procuring entity or substitute its own decision for such a decision, other than any decision bringing the procurement contract into force;
 - (f) require the payment of compensation for any reasonable costs incurred by the supplier or contractor submitting the complaint as a result of an unlawful act, decision or procedure followed by the procuring entity or approving authority; or
 - (g) order that the procurement proceedings be terminated.

97. Certain rules applicable to review proceedings under regulations 94, 95 and 96

- (1) After the submission of a complaint under regulations 94, 95 and 96, the head of the procuring entity or of the approving authority or the Public Procurement Appeals Authority, as the case may be, shall notify all consultants participating in the selection proceedings to which the complaint relates, of the submission of the complaint and of its substance.
- (2) Any such consultant or any public authority whose interests are or could be affected by the review proceedings shall have a right to participate in the review proceedings and a consultant who fails to participate in the review proceedings is barred from subsequently making the same claim.
- (3) A copy of the decision of the head of the procuring entity or of the approving authority or of the Public Procurement Appeals Authority, as the case may be, shall be furnished within five days after the delivery of the decision, to the consultant submitting the complaint, to the procuring entity and to any other consultant and the public authority who has participated in the review proceedings and in addition, after the decision has been delivered, the complaint and the decision shall be made available for inspection by the general public, provided however that, no information shall be disclosed if its disclosure would:
 - (a) Be contrary to law;
 - (b) impede law enforcement;
 - (c) not be in the public interest;
 - (d) prejudice legitimate commercial interest of parties; or

- (e) inhibit fair competition.

98. Suspension of selection proceedings

- (1) The timely submission of a complaint under Regulations 94, 95 and 96 shall suspend the selection proceedings for a period of seven days, provided the complaint is not frivolous and contains a declaration the contents of which, if proven, demonstrate that the consultant will suffer irreparable injury in the absence of a suspension, and shows that it is probable that the complaint will succeed and the granting of the suspension would not cause disproportionate harm to the procuring entity or to the consultant.
- (2) Where the procuring contract enters into force, the timely submission of a complaint under Regulation 95 shall suspend the performance of the procurement contract for a period of seven days, provided the complaint meets the requirements set forth in subregulation (1).
- (3) The head of the procuring entity, or of the approving authority, or the Public Procurement Appeals Authority may, extend the suspension provided for in subregulation (1), and the Public Procurement Appeals Authority may extend the suspension provided for in subregulation (2), in order to preserve the rights of the consultant submitting the complaint or commencing the action pending the disposition of the review proceedings, provided that the total period of suspension shall not exceed thirty days.
- (4) The suspension provided for by this section shall not apply if the procuring entity certifies that urgent public interest considerations require the selection to proceed and the certification, shall state the grounds for the findings and shall be conclusive with respect to all levels of review except judicial review.
- (5) Any decision by the procuring entity under this section and the grounds and circumstances therefor shall be made part of the record of the procurement proceedings.

99. Statement of claim

- (1) The claimant shall communicate his statement of claim in writing to the appeals authority and to the procuring entity. A copy of the tender documents and the tender submitted by the claimant, shall be annexed thereto.
- (2) The statement of claim shall include the following particulars:
 - (a) The names and addresses of the parties involved;
 - (b) a statement of the facts supporting the claim;
 - (c) the points at issue;
 - (d) the relief or remedy sought.
- (3) The claimant may annex to his statement of claim, all documents he deems relevant or may add a reference to the documents or other evidence he will submit.

100. Experts appointed by appeals authority

- (1) The appeals authority—
 - (a) may appoint one or more experts to report to the appeals authority on specific issues;
 - (b) may require a party to give any such expert any relevant information or to produce or to provide access to, any relevant documents, goods or property for inspection by the expert.
- (2) Unless otherwise stated, the expert shall, after delivery of his written or oral report, participate in a hearing at which the parties shall have the opportunity to question him and present expert witnesses in order to testify on the points at issue.

101. Language of dispute resolution

- (1) Unless otherwise specified, the language of dispute resolution shall be the language of the tender documents, subject to the power of the appeals authority to determine otherwise having regard to any observations of the parties and the circumstances of the claim or dispute.
- (2) The appeals authority may order that any documents submitted in languages other than the language of dispute resolution be accompanied by a translation in whole or in part into the language of the dispute resolution.

102. Place of dispute resolution

- (1) Unless otherwise specified, the place of dispute resolution shall be decided by the appeals authority, taking into consideration any observations of the parties and the circumstances of the dispute.

