



Konza National Data Centre & Smart City Facilities



Konza Complex (Office Block)



Horizontal Infrastructure through EPC-F

PROCUREMENT AND SUPPLY CHAIN DEPARTMENT
PROCUREMENT AND INVENTORY MANAGEMENT STANDARD OPERATING
PROCUDERS

2021

TITLE	Procurement and Inventory Management standard operating procedures
IMPLEMENTING UNIT	Procurement Department
EFFECTIVE DATE	
NEXT REVIEW DATE	
VERSION	DRAFT 0
SCOPE OF APPLICATION	All KOTDA Stakeholders
APPROVING AUTHORITY	

FOREWORD

The Management of Konza Technopolis Development Authority recognizes the critical role of ethical service and professionalism in service delivery in addition to concerted efforts from staff as a means to achieve the Authority’s Vision, Mission and Mandate.

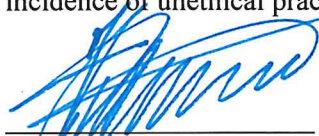
To promote transparency and accountability in the Authority, it is important to define the Authority’s standards of practice to regulate behaviors, interactions, and actions of its members of staff. The Management recognizes unethical and unprofessional conducts as impediments to social and economic development which also undermines confidence in public institutions.

The KoTDA Procurement Policy outlines the standards for staff engagement with the Authority’s suppliers, customers and partners. This will ensure that members of staff do not engage in activities or act in a manner that will lead to a compromise of their integrity or diminish the Authority’s reputation.

To inform the standards of practice stipulated in this Code, this document takes cognizance of the Authority’s Vision, Mission, Values and Mandates. It also incorporates the statutory provisions of various acts namely; *The Public Procurement and Disposal Act 2015, The Public Officer Ethics Act 2003, The Civil Service Code of Regulations Revised 2006, The Public Service Commission Act Cap 185, The Anti-Corruption and Economic Crimes Act 2003* and other relevant regulations.

To create a conducive business environment which will incline staff to innovation for the furtherance of our goal of developing a smart city, it is important to have the free social environment.

I therefore call for a concerted effort from our staff, suppliers, investors, partner organizations and ministries, media and the general public to support the Authority through adherence to this Policy. Any incidence of unethical practice should be reported to the Authority.



Date: 18/06/21

Eng. John Tanui, MBS

CHIEF EXECUTIVE OFFICER

INTRODUCTIONS

The public procurement reforms in Kenya have culminated in promulgation of the Public Procurement and Disposal Act 2015 and the Public Procurement and Disposal Regulations 2006 that provide a legal framework for regulating public procurement, with oversight functions carried out by the Public Procurement Regulatory (PPRA). It should be noted that in case of a conflict between the policy manual for KoTDA and the PPAD Act 2015. The Provisions of the PPAD Act will prevail and will take precedence. The Guiding principles for the Public procurement and asset disposal by State organs and public entities shall be guided by the following values and principles of the Constitution and relevant legislations;

- a) The national values and principles provided for under Article 10;
- b) The equality and freedom from discrimination provided for under Article 27;
- c) Affirmative action programs provided for under Articles 55 and 56;
- d) Principles of integrity under the Leadership and Integrity Act, 2012 (No. 19 of 2012);
- e) The principles of public finance under Article 201;
- f) The values and principles of public service as provided for under Article 232; (g) Principles governing the procurement profession, international norms;
- g) Maximization of value for money;
- h) Promotion of local industry, sustainable development and protection of the environment; and
- i) Promotion of citizen contractors.

OBJECTIVES OF THE POLICY/SOPs

The objectives of these procurement manual/policy as guided by the Act and Regulations are to:

- a) **Guide the procuring units:** by providing guidelines on the procurement processes and procedures for KoTDA to adhere to Regulations and guidelines;
- b) **Enhance economy:** by promoting competition among suppliers, KoTDA shall ensure best practices that will obtain best prices and quality;
- c) **Enhance efficiency:** by providing a choice of alternative procurement methods where efficiency shall be achieved without hindering competition as set out in section 29 and Part VI of the Act;
- d) **Increase transparency:** by following formal written procedures throughout the process and using explicit criteria to award contracts. To the extent possible, information on tender process shall be made available to the public;

- e) **Increase integrity and public confidence:** by adopting procedures that are in line with the PPAD Act and Regulations to ensure fair treatment of suppliers;
- f) **Ensure full accountability** through proper management and monitoring of the procurement, delivery and receiving processes.

INTERNAL ORGANISATION OF PROCURING ENTITIES

Responsibilities of the KoTDA CEO.

- i. KoTDA CEO shall be primarily responsible for ensuring that the public entity complies with the Act.
- ii. Ensure that procurements of goods, works and services of the public entity are within approved budget of that entity;
- iii. Constitute all procurement and asset disposal committees within a KoTDA in accordance with the Act;
- iv. Ensure procurement plans are prepared in conformity with the medium-term fiscal framework and fiscal policy objectives and submit them to the National Treasury;
- v. Ensure proper documentation of procurement proceedings and safe custody of all procurement records in accordance with the Act;
- vi. Ensure compliance with sections 68, 147, 148 and 149 of the Public Finance Management Act, 2012 (No. 18 of 2012);
- vii. Approve and sign all contracts of the KoTDA;
- viii. Ensure the procurement and asset disposal process of the Authority shall comply with this Act;
- ix. Ensure that the procurement processes are handled by different professional offices in respect of procurements, initiation, processing and receipt of goods, works and services;
- x. Submit to the Authority the part in its procurement plan demonstrating application of preference and reservations schemes in relation to the procurement budget within sixty days after commencement of the financial year; and
- xi. Ensure compliance with any other responsibilities assigned by this Act or any other Act of Parliament or as may be prescribed in Regulations.

STANDARD OPERATING PROCEDURES

A **standard operating procedure**, otherwise known as **SOP**, is a set of step-by-step instructions compiled by an organization to help workers and or employees carry out complex

routine operations. SOPs aim to achieve efficiency, quality output and uniformity of performance, while reducing miscommunication and failure to comply with industry acceptable regulations and practices.

In this case, the standard operating procedures will have the main areas of Procurement and disposal outlined to guide the users and the procurement unit on check list and expectations in realizing their need in an efficient and an effective manner. The SOP is a binding document which the employees of the Authority shall be able to adhere to and follow into its outlined procedures.

The four (4) key areas captured by the Procurement SOPs include;

- 1. Tendering Process**
- 2. Evaluation Process**
- 3. Inspection and acceptance and**
- 4. The Disposal Process**

The Procurement and Supplies services department cannot always commence any Procurement of any need before the receipt of several important documentations which will give the required persons authority to spend on behalf of the organization.

In that respect Procurements of all items in the department shall be transacted upon receipt of the following documentation each of them follows the order of approval entries;

1. Request to order (Requisition), depending on the approved Procurement Plan and the approved budgets.
2. Duly signed MEMO on the official request indicating that the item has been requisitioned with requisition numbers well indicated, and approvals from all the required entries.
3. Duly signed hard copy of the specifications, Bill of materials/quantities, ToR and any other documentations required if any before initiation of any procurement.

TENDERING PROCESS

Tender Opening Committee

The KoTDA CEO shall appoint an ad hoc Tender Opening Committee specifically for the procurement in accordance with the following requirements;

- a) The committee shall have at least three members;
- b) At least one of the members shall not be directly involved in the processing or evaluation of the tenders.

EVALUATION PROCESS

Evaluation Committee

The KoTDA CEO shall ensure that an ad hoc Evaluation Committee is established in accordance with this policy and from within the members of staff, with the relevant expertise.

An Evaluation Committee shall —

- a) Deal with the technical and financial aspects of a procurement as well as the negotiation of the process including evaluation of bids, proposals for prequalification, registration lists, Expression of Interest and any other roles assigned to it;
- b) Consist of between three and five members appointed on a rotational basis comprising heads of user department and members of other departments or their representatives and where necessary, procured consultants or professionals, who shall advise on the evaluation of the tender documents and give a recommendation on the same to the committee within a reasonable time;
- c) Have as its secretary, the person in charge of the procurement function;
- d) Complete the procurement process for which it was appointed and no new committee shall be appointed on the same issue unless the one handling the issue has been procedurally disbanded;
- e) Adopt a process that shall ensure the evaluation process utilized adheres to Articles 201(d) and 227 (1) of the Constitution.
- f) Where a member of the ad hoc Evaluation Committee contravenes any provisions of this Policy, the Authority shall take up disciplinary measures in accordance with the Authority's policies and relevant Government regulations.
- g) Subject to this Policy, the Evaluation Committee may invite external technical experts who are not employees of the Authority to assist in matters that need specific technical expertise.
- h) Where necessary the Evaluation Committee will participate in competitive negotiation based on the following conditions;
 - i. There is a tie in the lowest evaluated price by two or more tenderers;
 - ii. There is a tie in highest combined score points;
 - iii. The lowest evaluated price is in excess of available budget; or
 - iv. There is an urgent need that can be met by several known suppliers.