103. Disclosure of trade secrets and other confidential information

- (1) For the purposes of this regulation, confidential information shall mean any information, regardless of the medium in which it is expressed, which is:
 - (a) In the possession of a party;
 - (b) not accessible to the public;
 - (c) of commercial, financial or industrial significance; and
 - (d) treated as confidential by the party possessing it.
- (2) A party invoking the confidentiality of any information it wishes or is required to submit in the dispute resolution, including to an expert appointed by the appeals authority, shall make an application to have the information classified as confidential by notice to the appeals authority. Without disclosing the substance of the information, the party shall give in the notice the reasons for which it considers the information confidential.
- (3) The appeals authority shall determine whether the information is to be classified as confidential and of such a nature that the absence of special measures of protection in the proceedings would be likely to cause serious harm to the party invoking its confidentiality
- (4) If the appeals authority so determines, it shall decide under which conditions and to whom the confidential information may in part or in whole be disclosed and shall require any person to whom the confidential information is to be disclosed to sign an appropriate confidentiality undertaking.
- (5) In exceptional circumstances, *in lieu* of itself determining whether the information is to be classified as confidential and of such nature that the absence of special measures of protection in the proceedings would be likely to cause serious harm to the party invoking its confidentiality, the appeals authority may, at the request of a party or on its own motion and after consultation with the parties, designate a confidentiality advisor who will determine whether the information is to be so classified, and if so, decide under which conditions and to whom it may in part or in whole be disclosed. Any such confidentiality advisor shall be required to sign an appropriate confidentiality undertaking.
- (6) The appeals authority may also, at the request of a party or on its own motion, appoint the confidentiality advisor as an expert in accordance with Regulation 100 in order to report to it, on the basis of the confidential information on specific issues designated by the appeals authority without disclosing the confidential information either to the party from whom the confidential information does not originate or to the appeals authority.

104. Default

- (1) The appeals authority may proceed with the dispute resolution and make decision if a party, without showing good cause, fails to avail itself of the opportunity to present its case within the period of time determined by the appeals authority.
- (2) If a party, without showing good cause, fails to comply with any provision of, or requirement under, these Regulations, or any direction given by an appeals authority, the appeals authority may draw inferences therefrom that it considers appropriate.
- (3) If one of the parties, duly notified under these Regulations, fails to appear at the hearing, without showing sufficient cause for such failure, the appeals authority may proceed with the dispute resolution and make written decision on the basis of the information provided.

105. Judicial Review

The court of competent jurisdiction shall have jurisdiction over actions pursuant to Regulation 93 and petitions for judicial review of decisions made by review bodies or failure of those bodies to make a decision within the prescribed time-limit, pursuant to Regulations 94, 96 and 97.

Part XII – Miscellaneous provisions (regs 106-112)

106. Evaluation of consultant's performance

- (1) A procuring entity shall evaluate and record the performance of consultants on services financed by the Government or any public body.
- (2) The procuring entity's procedures shall be designed to ensure that performance evaluation is handled objectively and confidentially.
- (3) A procuring entity shall take into consideration the performance of consultants on public financed projects and studies.

107. Confidentiality

- (1) Information relating to evaluation of proposals and recommendations concerning awards shall not be disclosed to the consultants who submitted the proposals or to other persons not officially concerned with the process, until the award of contract is notified to the successful firm.
- (2) If at such a stage, a consultant wishes to bring additional information to the notice of a procuring entity, a tender board or both, it shall do so in writing.

108. Role of the consultant

- (1) Once a consultant receives the pre-qualification or request for proposals document, the consultant shall study the documents carefully to decide if it can meet the technical, financial and contractual conditions, and if so, proceed to prepare its offer.
- (2) The consultant shall critically review the documents to see if there is any ambiguity, omission or internal contradiction, or any feature of the terms of reference or other conditions which are unclear or appear discriminatory or restrictive; if so, it shall seek clarification from the procuring entity, in writing, within the time period specified in the request for proposals documents.
- (3) The criteria and methodology for selection of the successful consultant shall be outlined in the request for proposals documents, generally under "Information to consultants". If these are not clear, clarification shall be similarly sought from the procuring entity.

- (4) The specific requests for proposals documents issued by the procuring entity shall govern each procurement and if a consultant feels that any of the provisions in the documents are inconsistent with these Regulations, it shall also raise this with the procuring entity including all the supporting documents requested in the Request for Proposals.
- (5) It shall be essential to ensure accuracy in the *curriculum vitae* of key staff submitted with the proposal and such *curriculum vitae* shall be signed by the consultants and the individual and dated. Non-compliance with both technical and financial requirements shall result in rejection of the proposal.
- (6) If a consultant wishes to propose deviations to a basic requirement, or propose an alternative solution, the consultant shall quote the price for the fully compliant proposal and then separately indicate the adjustment in price that can be offered if the deviation or alternative solution is accepted.
- (7) Once proposals are received and opened, consultants will not be required or permitted to change the price or substance of their proposals.

109. Action by tender boards

- (1) Consultants are free to send copies of their communications on issues and questions with a procuring entity to an appropriate tender board or to write to an appropriate tender board directly, when a procuring entity does not respond promptly, or the communication is a complaint against a procuring entity.
- (2) References received by a tender board from shortlisted consultants sufficiently at least 15 days in advance, prior to the closing date for submission of the proposals, will, if appropriate, be referred to the procuring entity with the tender board's comments and advice, for action or response.
- (3) Communication received from consultants after the opening of the proposals will be transmitted to the procuring entity for examination and response to the consultant and the tender board.
- (4) If additional data is required to complete this process, these will be obtained from the procuring entity and if additional information or clarification is required from the consultant the tender board will ask the procuring entity to obtain it and comment or incorporate it as appropriate, in the evaluation report.
- (5) The tender board's review will not be completed until the communication is fully examined and considered.
- (6) Except for acknowledgement, a tender board will not enter into discussion or correspondence with any consultant during the evaluation and review process of the procurement until award of contract is notified.

110. Amendment of the Regulations

- (1) The Minister may, by order published in the *Gazette*, modify or alter these Regulations and their application in such manner and to such extent as may be necessary or expedient to bring these Regulations into conformity with the provisions of the Act.
- (2) The Minister shall, before the commencement of each financial year, by order published in the *Gazette*, vary upwards or decrease the thresholds of the limits of authority for any approving authority and the respective approving authority shall comply with such variation.