INSPECTION AND ACCEPTANCE PROCESS

Inspection and Acceptance Committee

The KoTDA CEO may establish an ad hoc committee known as the Inspection and Acceptance Committee.

- a) The Inspection and Acceptance Committee shall be composed of a chairman and at least two other members appointed by the KoTDA CEO on the recommendation of the procuring unit.
- b) The Inspection and Acceptance Committee shall immediately after the delivery of the goods, works or services—
 - i. Inspect and where necessary, test the goods received;
 - ii. Inspect and review the goods ,works or services in order to ensure compliance with the terms and specifications of the contract; and
 - iii. Accept or reject, on behalf of the Authority, the delivered goods, works or services.
- c) The inspection and acceptance committee shall—
 - i. Ensure that the correct quantity of the goods is received;
 - ii. Ensure that the goods, works or services meet the technical standards defined in the contract;
- d) Ensure that the goods, works or services have been delivered or completed on time, or that any delay has been noted;
- e) Ensure that all required manuals or documentation has been received; and
- f) Issue interim or completion certificates or goods received notes, as appropriate and in accordance with the contract.

DISPOSAL PROCESS

Disposal Committee

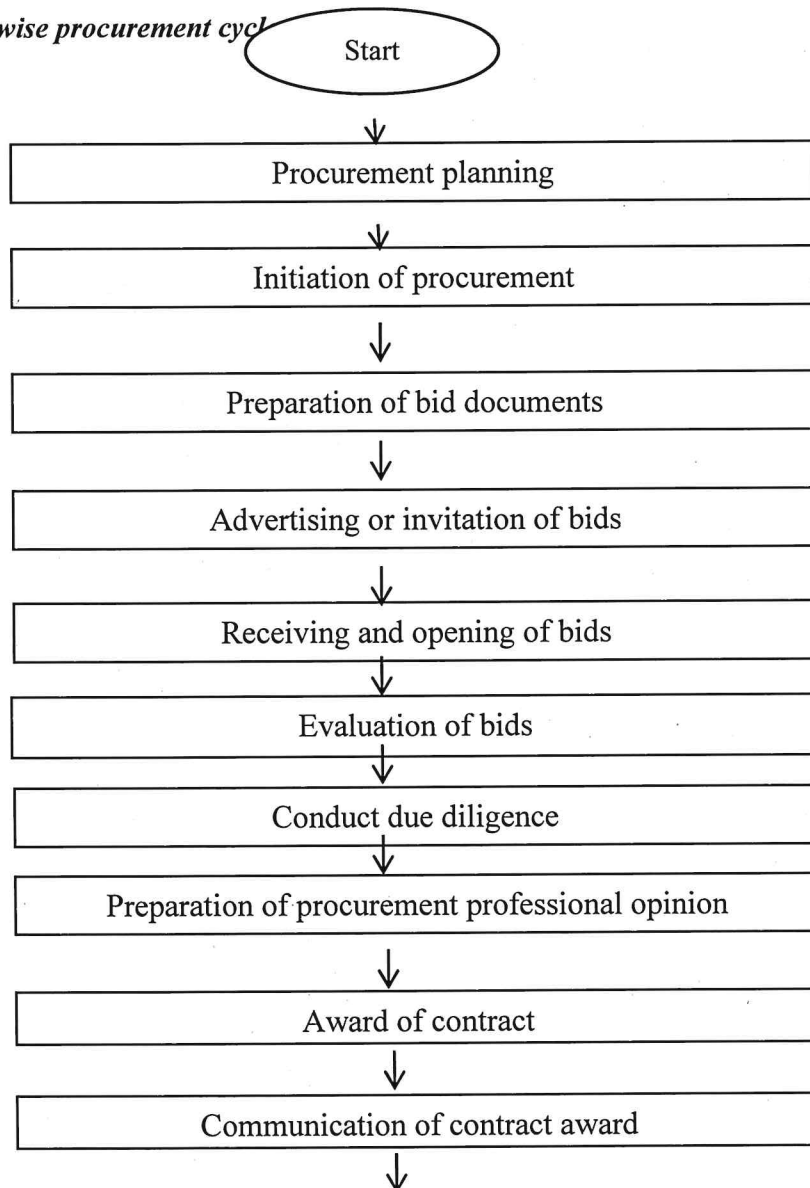
The KoTDA CEO shall establish a Disposal Committee as and when prescribed for the purpose of disposal of unserviceable, obsolete, obsolescent, or surplus stores, equipment or assets. The Disposal Committee shall be responsible for verification and processing of all disposal recommendations in liaison with the Head of Procurement Function as prescribed.

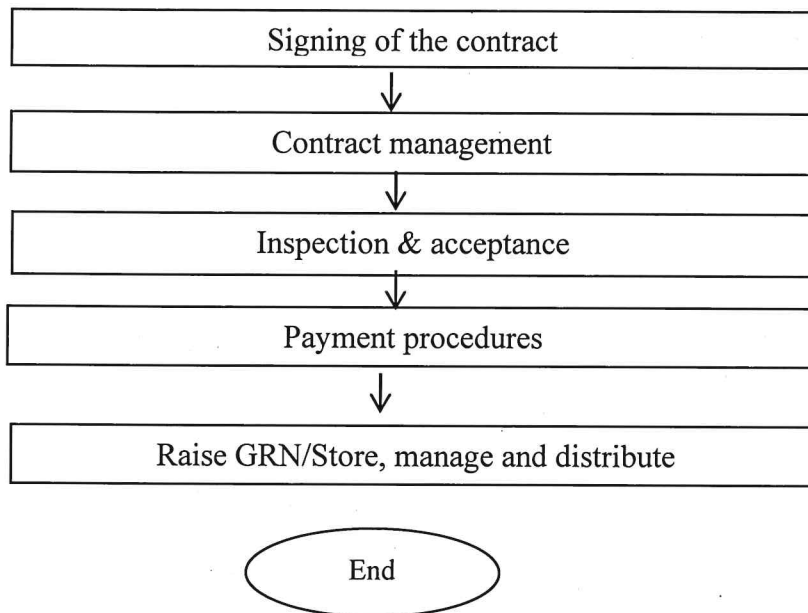
- a) The committee shall consist of a minimum of four members appointed by the KoTDA CEO.

- b) The Disposal Committee shall be headed by the Chief Manager, Finance & Strategy or the Finance Manager.
- c) The Head of the Procurement Unit or his/ her representative shall provide secretarial services to the Disposal Committee.
- d) Quorum shall be at least four members including the chairman and the User Department.
- e) The Disposal Committee shall recommend to the KoTDA CEO the appropriate method of disposing of obsolete stores, equipment, vehicles, surplus or unserviceable items.

The flow chart of the overall procurement cycle is depicted below;