111. Transitional provisions

- (1) Subject to the provisions of these Regulations, all approvals, powers, privileges, remedies and liabilities which immediately prior to the coming into operation of these Regulations, were made, exercised, enjoyed or incurred by the Integrated Roads Project National - Tender Committee, Integrated Roads Project Regional Tender Boards, the Elimu Tender Board Ministerial Tender

Committee or Ministerial Purchasing Committees shall, on the coming into operation of these Regulations, be treated as if they have been made, exercised, enjoyed or incurred by the Central Tender Board, Regional Tender Boards Ministerial Tender Committees in accordance with the provisions of these Regulations and in so far as they are not inconsistent with them.

- (2) Any rule, order, notice, direction, approval or disapproval made, issued or given by the Integrated Roads Project-National Tender Committee, Integrated Roads Project-Regional Tender Boards, Elimu Tender Board, Ministerial Tender Committee or Ministerial Purchasing Committees at any time prior to the coming into operation of these Regulations and purporting, in express terms or by necessary implication to be in force, shall be deemed to continue in force unless and until the same shall be earlier revoked or cancelled, as if:
- (a) It had been made, issued or given by, to or on the recommendation of the Central Tender Board, or Regional Tender Boards or the Ministerial Tender Committee as the case may be;
 - (b) all references therein to the Integrated Roads Project - National Tender Committee, Integrated Roads Project Regional - Tender Board Elimu Tender Board, Ministerial Tender Committee or Ministerial Purchasing Committees were reference to the Central Tender Board or Regional Tender Board Ministerial Tender Boards as the case may be.
- (3) Notwithstanding the provisions of subregulation (2) of this regulation as from the date of coming into operation of these Regulations, every member of the Integrated Roads Project - National Tender Committee, Integrated Roads Project - Regional Tender Boards Elimu Tender Board Ministerial Tender Committee or Ministerial Purchasing Committee shall cease to be a member of these Tender Boards except as provided for under these Regulations.

112. Repeal and saving

- (1) *[Revokes the Financial Orders Part III (Stores Regulations), 5th Edition 1965 Chapters II and III.]*
- (2) *[Revokes the General Regulations for the Procurement of Works, Services and Supplies under the Integrated Roads Project, (Ministry of Finance), October, 1991.]*
- (3) *[Revokes the Integrated Roads Project - National Tender Committee, the Integrated Roads Project - Regional Tender Boards, the Elimu Tender Board and Ministerial Purchasing Committees.]*
- (4) *[Revokes the Executive Agencies (Finance, Procurement and Stores) Regulations, 1999¹⁰ published on 19th March, 1999, Part VIII - Procurement and Stores, Part IX - Procurement Procedures, Part X - The Procurement Process, Part XI - Purchase by Tender.]*

First Schedule (Regulation 2)

Public authorities to which these regulations apply

Selection and employment of consultants

Public Body	Parent Ministry
Ministries	-
Departments	-

¹⁰

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Public Body	Parent Ministry
Regional tender boards	-
District tender boards	-
Tanroads	Works
Other Executive Agencies	Various Ministries
TanESCO	Energy and Minerals
Tanzania Railways Corporation	Communications and Transport
Tanzania Harbours Authority	Communications and Transport
Tanzania Revenue Authority	Finance
National Social Security Fund	Labour, Youth Development and Sports
National Environment Management Council	Vice President's Office
Institute of Development Management, Mzumbe	President's Office
Centre for Foreign Relations	Foreign Affairs and International Co-operation
Capital Development Authority	Prime Minister's Office
Tanzania Broadcasting Commission	Prime Ministry Office
Tanzania School of Journalism	Prime Minister's Office
Audio Visual Institute	Prime Minister's Office
Televishehi ya Taifa	Prime Minister's Office
Institute of Judicial Administration	Justice and Constitutional Affairs
Freedom from Hunger Campaign	Agriculture and Food Security
Tanzania foreign missions/embassies	Ministry of Foreign Affairs and International Co-operation

Public Body	Parent Ministry
Architects and Quantity Surveyors Registration Board	Ministry of Works
Engineer's Registration Board	Ministry of Works
Medical Board	Health
Pharmacy Board	Health
Rufiji Basin Development Authority	Agriculture and Food Security
Tanzania Pesticides Research Institute	Agriculture and Food Security
Co-operative College - Moshi	Agriculture and Food Security
Co-operative Audit and Supervision	Agriculture and Food Security

Other Executive Agencies	Various Ministries
College of Business Education	Trade and Industry
Tanzania Industrial Research and Development Organisation (TIRDO)	Trade and Industry
Centre for Agricultural Mechanical and Rural Technical	Trade and Industry
High Precision Technology Centre (HPTC)	Trade and Industry
Tanzania Engineering and Manufacturing Design Organisation (TEMDO)	Trade and Industry
Small Scale Industries Organisation (SIDO)	Trade and Industry
Board of External Trade (BET)	Trade and Industry
London Trade Centre	Trade and Industry
Tanzania Bureau of Standards (TBS)	Trade and Industry

National Examination Council	Education and Culture
Tanzania Library Services	Education and Culture
Institute of Education	Education and Culture
Institute of Adult Education	Education and Culture
National Correspondence Institute	Education and Culture
CHEWATA	Education and Culture
National Arts Council	Education and Culture
National Kiswahili Council	Education and Culture
National Sports Council	Education and Culture
National Board for Materials Management	Works
National Construction Council	Works
National Board of Accountants and Auditors	Ministry of Finance
Parastatal Pension Fund	Ministry of Finance
Contractors' Registration Board	Works
Ardhi Institute - Morogoro	Land and Human Settlement Development
Land Use Planning Commission	Lands and Human Settlement Development
Institute of Finance Management	Finance
Institute of Accountancy Arusha	Finance
National Board of Accountants and Auditors	Finance
Commission for Insurance	Finance
Muhimbili Medical Centre	Health

Muhimbili Orthopaedic Institute	Health
Ocean Road Cancer Institute	Health
Kilimanjaro Christian Medical Centre	Health
Voluntary Agencies (Hospital)	Health
Bugando Medical Centre	Health
National Institute for Medical Research	Health
Tanzania Food and Nutrition Centre	Health
Voluntary Agency (Training)	Health
Hombolo Local Government Training Centre	Regional Administration and Local Government

Other Executive Agencies	Various Ministries
Kibaha Education Centre	Regional Administration and Local Government
Shirika la Nyumbu	Defence and National Service
Suma JKT	Defence and National Service
Tanzania Petroleum Development Corporation (TPDC)	Energy and Minerals
Dar es Salaam Maritime Institute	Communications and Transport
National Institute of Transport	Communications and Transport
Tanzania Airports Authority	Communications and Transport
Tanzania Meteorology Authority	Communications and Transport
National Social Welfare Training Centre	Labour and Youth and Sports
National Productivity Centre	Planning Commission and Privatisation

East African Statistical Centre	Planning Commission
Tanzania Investment Centre	Planning Commission
Institute of Rural Development Planning	Planning Commission
National Business Council	Planning Commission
Parastatal Sector Reform Commission	Planning Commission
Kivukoni Academy of Social Sciences	Science, Technology and Higher Education
Open University	Science, Technology and Higher Education
University College of Lands and Architectural Studies (UCLAS)	Science, Technology and Higher Education
Sokoine University of Agriculture	Science, Technology and Higher Education
University of Dar es Salaam	Science, Technology and Higher Education
Higher Education Accreditation Council	Science, Technology and Higher Education
Muhimbili University College of Health Sciences	Science, Technology and Higher Education
Dar es Salaam Institute of Technology	Science, Technology and Higher Education
National Accreditation Council of Technical Education (NACTE)	Science, Technology and Higher Education
National Radiation Commission	Science, Technology and Higher Education
Tanzania Commission of Science and Technology	Science, Technology and Higher Education
Serengeti Wildlife Research Institute	Natural Resource and Tourism
Tanzania Forest Research Institute	Natural Resource and Tourism
Tanzania National Parks	Natural Resource and Tourism
Marine Parks	Natural Resource and Tourism

Tanzania Tourist Board (TTB)	Natural Resource and Tourism
National Museum and Archives	Natural Resource and Tourism
Ngorongoro Conservation Authority	Natural Resource and Tourism
Dar es Salaam Water Supply and Sanitation (DAWASA)	Water and Livestock Development
Other Urban Water and Sanitation Authorities	Water and Livestock Development
Regional Water Boards	Water and Livestock Development
Department of Government Aircraft, Tanzania Investment Centre	Communication and Transport President's Office, Planning and Privatisation

Second Schedule (Regulation 82(1))

Limits of authority

Urban water authorities

Ministry of water and livestock development

- (a) Limits of authority for Central Tender Board, ministries, government departments, regions, districts, executive agencies, local government authorities and Tanzania foreign embassies and missions:

S/No.	Organisation	Prescribed Limit in T. Shs. '000 and type of contract		
		Works	Goods	Services
1.	Ministries			
		450,000	270,000	90,000
2.	TanRoads Headquarters	4,500,000	2,700,000	900,000
3.	TanRoads Regions	450,000	270,000	90,000
4.	Other Executive Agencies	200,000	120,000	40,000
5.	Regional Tender Boards	100,000	60,000	20,000
6.	District tender boards	50,000	30,000	10,000

S/No.	Organisation	Prescribed Limit in T. Shs. '000 and type of contract		
7.	Local Government Authority	Unlimited	Unlimited	Unlimited
8.	Independent Government Departments	50,000	30,000	10,000
9.	Medical Tender Board	200,000	4,500,000	90,000
10.	Tanzania Foreign Embassies and Missions	50,000	30,000	10,000
11.	Central Tender Board	Thresholds above Ministries, Medical Tender Board, Tanroads Headquarters and Parastatal Organisations and Regional Tender Boards		

(b) Limits of authority for parastatal organizations (Institutions for Higher Education):

S/No.	Organisation	Prescribed Limit in T. Shs. '000 and type of contract		
		Works	Goods	Services
1.	Muhimbili College of Health Sciences	50,000	30,000	10,000
2.	University of Dar es Salaam	100,000	60,000	20,000
3.	Sokoine University of Agriculture	100,000	60,000	20,000
4.	Open University	100,000	60,000	20,000
5.	University College of Lands and Architectural Studies	50,000	30,000	10,000
6.	Dar es Salaam Institute of Technology	50,000	30,000	10,000
7.	Tanzania Commission for Science and Technology	50,000	30,000	10,000
8.	Kivukoni Academy of Social Sciences	50,000	30,000	10,000