Figure 1: Stepwise procurement cycle

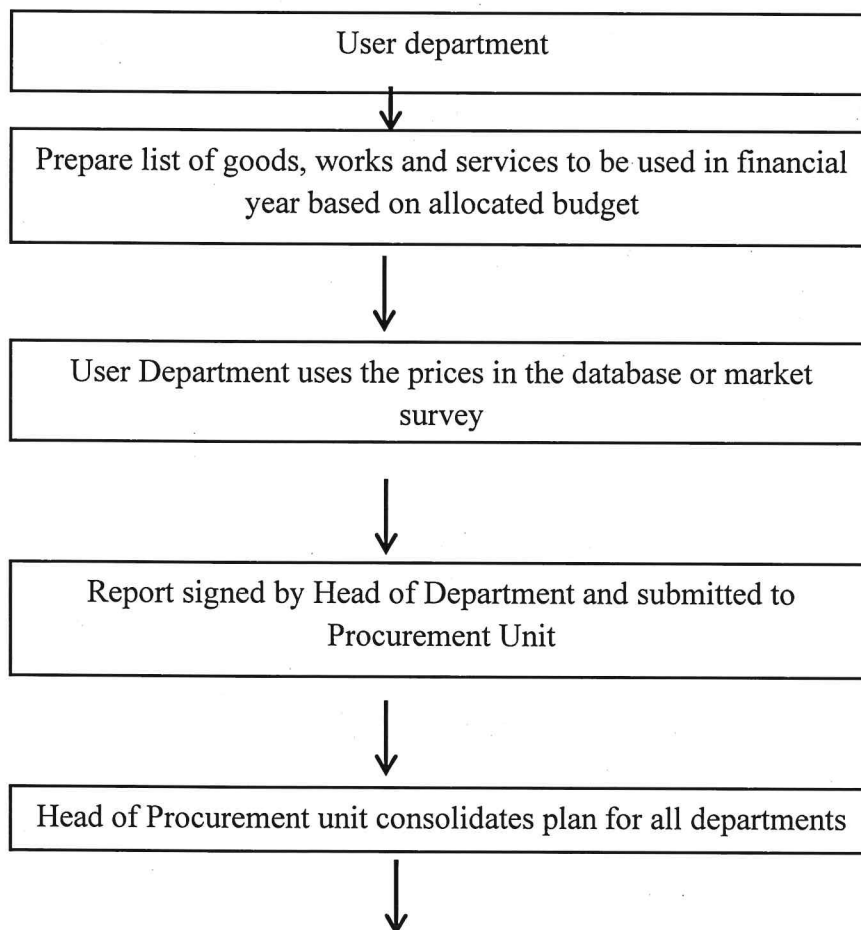


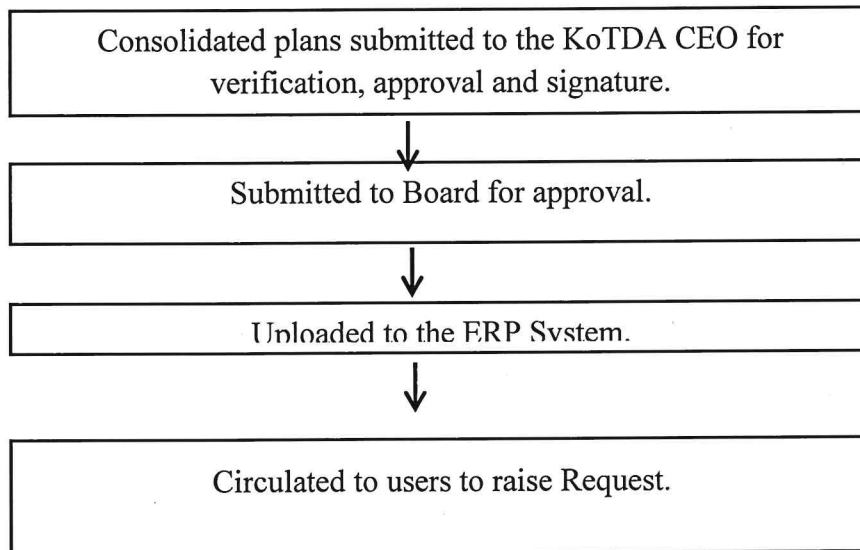


Annual Procurement Plan (Procurement Planning)

The procurement planning shall be integrated with applicable budget process and based on indicative or approved budget as illustrated below;

Figure 2: procurement planning





Upon budget approval and allocation to users, the User Department prepares a list of goods, services and works to be produced in the financial year using the prices in the database/ market survey. The Head of User Department approves and forwards the departmental plan to procurement for consolidation.

Head of Procurement unit consolidates the plan and presents to the KoTDA CEO for verification and signing.

The consolidated Annual Procurement Plan (APP) is submitted to the Board, for approval before uploading to the ERP system and circulating to users for implementation.

Initiation of Procurement

The process of initiating procurement commences with the identification of the Authority's needs (user) and ends with the delivery of goods, works and services at any given financial year as per the specifications.

The approvals to commence procurement shall include the advertisement of the tenders.

Initiation of procurement by user departments will be processed as follows;

- a) The user raises a requisition for the supply of goods/services as per the Annual Procurement Plan in the ERP.
- b) The request shall be approved by the head of division/ department.
- c) The Finance Department shall confirm budget availability as per the approved budget and consolidated Annual Procurement Plan.
- d) The User Department shall submit the approved requisition and detailed specifications through an approved memo to the procurement unit.

PROCUREMENT METHODS

KoTDA falls under Class A of public entities, and procurement methods are determined by the Act; The Public Procurement and Asset Disposal Act (2015) provides for 12 main procurement methods: -

1. Open Tendering (most preferred method)
2. Two-Stage Tendering
3. Design Competition
4. Restricted tendering
5. Direct Procurement
6. Request for Quotations
7. Electronic Reverse Auction
8. Low Value Procurement
9. Force Account
10. Competitive negotiations
11. Request for Proposals
12. Framework Agreements
13. Any other method prescribed in regulations and stated in the tender document.

The KoTDA can choose any of the above methods by first pre-qualifying contractors or they can choose to put an open tender where everyone eligible is allowed to bid.

Details of Procurement Methods

1. Open Tender

Procedure for Open tender

Advertisement

The KoTDA CEO of a KoTDA shall take such steps as are reasonable to bring the invitation to tender to the attention of those who may wish to submit tenders. Despite the provisions of the act if the estimated value of the goods, works or services being procured is equal to, or more than the prescribed threshold for county, national and international advertising, the KoTDA shall advertise in the dedicated Government tenders' portals or in its own website, or a notice in at least two daily newspapers of nationwide circulation. The KoTDA shall also use Kenya's dedicated tenders portal or any other electronic advertisements as prescribed; and post advertisements at any conspicuous place reserved for this purpose in the premises of the KoTDA.

Time for preparing tenders

The time allowed for the preparation of tenders shall not be less than the minimum period of time prescribed by the Act. The time allowed for the preparation of tenders shall be exclusive of the day of the tender notice.

Provision of tender documents

Upon advertisement, the KoTDA CEO of a KoTDA shall immediately provide copies of the tender documents and in accordance with the invitation to tender and the KoTDA CEO shall upload the tender document on the website. The KoTDA CEO of a KoTDA may charge such fees as may be prescribed for copies of the tender documents.

2. Two-Stage Tendering

A KoTDA may engage in procurement by means of two-stage tendering when, due to complexity and inadequate knowledge on its part or advancements in technology, it is not feasible for the KoTDA to formulate detailed specifications for the goods or works or non-consultancy services in order to obtain the most satisfactory solution to its procurement needs.

The tendering document shall call upon tenderers to submit, in the first stage of the two-stage tendering proceedings, initial tenders containing their proposals without a tender price. In the second stage, the KoTDA shall invite tenderers whose tenders were retained to submit final tenders with prices with respect to a single set of specifications and in formulating those specifications, the KoTDA may modify any aspect, originally set forth in the tendering document. Any such modification or addition shall be communicated to tenderers in the invitation to submit final tenders and a tenderer not wishing to submit a final tender may withdraw from the tendering proceedings without forfeiting any tender security that they may have been required to provide. The final tenders shall be evaluated and compared in order to ascertain the successful tenderer. The specifications developed shall meet the requirements specified in the Act. When developing the specifications, the KoTDA may engage experts.

3. Design Competition

Condition for use of Design Competitions

An KoTDA CEO of a KoTDA may use a design competition procedure for the purpose of determining the best architectural, physical planning and any other design scheme, engineering, graphic or any other design scheme for its use.

Procedure for design competition

In design competitions, a KoTDA shall;

- i. Invite design proposals through a public advertisement;
- ii. Ensure the preparation of an invitation sets out the name and address of the KoTDA; the tender number assigned to the procurement proceedings by the KoTDA; description of technical and functional needs; an explanation of where and when tenders shall be submitted and where and when the tenders will be opened; a statement that those submitting tenders or their representatives may attend the opening of the design proposals; a statement that a copyright or other intellectual property of the top three shall vest in the State.
- iii. The evaluation of design proposals shall be undertaken by an evaluation committee established under the Act.

- iv. The design process shall be as prescribed in the Regulations. Prior to publishing an invitation notice, an KoTDA CEO of a KoTDA shall prepare tender documents and appoint as part of ad hoc evaluation committee instituted pursuant to the Act at least one independent lay assessor, and technical assessors recommended by the professional regulatory body governing the design competition.
- v. The best three assessed design schemes shall receive as a prize an honorarium as provided for in the internal policies of the KoTDA subject to the guidelines set out in the applicable county or national level or the Regulations to this Act.
- vi. In participating in design competitions, all bidders shall undertake to transfer all copyrights, intellectual property rights and patents relating to their designs to the KoTDA.
- vii. Upon completion of the design competition, all the submitted design schemes shall become property of the KoTDA.

4. Restricted Tendering

An KoTDA CEO of a KoTDA may use restricted tendering if any of the following conditions are satisfied;

- (a) competition for contract, because of the complex or specialized nature of the goods, works or services is restricted to prequalified tenderers resulting from the procedure under section 94;
- (b) the time and cost required to examine and evaluate a large number of tenders would be disproportionate to the value of the goods, works or services to be procured; or
- (c) if there is evidence to the effect that there are only a few known suppliers of the whole market of the goods, works or services;
- (d) an advertisement is placed, where applicable, on the KoTDA website regarding the intention to procure through limited tender

An KoTDA CEO of a KoTDA may engage in procurement by means of restricted tendering in such manner as may be prescribed.