(c) Limits of authority of parastatal organisations (Hospitals and Medical Research Institutes):

S/No.	Organisation	Prescribed Limit in T. Shs. '000 and type of contract		
		Works	Goods	Services
1.	Muhimbili Medical Centre	10,000	6,000	2,000
2.	Muhimbili Orthopaedic Institute	5,000	3,000	1,000
3.	Ocean Road Cancer Institute	5,000	3,000	1,000
4.	Kilimanjaro Christian Medical Centre	10,000	6,000	2,000
5.	Bugando Medical Centre	10,000	6,000	2,000
6.	National Institute for Medical Research	10,000	6,000	2,000
7.	Tanzania Food and Nutrition Centre	10,000	6,000	2,000
8.	Voluntary Agency (Training)	5,000	3,000	1,000
9.	Voluntary Agency (Hospital)	5,000	3,000	1,000

(d) Limits of authority for Parastatal Organisations:

S/No.	Organisation	Prescribed Limit in T. Shs. '000 and type of contract		
		Works	Goods	Services
1.	Tanzania Electricity Supply Company Limited	18,000,000	10,800,000	3,600,000
2.	Tanzania Railways Corporation	22,500,000	13,500,000	4,500,000
3.	Tanzania Harbours Authority	22,500,000	13,500,000	4,500,000
4.	Tanzania Revenue Authority	9,000,000	5,400,000	1,800,000
5.	National Social Security Fund	9,000,000	5,400,000	1,800,000

S/No.	Organisation	Prescribed Limit in T. Shs. '000 and type of contract		
6.	National Environment Management Council	200,000	120,000	40,000
7.	Institute of Development Management Mzumbe	50,000	30,000	10,000
8.	Centre for Foreign Relations	50,000	30,000	10,000
9.	Capital Development Authority	50,000	30,000	10,000
10.	Tanzania Broadcasting Commission	10,000	6,000	2,000
11.	Tanzania School of Journalism	10,000	6,000	2,000
12.	Audio Visual Institute	5,000	3,000	1,000
13.	Televishehi ya Taifa (TVT)	5,000	3,000	1,000
14.	Institute of Judicial Administration	5,000	3,000	1,000
15.	Freedom from Hunger Campaign	5,000	3,000	1,000

S/No.	Organisation	Prescribed Limit in T. Shs. '000 and type of contract		
		Works	Goods	Services
16.	Rufiji Basin Development Authority	100,000	60,000	20,000
17.	Tanzania Pesticides Research Institute	10,000	6,000	2,000
18.	Co-operative College Moshi	10,000	6,000	2,000
19.	Co-operative Audit and Supervision	5,000	3,000	1,000
20.	College of Business Education	10,000	6,000	2,000

S/No.	Organisation	Prescribed Limit in T. Shs. '000 and type of contract		
21.	Tanzania Industrial Research and Development Organisation (TIRDO)	10,000	6,000	2,000
22.	Centre for Agricultural Mechanical and Rural Technology	10,000	6,000	2,000
23.	High Precision Technology Centre	5,000	3,000	1,000
24.	Tanzania Engineering and Manufacturing Design Organisation	10,000	6,000	2,000
25.	Small Scale Industries Organisation	10,000	6,000	2,000
26.	Board of External Trade	5,000	3,000	1,000
27.	London Trade Centre	5,000	3,000	1,000
28.	Tanzania Bureau of Standards	10,000	6,000	2,000
29.	National Examination Council	10,000	6,000	2,000

S/No.	Organisation	Prescribed Limit in T. Shs. '000 and type of contract		
		Works	Goods	Services
30.	Tanzania Library Services	5,000	3,000	1,000
31.	Institute of Education	5,000	3,000	1,000
32.	Institute of Adult Education	5,000	3,000	1,000
33.	National Correspondence Institute	5,000	3,000	1,000
34.	CHEWATA	5,000	3,000	1,000
35.	National Arts Council	5,000	3,000	1,000
36.	National Sports Council	5,000	3,000	1,000

S/No.	Organisation	Prescribed Limit in T. Shs. '000 and type of contract		
37.	National Board for Materials Management	5,000	3,000	1,000
38.	National Construction Council	10,000	6,000	2,000
39.	Contractors Registration Board	10,000	6,000	2,000
40.	Ardhi Institute Morogoro	5,000	3,000	1,000
41.	Land Use Planning commission	5,000	3,000	1,000
42.	Institute of Finance Management	10,000	6,000	2,000
43.	Institute of Accountancy Arusha	10,000	6,000	2,000
44.	National Board of Accountants and Auditors	10,000	6,000	2,000
45.	Hombolo Local Government Training Centre	10,000	6,000	2,000
46.	Kibaha Education Centre	10,000	6,000	2,000
47.	Tanzania Petroleum Development Corporation	800,000	480,000	160,000
48.	Dar es Salaam Maritime Institute	10,000	6,000	2,000

S/No.	Organisation	Prescribed Limit in T. Shs. '000 and type of contract		
		Works	Goods	Services
49.	National Institute of Transport	10,000	6,000	2,000
50.	National Social Welfare Training Centre	5,000	3,000	1,000
51.	National Production Centre	5,000	3,000	1,000
52.	East African Statistical Centre	5,000	3,000	1,000

S/No.	Organisation	Prescribed Limit in T. Shs. '000 and type of contract		
53.	Tanzania Investment Centre	10,000	6,000	2,000
54.	Institute of Rural Development Planning	10,000	6,000	2,000
55.	National Business Council	5,000	3,000	1,000
56.	Presidential Parastatal Sector Reform Commission	100,000	60,000	20,000
57.	Serengeti Wildlife Research Institute	10,000	6,000	2,000
58.	Tanzania Forest Research Institute	10,000	6,000	2,000
59.	Tanzania National Parks	50,000	30,000	10,000
60.	Tanzania Marine Parks	10,000	6,000	2,000
61.	Tanzania Tourist Board (TTB)	50,000	30,000	10,000
62.	National Museum and Archives	5,000	3,000	1,000
63.	Ngorongoro Conservation Authority	10,000	6,000	2,000
64.	National Insurance Corporation of Tanzania Limited	9,000,000	5,400,000	1,800,000
65.	Parastatal Pension Fund	9,000,000	5,400,000	1,800,000
66.	Public Service Pension Fund	800,000	480,000	160,000
67.	Air Tanzania Corporation	22,500,000	13,500,000	4,500,000
68.	Engineers Registration Board	10,000	6,000	2,000
69.	Architects and Quantity Surveyors Registration Board	10,000	6,000	2,000
70.	Dar es Salaam Water Supply and Sanitation Authority (DAWASA)	200,000	120,000	40,000

S/No.	Organisation	Prescribed Limit in T. Shs. '000 and type of contract		
71.	Other Urban Water and Sanitation Authorities	50,000	30,000	10,000
72.	Regional Water Boards	10,000	6,000	2,000
73.	Department of Government Aircraft	10,000	6,000	2,000

•These thresholds do not apply on the sale or privatisation of parastatal organizations or industries per se. These apply to the procurement of goods, works and services for the operations of the Presidential Parastatal Sector Reform Commission to enable it carry out the privatisation operations.

(e) Authorised Ministerial Procurement Limits for Accounting Officers and Heads of Departments:

Method of procurement	Maximum procurement value per annum subject to the limit of T. Shs. 3,000,000 per contract for the Accounting Officer and T. Shs. 1,000,000 per contract for the Head of Department	
	Heads of Department	Accounting Officers
Direct contracting for works and services on quotations basis with minimum five quotations from different sources	Up to T. Shs. 3,000,000	Up to T. Shs. 9,000,000
Direct shopping for goods on quotations basis with minimum five quotations from different sources	Up to T. Shs. 3,000,000	Up to T. Shs. 9,000,000

NOTES:

- (i) For the procurement to be approved by the Head of Department, the procurement must have the prior endorsement of the Secretary to the Ministerial Tender Board and by at least two other members of that Ministerial Tender Board.
 - (ii) For the procurement to be approved by the Accounting Officer, the procurement must have the prior endorsement of the Secretary to the Ministerial Tender and by at least two other members of the Ministerial Tender Committee.
- (f) Authorised Parastatal organizations Procurement Limits for Chief Executive Officers [for Parastatal Organizations with tender board authorization limits exceeding T. Shs. 5,000,000,000 for works]:

Method of procurement	Maximum procurement value per annum subject to the limit of T. Shs. 5,000,000 per contract for the chief executive.
	Heads of Department
Direct contracting for works and services on quotations basis with minimum five quotations from different sources.	Up to T. Shs. 15,000,000
Direct shopping for goods on quotations basis with minimum five quotations from different sources	Up to T. Shs. 15,000,000

NOTES:

For the procurement to be approved by the Chief Executive, the procurement must have the prior endorsement of the Secretary to the Parastatal Organization Tender Board and at least two other members of the Parastatal Organization Tender Board.

(g) Authorised TanRoads Procurement Limits:

Method of procurement	Maximum procurement value per annum subject to the limit of T. Shs. 50,000,000 per contract for Chief Executive and T. Shs. 5,000,000 per contract for the TanRoads Regional Manager	
	TanRoads Regional Manager	TanRoads Chief Executive
Direct contracting for works and services on quotations basis with minimum five quotations from different sources	Up to T. Shs. 15,000,000	Up to T. Shs. 150,000,000
Direct shopping for goods on quotations basis with minimum five quotations from different sources	Up to T. Shs. 15,000,000	Up to T. Shs. 150,000,000

NOTES:

- (i) For the procurement to be approved by the TanRoads Chief Executive, the procurement must have the prior endorsement of the Secretary to the TanRoads Headquarters Tender Board and at least two other members of the TanRoads Headquarters Tender Board.

- (ii) For the procurement to be approved by the TanRoads Regional Manager, the procurement must have the prior endorsement of the Secretary to the TanRoads Regional Tender Board and at least two other members of the TanRoads Regional Tender Board.

These thresholds do not apply on the sale or privatisation of parastatal organizations or industries per se. These apply to the procurement of goods, works and services for the operations of the Presidential Parastatal Sector Reform Commission to enable it carry out the privatisation operations.

Third Schedule

Maximum limits for methods of procurement of services

Method of Procurement	Limits
Competitive Selection	No limit
Competitive Proposals	Up to T. Shs. 150,000,000
Single-Source Procurement or Direct Contracting	Up to T. Shs. 150,000,000 Subject to justification)
Minor Value Procurement	Up to T. Shs. 2,500,000

NOTE:

The various methods of selection shown may only be used where the estimated value of the services being procured does not exceed the limit indicated. Each limit is the threshold for the next more competitive form of procurement.