5. Direct Procurement.

When direct procurement may be used

A KoTDA may use direct procurement as allowed under the following conditions long as the purpose is not to avoid competition;

- i. The goods, works or services are available only from a particular supplier or contractor, or a particular supplier or contractor has exclusive rights in respect of the goods, works or services, and no reasonable alternative or substitute exists;
- ii. Due to war, invasion, disorder, natural disaster or there is an urgent need for the goods, works or services, and engaging in tendering proceedings or any other method of procurement would therefore be impractical, provided that the circumstances giving rise to the urgency were neither foreseeable by the KoTDA nor the result of dilatory conduct on its part;

- iii. Owing to a catastrophic event, there is an urgent need for the goods, works or services, making it impractical to use other methods of procurement because of the time involved in using those methods;
- iv. The KoTDA, having procured goods, equipment, technology or services from a supplier or contractor, determines that additional supplies shall be procured from that supplier or contractor for reasons of standardization or because of the need for compatibility with existing goods, equipment, technology or services, taking into account the effectiveness of the original procurement in meeting the needs of the KoTDA, the limited size of the proposed procurement in relation to the original procurement, the reasonableness of the price and the unsuitability of alternatives to the goods or services in question;
- v. For the acquiring of goods, works or services provided by a public entity provided that the acquisition price is fair and reasonable and compares well with known prices of goods, works or services in the circumstances.

A public officer who contravenes the provisions of the act commits an offence.

Procedure for direct procurement

An KoTDA CEO of a KoTDA shall adhere to the following procedures with respect to direct procurement

- (a) issue a tender document which shall be the basis of tender preparation by tenderer and subsequent negotiations.
- (b) appoint an ad hoc evaluation committee pursuant to section 46 of the act to negotiate with a person for the supply of goods, works or non-consultancy services being provided;
- (c) ensure appropriate approvals under this Act have been granted;
- (d) ensure the resulting contract is in writing and signed by both parties.

4. Request for Quotations.

When request for quotations may be used

A KoTDA may use a request for quotations from the register of suppliers for a procurement if (a) the estimated value of the goods, works or non-consultancy services being procured is less than or equal to the prescribed maximum value for using requests for quotations as prescribed in Regulations; (b) the procurement is for goods, works or non-consultancy services that are readily available in the market; and

- (c) the procurement is for goods, works or services for which there is an established market.

Procedure for request for quotations

A KoTDA shall prepare a request for quotations that sets out the following;

- (a) the name and address of the KoTDA;
- (b) the specific requirements prepared under section 67 of the act relating to the goods, works or services being procured;

(c) an explanation of where and when quotations shall be submitted; and
(d) anything else required under the Act or the Regulations to be set out in the request for quotations.
An KoTDA CEO of a KoTDA shall deal with the request for quotations in accordance with the following;

- (a) the KoTDA CEO of a KoTDA shall give the request to such persons as are registered by the KoTDA;
- (b) the request shall be given to as many persons as necessary to ensure effective competition and shall be given to at least three persons, unless that is not possible;
- (c) the KoTDA CEO of a KoTDA shall give the request to each person early enough so that the person has adequate time to prepare a quotation;
- (d) at least three persons shall submit their quotations prior to evaluation.

The successful quotation shall be the quotation with the lowest price that meets the requirements set out in the request for quotations. Where the lowest price is above the prevailing market rates, the request for quotations shall be cancelled or terminated in accordance with the cancellation and termination procedures set out in the Act.

The following shall apply with respect to the contract resulting from a procurement by a request for quotations;

- (a) the KoTDA shall place a purchase order with the person submitting the successful quotation; (b) the person submitting the successful quotation shall confirm the purchase order in writing; and
- (c) an KoTDA CEO shall consider recommendations for award arising from a contract under procurement by a request for quotations for approval or rejection

6. Low-Value Procurement

When low-value procurement may be used

A KoTDA may use a low-value procurement procedure if;

- (a) the entity is procuring low value items which are not procured on a regular or frequent basis and are not covered in framework agreement;
- (b) the estimated value of the goods, works or non-consultancy services being procured are less than or equal to the maximum value per financial year for that low-value procurement procedure as may be prescribed.

Procedure for low-value procurement.

The procedure and conditions for the use of low-value procurement method by different classes of public entities or different classes of goods, works or services being procured shall be as prescribed in the regulations.

7. Force Account

A KoTDA may use force account by making recourse to the state or public officers and using public assets, equipment and labour which are competitive and where;

(a) quantities of work involved are small and scattered or in remote locations for which qualified construction firms are unlikely to tender at reasonable price and the quantities of works cannot be defined in advance;

(b) unforeseen and urgent work is required to be carried out without disrupting on-going operations;

(c) the KoTDA is to complete works delayed by the contractor after the written warnings did not yield any tangible results.

This method shall only be applied where (a) there is prior approval of the KoTDA CEO; (b) within the limit prescribed in Regulations; (c) where the total cost of procuring the goods, works and non-consultancy services are, at most, set at the prevailing market rate.

The procedure to use force account shall be as prescribed in the Regulations.

8. Electronic Reverse Auction

The Authority may in exceptional circumstances approve a system of electronic reverse auction method of procurement for goods, works or non-consultancy services by a KoTDA.

Conditions for use of Reverse Auctions

For an KoTDA CEO of a KoTDA to be qualified to use the reverse auction method it shall possess

(a) a procurement portal;

(b) an appropriate secure software with electronic procurement capabilities and functionalities approved by the Authority.

Procedure for Reverse Auction

In the reverse auction method of procurement, a KoTDA shall;

(i) invite all registered suppliers in the specific category to compete;

(ii) advertise its requirements on its website including the period of time and goods specifications;

The prices of bidders within the prescribed time shall be visible to other bidders without revealing the bidder's identity; and the pre-qualified supplier shall not revise its bid upwards within the prescribed time. Successful reverse auctioneering bid Subject to the reserve price set by the KoTDA, the successful bid shall be the bid with lowest price at the bid submission deadline.

9. Framework Agreement

A KoTDA may enter into a framework agreement open tender if;

(a) the procurement value is within the thresholds prescribed under Regulations to this Act;

(b) the required quantity of goods, works or non-consultancy services cannot be determined at the time of entering into the agreement; and

(c) a minimum of seven alternative vendors are included for each category.

The maximum term for the framework agreement shall be three years and, for agreements exceeding one year, a value for money assessment undertaken annually to determine whether the terms designated in the framework agreement remain competitive.

When implementing a framework agreement, a KoTDA may;

- (a) procure through call-offs order when necessary; or
- (b) invite mini-competition among persons that have entered into the framework agreement in the respective category. "call-offs order" means an order made using a framework agreement with one or more contractors, suppliers or consultants for a defined quantity of works, goods, consultancy covering terms and conditions including price that users require to meet the immediate requirements.

Evaluation of bids under this category shall be undertaken by an evaluation committee as provided for under this Act. A procurement management unit shall prepare and submit to the KoTDA CEO with a copy to the internal auditor quarterly reports detailing an analysis of items procured through framework agreements and these reports shall include, an analysis of pattern of usage, procurement costs in relation to the prevailing market rates and any recommendations. For greater certainty procurements undertaken through framework agreements may be subject to preferences and reservations as provided for in this Act.

10. Specially Permitted Procurement

Specially permitted procurement procedure

A KoTDA may use a procurement procedure specially permitted by the National Treasury. The National Treasury may allow the use of specially permitted procedure;

- (a) where exceptional requirements make it impossible, impracticable or uneconomical to comply with the Act and the Regulations;
- (b) where the market conditions or behavior do not allow the effective application of the Act and Regulations made under the Act;
- (c) for specialized or particular requirements which are regulated or governed by harmonized international standards or practices;
- (d) where strategic partnership sourcing is applied;
- (e) where credit financing procurement is applied; or
- (f) in such other circumstances as may be prescribed.