Fourth Schedule (Regulation 17(4))

Standard processing times for procurement

National and international competitive tendering

	Time (Weeks)	Total Elapsed Weeks (Min/Max)			
1.	Finalise specifications, or Consultancy: define and agree terms of reference	2/4	2/4		
¹¹ 1. a	Obtain donor agency approval	4			

	Time (Weeks)	Total Elapsed Weeks (Min/Max)			
2.	Preparation of tender documents	2	4/6		
3.	Approval of tender document by Purchasing Committee or Tender Board	2	6/8		
¹² 2 3. a	Donor agency approval	4			
4.	Advertise and issue tender	2	8/10		
5.	Return of bids and tender opening	6/9	14/19		
6.	Evaluation of bids(with clarification)	3(6)	17/22		
7.	Examination and approval by Tender Board	2	19/24		
¹³ 3 7. a	Review and approval by donor agency	4			
8.	Notification of award to successful bidder	1	20/25		
9.	Award of contract	2	22/27		

	Time (Weeks)	Total Elapsed Weeks (Min/Max)			
	(Ministry of Justice approval, if required)	(4)	(26/31)		

NB: The above timings include time for transmission of documents and any internal approvals.

Fifth Schedule (Regulation 74(5))

Certification or capacity rating criteria for procurement management unit

1. The certification or capacity rating criteria to be used by the Central Tender Board for a procurement management unit shall include the following—
 - (1) The human resources and skills relating to—
 - (a) the employment of professionally qualified personnel;
 - (b) the training and skills development; and
 - (c) on job experience and performance.
 - (2) The administrative and operational procedures in use including the organisational structure of the procurement management unit.
 - (3) The physical structures, materials and resources such as—
 - (a) adequate office space;
 - (b) availability of requisite office machinery;
 - (c) operating budget of the unit; and
 - (d) vehicles.
 - (4) The duties and experience such as—
 - (a) the responsibility to co-ordinate and supervise procurement functions in a ministry or parastatal body;
 - (b) co-ordinating and managing tender committee operations and activities according to established tender regulations and procurement standards;
 - (c) carrying out informal procurement and supplies management with a track record or successful use of guide to informal tender procurement;
 - (d) carrying out formal tender procurement of goods involving;
 - (e) carrying out formal procurement of services and works relating to:—
 - (i) the preparation of tender documents, invitation, evaluation and award of consultancy service contracts; and
 - (ii) the preparation of documentation, issuing of invitation, evaluation, selection and award of works contracts and supervision of works;
 - (f) undertaking international purchases and contracts;
 - (g) carrying out procurements under donor supported projects.

- (5) The extent to which the services rendered to client institutions were satisfactory.
 - (6) Total spend and impact of activities of the unit on institutional savings.
2. The following shall be the minimum requirements for certifying procurement management units under the following categories—
- (a) Government Institutions in:
 - Category A shall call for formal tenders whose estimated cost is valued up to one hundred million Tanzanian Shillings with a minimum rating criteria to include the following—
 - (i) employment of at least one fully qualified procurement professional;
 - (ii) availability of adequate office space, requisite office equipment and operating budget;
 - (iii) experience in co-ordinating and supervision of procurement functions in the Ministry and proven track record of successful use of guide in informal tender procurement; and
 - (iv) management of tender committee operations and activities according to required standards.
 - Category B shall call for formal tenders whose estimated cost is valued up to five hundred million Tanzanian Shillings with a minimum rating criteria to include the following—
 - (i) employment of at least two fully qualified procurement professionals;
 - (ii) availability of adequate office space, requisite office equipment, transport and operating budget;
 - (iii) experience in co-ordinating and supervision of procurement functions of the Ministry and proven track record of successful use of guide to informal tender procurement; and preparation of tender documentation for goods;
 - (iv) management of tender committee operations and activities to the required standard or level; and
 - (v) the preparation and issue of contract documents including contract administration.
 - Category C shall call for formal tenders whose estimated cost is valued up to four billion Tanzanian Shillings with a minimum rating criteria to include the following—
 - (i) employment of 3 - 5 fully qualified procurement professionals;
 - (ii) availability of adequate office space, office equipment transport and operating budget;
 - (iii) experience in co-ordinating and supervision of procurement functions of the ministry;
 - (iv) a proven track record of—
 - successful use of guide to informal tender procurement;
 - effective use of guide to formal tender procurement of goods, services and works;
 - the preparation of tender documents of a complex nature; and
 - the preparation, issue and administration of contracts;
 - (v) management of tender committee operations and activities which are satisfactory to the required standards;
 - (vi) the extent to which the services rendered to client institutions were satisfactory.

(b) Parastatal bodies including Local Government Authorities in:

Category A shall call for formal tenders whose estimated cost is valued up to one hundred million Tanzanian Shillings with a minimum rating criteria to include the following—

- (i) employment of at least one qualified procurement professional personnel;
- (ii) availability of adequate office space, office equipment and operating budget;
- (iii) ability to co-ordinate and supervise procurement functions of parastatal body;
- (iv) track record of successful procurement through use of guide to informal tender procurement;
- (v) management of tender committee operations and activities to the required level.