The Cabinet Secretary may prescribe the procedure for carrying out specially permitted procurements under this section

Guidance on Specifications Requirements

The specifications should be as neutral (objective) as possible and not to appear to favour particular bidders. In case of consultancies the terms of reference (TOR) must be adequate to enable the participating consultants to understand the requirements of the assignment. Specifications are so crucial to the success of procurement and the following points should be noted:

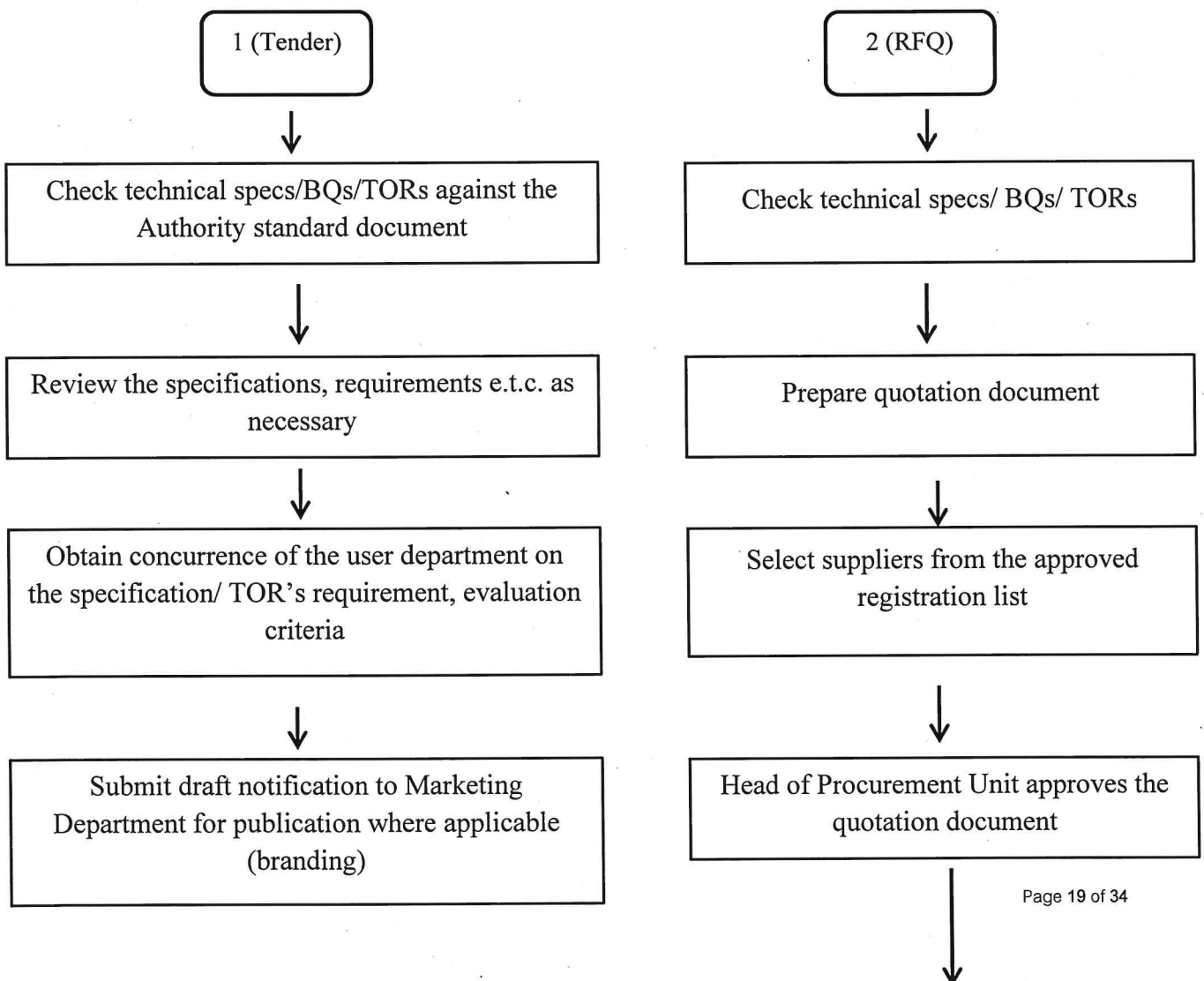
- a) Specifications must be prepared by qualified staff.
- b) The responsibility for preparation of the specifications is shared by the user and technical departments and coordinated by the procurement unit.

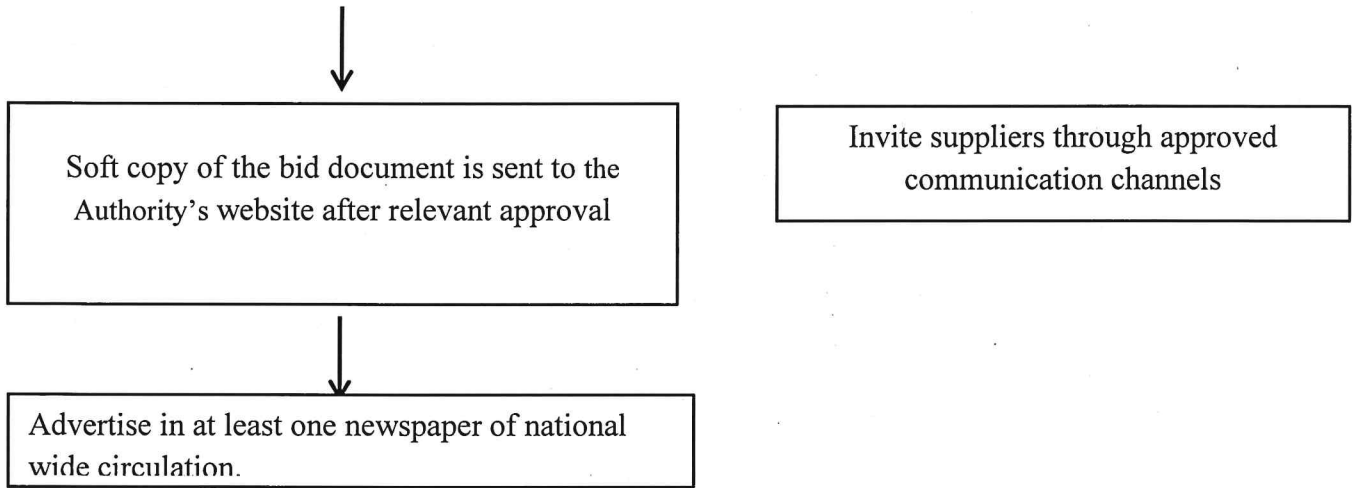
- c) Specifications must be updated and based on adequate market trends.
- d) A procurement agent or consultant may be engaged to prepare complex specifications.
- e) Specifications form a very critical part of the bidding documents.
- f) The evaluation criteria which must be disclosed in the bidding documents shall be partly based on the specifications.
- g) Specifications must include packing if necessary.
- h) Preparation of the bidding documents should not be commenced before the specifications are ready.
- i) Specifications should take into account total cost of ownership.

Preparation, Advertising and Invitation of Bids

The bid document is prepared by the procurement officer in line with the Authority Procurement policy and guidelines. The bid document must be approved by the user before prospective bidders are invited to bid.

Figure 3: Stepwise procedure for preparation of bid documents/ invitation to bids

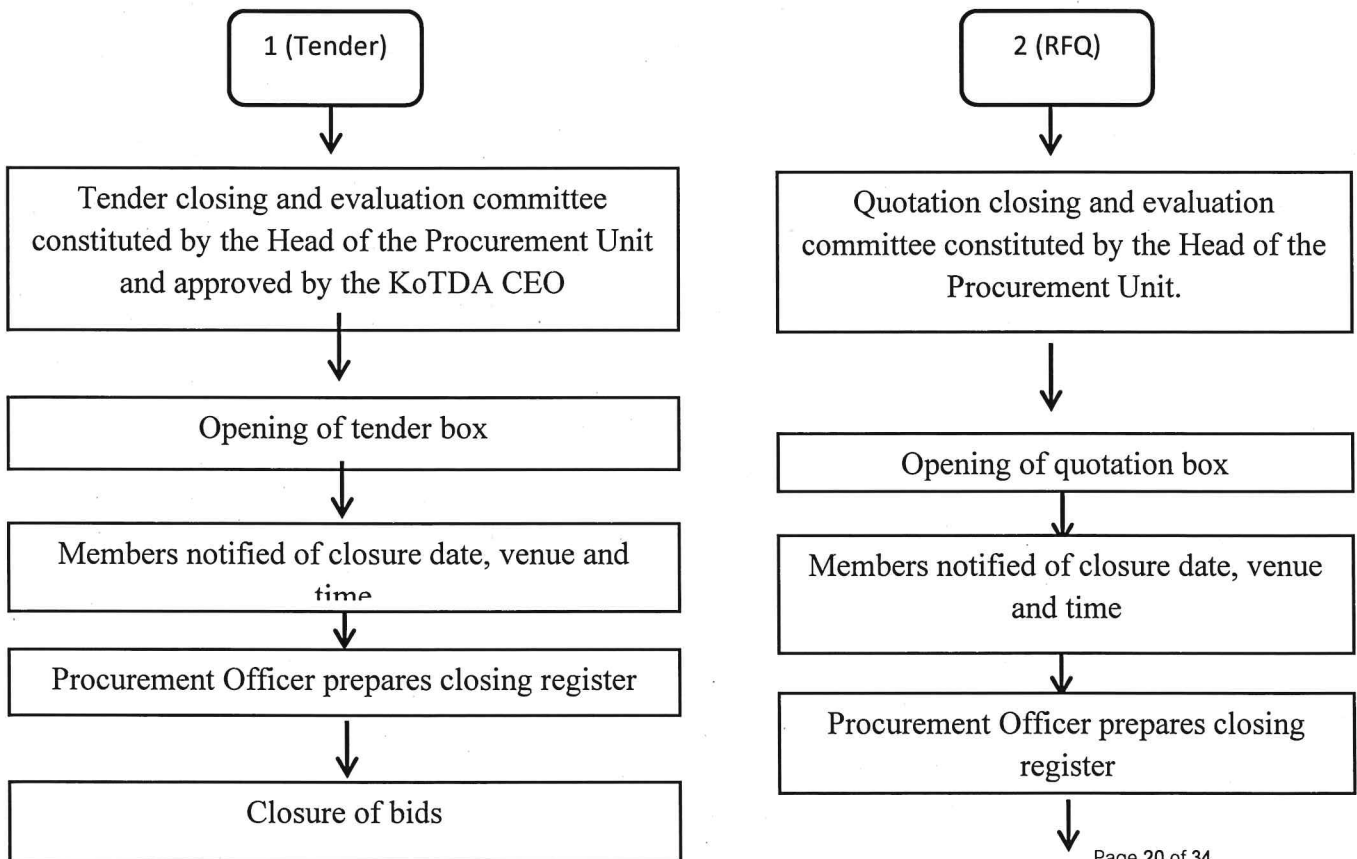


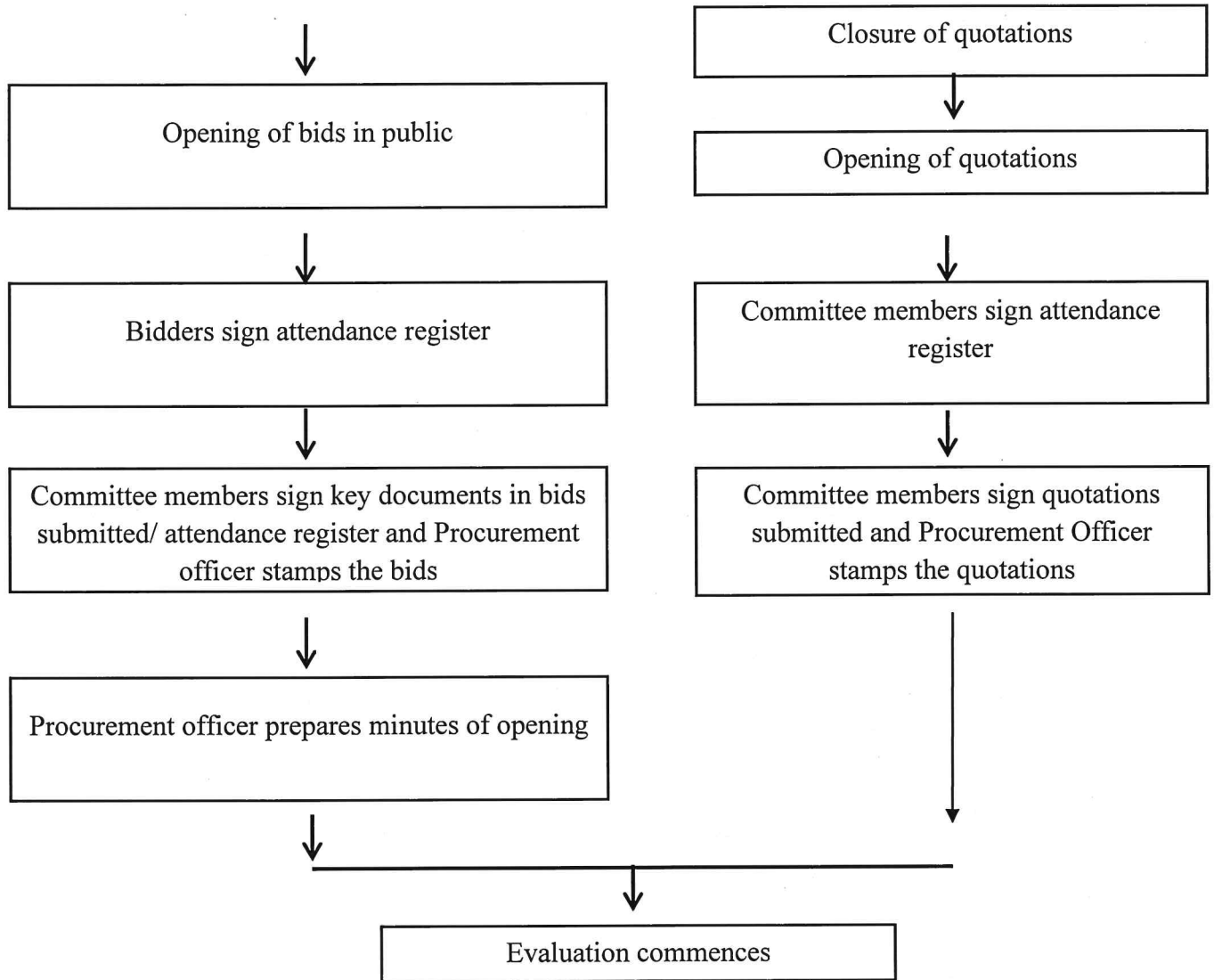


All bids for Low Value Procurement, Direct Procurement and Request for Quotation shall be placed in the quotation box whereas bids for Request for Proposal, Restricted Tender, Open Tender, Two Stage Tendering, Design Competition, Framework Agreement shall be placed in the tender box. The quotation and tender boxes must be maintained and handled as specified in the policy. The boxes are always under lock and key and both keys safely kept by an officer of the procurement unit.

At the end of the quotation period, the quotations will be opened and bids immediately submitted for evaluation. Tenders will be opened in public as specified in the tender notice.

Figure 4: Stepwise procedure for receiving/opening of bids





Evaluation of Bids and Due Diligence

The Policy provides for the evaluation of tenders by Head of Departments or their representatives. The following evaluation threshold matrix shall be adopted for purposes of ensuring efficiency and effectiveness of the process bearing in mind the responsibility to be done by each committee member. The proposal is based on the highest level of representation bearing in mind the fact that the Head of Department must be accountable for the procurement of their items.

Table 1: Evaluation Threshold Matrix

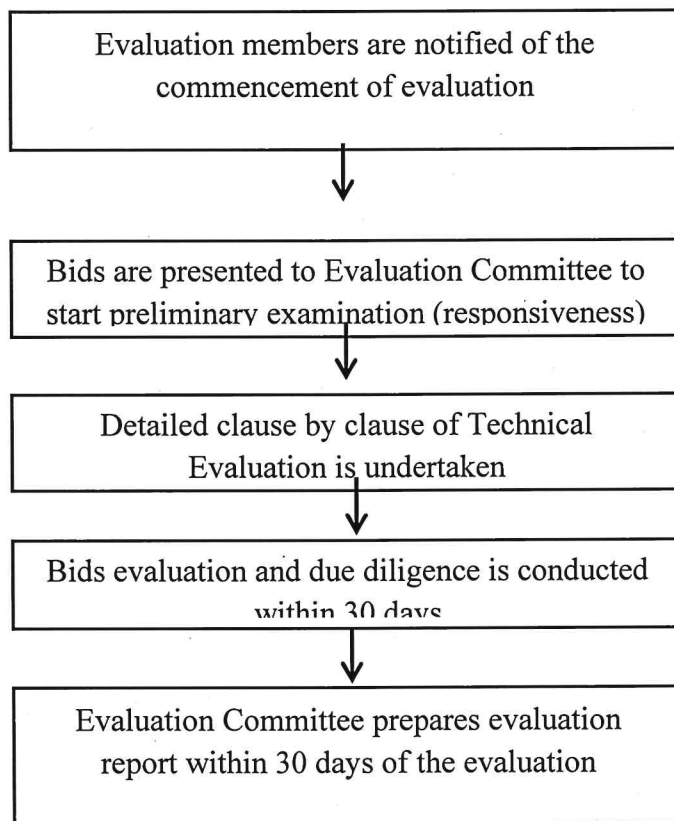
Transaction value (Kshs)	Evaluation secretariat	Chair of Evaluation Committee	Members of the evaluation/negotiation committee	Review 1 (Evaluation report)	Review 2 (Evaluation report)
0 – 100, 000.00	Procurement unit	Procurement unit	Procurement unit/User dpt	Procurement unit	Procurement unit
100,001.00 - 500,000.00	Procurement unit	Senior officer	User Department/Officers	Procurement unit	Head of Procurement unit/ designate
500,001.00- 2,000,000.00	Procurement unit	Senior Officers	User Dept/Managers and officers	Procurement unit	Head of Procurement unit/ designate
2,000,001.00 – 5,000,000.00	Procurement unit	Manager	User Dept/Managers and officers	Procurement unit	Head of Procurement unit/ designate
5,000,001.00 – 10,000,000.00	Procurement unit	Manager	Managers and officers	Procurement unit	Head of Procurement unit/ designate
10,000,001.00 – 30,000,000.00	Procurement unit	Chief Manager	Chief Mangers & Managers	Procurement unit	Head of Procurement unit/ designate
Above 30,000,001.00	Procurement unit	Chief Manager	Chief Managers/Managers	Procurement unit	Head of Procurement unit/ designate

Bids will be evaluated immediately after opening. The evaluation will be carried out within a period of thirty days (30) days from date of opening including opening of financial proposals and recommendations of award. Notwithstanding the provisions of section 80(6) of the Public Procurement and Asset Disposal Act 2015, where a tender is complex or has attracted a high number of tenderers,

the KoTDA CEO or head of procurement may extend the period for tender evaluation, for a further period within the tender validity period not exceeding thirty more days of expiry of initial period. All evaluations will be carried out by an approved committee as detailed out in the delegations of authority.