Category B shall call for formal tenders whose estimated cost is valued up to five hundred million Tanzania shillings with a minimum rating criteria to include the following—

- (i) employment of at least two fully qualified procurement professionals;
- (ii) availability of adequate office space, requisite office equipment, transport and operating budget;
- (iii) experience in co-ordinating and supervision of procurement functions of parastatal body and proven record of—

(a) successful use of guide to informal tender procurement; and

(b) preparation of tender documentation for goods and works;

- (iv) management of tender committee/board operations and activities to the required standard or level; and
- (v) the preparation and issue of contract documents including contract administration.

Category C shall call for formal tenders whose estimated cost is valued up to eight billion Tanzanian shillings with a minimum rating to include the following—

- (i) employment of 3 - 5 fully qualified procurement professionals;
- (ii) availability of adequate office space, office equipment, transport and operating budget;
- (iii) ability to co-ordinate and supervise procurement functions of the parastatal body;
- (iv) a proven track record of:
 - successful use of guide to formal tender procurement;
 - effective use of formal tender procurement of goods, services and works;
 - the preparation of complex tender documents; and
 - the preparation, issue and administration of contracts;
- (v) management of tender committee operations and activities which are satisfactory to the required standards;
- (vi) the extent to which the services rendered to client institutions were satisfactory.

Sixth Schedule (Regulation 84(5))

Memorandum

Government of the United Republic of Tanzania

Procedures for tendering for public sector contracts

The following procedures will apply to the letting of contracts for the public sector projects. These procedures are in addition to the standard legal and administrative requirements; they will form part of the terms and conditions of each contract and will be actionable, in the event of breach, by the Government of the United Republic of Tanzania and any of the competing tenders.

- (1) Each tenderer must submit a statement, as part of the tender documents, with the following text:

"This company places importance on competitive tendering taking place on a basis that is free, fair, competitive and not open to abuse. It is pleased to confirm that it will not offer or facilitate, directly or indirectly, any improper inducement or reward to any public officer their relations or business associates, in connection with its tender, or in the subsequent performance of the contract if it is successful.

This company has an Anti-Bribery Policy/Code of Conduct and a Compliance Program which includes all reasonable steps necessary to assure that the No-bribery commitment given in this statement will be complied with by its managers and employees, as well as by all third parties working with this company on the public sector projects, or contract including agents, consultants, consortium partners, subcontractors and suppliers. Copies of our Anti-Bribery Policy/Code of Conduct and Compliance Program are attached".

(Alternatively: This company has issued, for the purposes of this tender, a Compliance Program copy attached - which includes all reasonable steps necessary to assure that the No-bribery commitment given in this statement will be complied with by its managers and employees, as well as by all third parties working with this company on the public sector projects or contract including agents, consultants, consortium partners, subcontractors and suppliers').

(2)(a) This statement must be signed personally by the Chief Executive Officer or other appropriate senior corporate officer of the tendering company and, where relevant, of its subsidiary in the United Republic of Tanzania. If a tender is submitted by a subsidiary, a statement to this effect will also be required of the parent company, signed by its Chief Executive Officer or other appropriate senior corporate officer.

- (b) Tenderers will also be required to submit similar No-bribery commitments from their subcontractors and consortium partners; the tenderer may cover the subcontractors and consortium partners in its own statement, provided the tenderer assumes full responsibility.

(3)(a) Payment to agents and other third parties shall be limited to appropriate compensation for legitimate services.

- (b) Each tenderer will make full disclosure in the tender documentation of the beneficiaries and amounts of all payments made, or intended to be made, to agents or other third parties (including political parties or electoral candidates) relating to the tender and, if successful, the implementation of the contract.
- (c) The successful tenderer will also make full disclosure [quarterly or semi-annually] of all payments to agents and other third parties during the execution of the contract.
- (d) Within six months of the completion of the performance of the contract, the successful tenderer will formally certify that no bribes or other illicit commissions have been paid. The final accounting shall include brief details of the goods and services provided that are sufficient to establish the legitimacy of the payments made.
- (e) Statements required according to subparagraphs (b) and (d) of this paragraph will have to be certified by the company's Chief Executive Officer, or other appropriate senior corporate officer.

- (4) Tenders which do not conform to these requirements shall not be considered.

- (5) If the successful tenderer fails to comply with its No-bribery commitment, significant sanctions will apply. The sanctions may include all or any of the following:

- (a) Cancellation of the contract;
- (b) Liability for damages to the public authority and/or the unsuccessful competitors in the tendering possibly in the form of a lump sum representing a pre-set percentage of the contract value

- (liquidated damages); unsuccessful tenderer would present their claims under international arbitration;
- (c) Forfeiture of the tender security; and
 - (d) Debarment by the Government of the United Republic of Tanzania from tendering for further public contracts for a period of ten years and as the Government may deem appropriate.
- (6) Tenderers shall make available, as part of their tender, copies of their anti-Bribery Policy/Code of Conduct, if any, and of their general or project-specific Compliance Programs.
- (7) The Government of the United Republic of Tanzania has made special arrangements for adequate oversight of the procurement process and the execution of the contract, and has invited civil society and other competent Government Departments to participate in the oversight. Those charged with the oversight responsibility will have full access to all documentation submitted by tenderers for this contract, and to which in turn all tenderers and other parties involved or affected by the project shall have full access (provided, however, that no proprietary information concerning a tenderer may be disclosed to another tenderer or to the public).