In all cases, evaluations must be completed immediately and an evaluation report in the prescribed format submitted to the Head of the Procurement Function for further direction. Evaluation should be completed within the prescribed time frame of thirty days.

Figure 5: Stepwise procedure for evaluation of bids



Preparation of Procurement Professional Opinion

Upon completion of evaluation, a professional opinion should be prepared in the prescribed format. The proposal should be based on the recommendation contained in the evaluation report. The approval process of the professional opinion will be handled as per thresholds provided in the delegated authority

Prepared by: The Head of the Procurement function.

Approve, reject or provide further guidance: KoTDA CEO

Award and Signing of Contracts

- i. All the award letters and contracts shall be approved by the KoTDA CEO.
- ii. Regret letters shall be signed and issued to unsuccessful bidders by the Head of the Procurement Unit.
- iii. The award/ regret letters shall be issued to successful and unsuccessful bidders for the procurement done through Open Tender, Request for Proposal and Restricted Tendering at the same time
- iv. On receipt of acceptance letters the Authority through the Legal Department shall prepare the contract as stipulated in the standard tender document.

Contract Management

Figure 6: stepwise procurement cycle per contract administration function



LPO/LSO Signing process

The process starts by a Procurement Officer/ Supervisor raising a Local Purchase/Service Order. The document then is approved based on the following threshold:

Table 2: LPO/ LSO Signing Threshold

Value of Procurement in (Ksh.)	Prepared by	Reviewed by	Approved by
Up to Kshs.500,000.00	Procurement Officers	Procurement Manager/ Officers	KoTDA CEO or Appointee of the CEO
Kshs.500,001.00 – Kshs.2,000,000.00	Procurement Officers	Head of Procurement Unit	KoTDA CEO or Appointee of the CEO
Above Kshs.2,000,000.00	Procurement Officers	Head of Procurement Unit	KoTDA CEO

Inspection and Acceptance

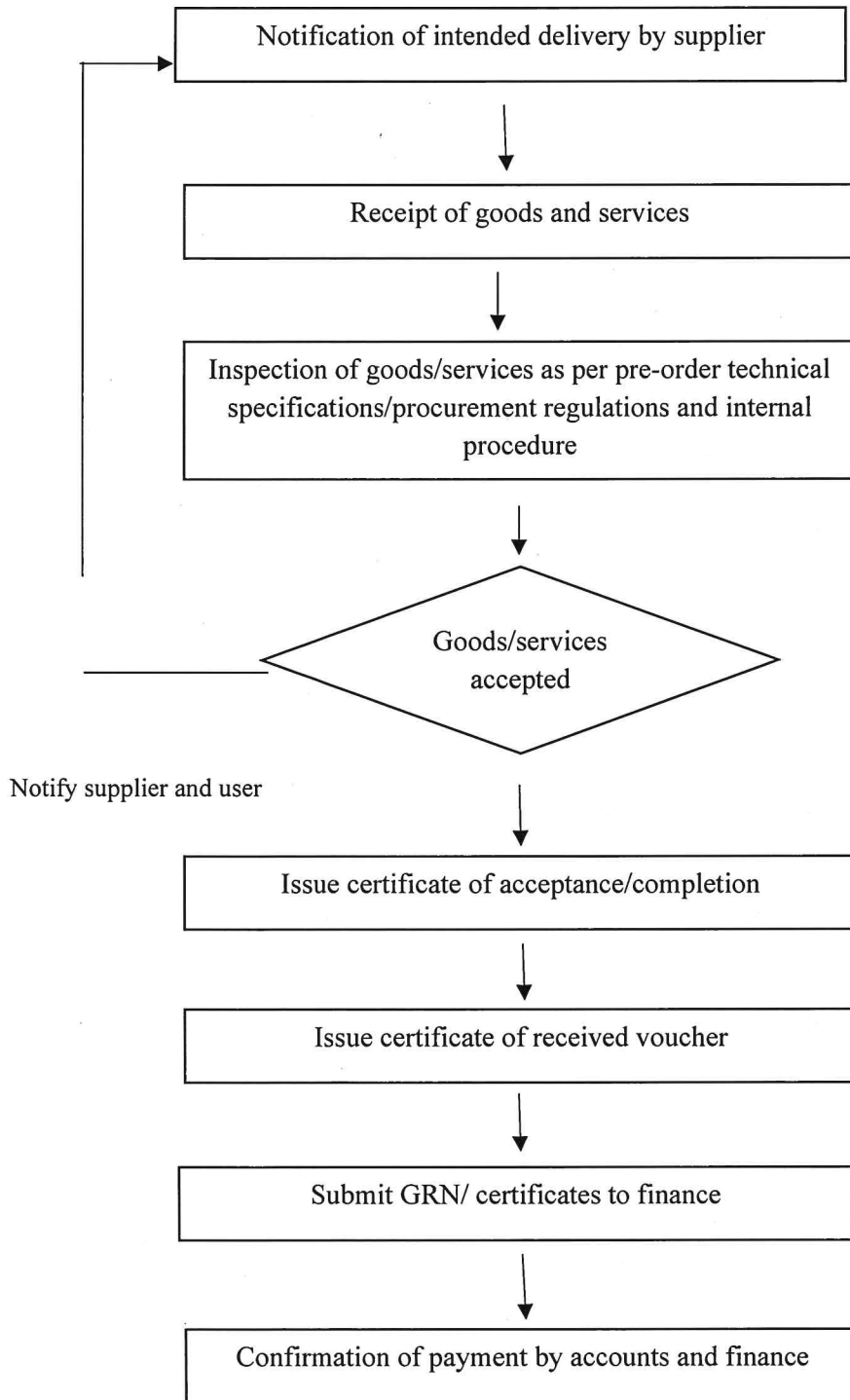
The KoTDA CEO shall therefore be principally responsible for the appointment of the committee in a timely manner and therefore the inspection and acceptance or rejection of the procured items process starts without unnecessary delays.

It should be further noted that the Inspection and Acceptance Committee is different from the management teams of procurement contracts. The Inspection and Acceptance Committee shall be performing administrative duties of certifying that the procurement contracts have been properly performed and supervised or managed by the management teams. The work of the Inspection and Acceptance Committee comes at the end, immediately after delivery of the goods, works and services.

The Inspection and Acceptance Committee shall—

- a) Ensure that the correct quantity of the goods is received;
- b) Ensure that the goods, works or services meet the technical standards defined in the contract;
- c) Ensure that the goods, works or services have been delivered or completed on time, or that any delay has been noted;
- d) Ensure that all required manuals or documentation has been received;
- e) Issue interim or completion certificates or goods received notes, as appropriate and in accordance with the contract;
- f) Ensure that the goods are received/ rejected immediately after delivery.

Figure 7: Stepwise procedure for receipt, inspection and acceptance of goods, works and services



Treatment of Partial Deliveries

The treatment of partial deliveries may or may not be permitted in the bidding document and contract. Partial delivery of supplies should be used as a tool for supply chain management and for reducing the costs of storage and handling for the Authority. In such a case, the partial delivery of supplies should be duly recorded and should permit tracking of all partial deliveries and accumulated deliveries in order to manage the contract.

If the partial delivery is not envisaged in the bidding documents and contract, the Authority may treat it as follows:

- a) Record and accept the partial supplies delivered as meeting the necessary standards and establish a prorata delivery and acceptance certificate that will lead to a prorata payment or
- b) Reject all the supplies delivered on the basis of partial delivery and treat it as a breach of contract.

It should be noted that a rejection might involve an appeal from the vendor with the possibility of legal proceedings. Thus in taking such a decision the Authority should ensure that:

- a) The partial delivery is not a delay;
- b) The delay in delivery or the partial delivery is not the results of the Authority's delays in addressing contract management issues;
- c) The partial delivery or delay is not the results of an unforeseeable event;
- d) The partial delivery or delay is causing a clear and demonstrable harm to the Authority's activities;
- e) Inconveniences shall be avoided by having clear clauses on partial deliveries in the contract.

Inspection and Acceptance of Goods, Works and Services Received – Low Value

The appropriate authorities for approving the inspection and acceptance of goods are prescribed in the Procurement Thresholds Matrix. Under the Low Value Procurement Method, the inspection is carried out by the Stores Officer. His functions shall include:

- a) Verify that the User has endorsed the Goods, Works or Service Received Note;
- b) Inspect, verify and ascertain that goods, works, services have been delivered to the Authority in accordance with the terms and specifications of the Local Purchase Order;
- c) Verify that the quantities delivered are consistent with the quantities indicated on the Local Purchase Order and the delivery note;
- d) Verify whether the delivery is partial or complete;
- e) Ensure that the Authority does not receive less quantity than contracted for or receive goods, works, services that are of different specifications than what was contracted for;
- f) Approve the Goods, Services, Works Received Notes;

Inspection and Acceptance Procedures: Procurement of Consultancy Services

The Authority shall decide whether to have an Inspection and Acceptance Committee for consultancy services contracts or whether to delegate such responsibilities to the management /administration committee for the contract depending on the type and circumstances of the consultancy's contract. This will clearly be stated in the contract and in the RFP document.

Under any of the procurement method for consulting services the functions of the Inspection and Acceptance Committee shall include:

- a) Verify that the Head of the End User Department has endorsed the service provided.
- b) Inspect, verify and ascertain that the services, and other products such as reports, maps, plans, manuals, designs, etc. have been delivered to the Authority in accordance with the terms of reference and the specifications of the Contract;
- c) Verify that the quantities delivered, where relevant, are consistent with the quantities indicated on the contract such as man days, number of copies, etc.;
- d) Ensure that the Authority does not receive less value than contracted for or services that are of different quality than what was contracted for;
- e) Declare provisional or definitive acceptance of services where appropriate;

The management team for consultancy contracts must be very diligent in its performance to make the work of the Inspection and Acceptance Committee easy.

Raise GRN/Store, Manage and Distribute

Upon receipt of goods by the Inspection and Acceptance Committee, the Stores Officer should sign the delivery note and issue Goods Received Note (GRN) or Goods Returned Note (as applicable) as per the Inspection and Acceptance Committee certificate and update stocks accordingly.

The Stores Officer is charged with the responsibility of issuing stock upon receipt of approved store requisition and the authority will undertake stock take annually.

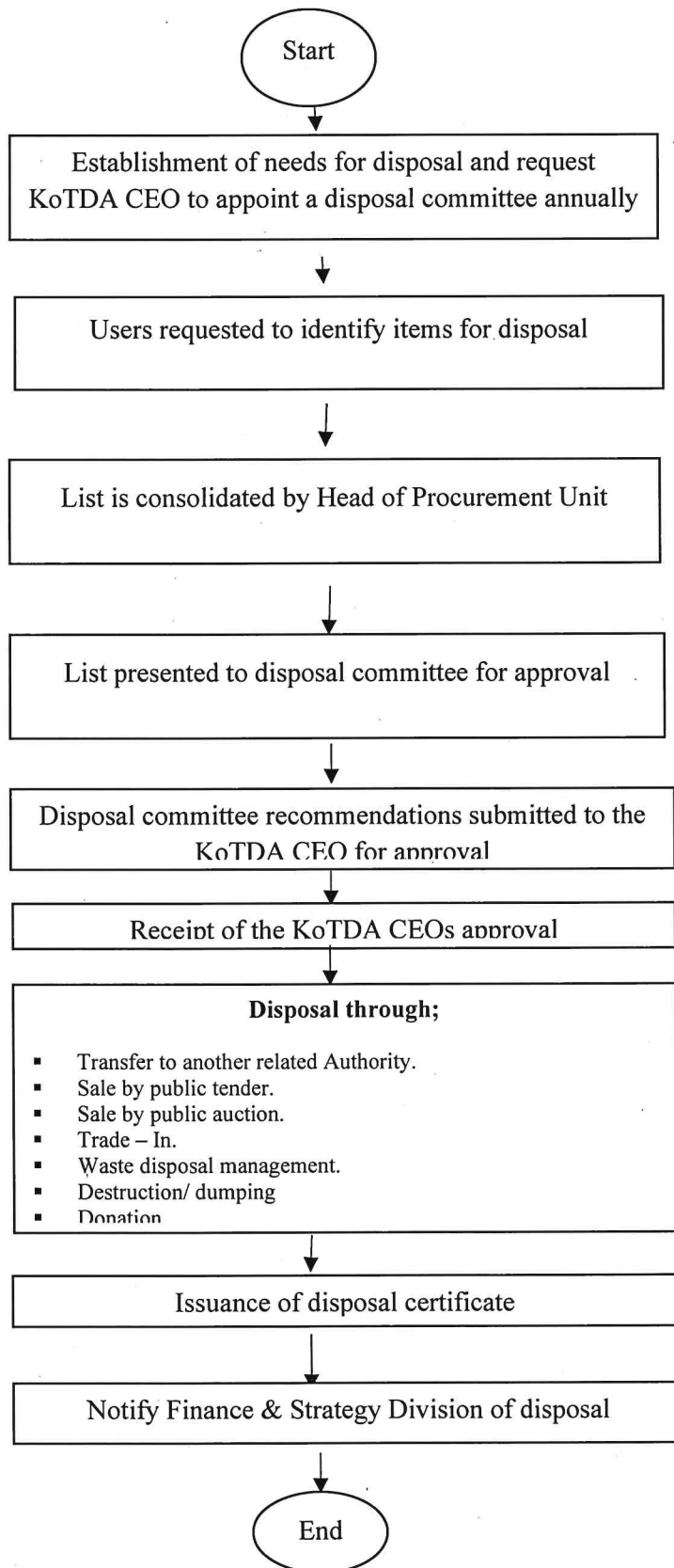
Payment Procedures

The Procurement Department shall be tasked with the responsibility of providing but not limited to the following documents to the Finance Department for processing of payments;

- a) Delivery note,
- b) GRN,
- c) IAC certificate,
- d) Invoice
- e) LPO/LSO
- f) Contracts (where applicable)

DISPOSAL OF DISUSED/SURPLUS STORES

Figure 10: Stepwise procedure for disposal of disused/ surplus stores/ complete disposal cycle



CONTRACT ADMINISTRATION

Pursuant to the provisions of section 68 of the Act, the person submitting the successful tender and the procurement entity (KoTDA) shall enter into a written contract based on the tender documents. No contract is formed between the person submitting the successful tender and the procurement entity until the written contract is entered into.

The Procurement and the legal department shall ensure that the goods, works or services outlined in any contract entered are of the right quality and quantity.

A contract is not valid;

1. Until it is signed by both parties and,
2. Unless an award has been made and,
3. If it has been signed without the authority of the KoTDA CEO.

The Tender documents which form the basis of all procurement contracts shall consist of;

1. Contract agreement form
2. Tender form
3. Price schedule or bills of quantities submitted by the tenderer
4. Schedule of requirements
5. Technical specifications
6. General conditions of contract
7. Special conditions of contract
8. Notification of Award

In contract Administration, the Procurement and supply chain department shall submit the following documents to the legal department to facilitate the preparation of contractual agreements;

1. Professional opinions.
2. Notification of award letters.
3. Evaluation reports
4. Evaluation minutes.
5. RFQ/RFP/Tender opening minutes/reports
6. Adverts and requisitions.

In Contract administration the Procurement department shall be involved in the following set of activities in making sure the contractual agreements are enforced in consultation with the legal department;

1. Preparation of professional opinions
2. Preparation of offers/regrets letters
3. Prepare award status and statutory reports
4. Processing of purchase and services orders
5. Prepare contract documents
6. Maintenance of procurement approval records
7. Enforce compliance with relevant regulations
8. Enforce compliance with relevant regulations pertaining to award and contracting
9. Providing secretariat services to negotiation committees
10. Liaison with legal services department

currency

Complex and specialized contract implementation team

For every complex and specialized procurement contract, the KoTDA CEO of a KoTDA shall appoint a contract implementation team which shall include members from the procurement function, and the requisitioner, the relevant technical department, Finance representative and a consultant where applicable.

The functions of the contract implementation team shall include;

- (a) monitoring the performance of the contractor, to ensure that all delivery or performance obligations are met or appropriate action taken by the KoTDA in the event of obligations not being met;
- (b) ensure that the contractor submits all required documentation as specified in the tendering documents, the contract and as required by law;
- (c) ensure that the KoTDA meets all its payment and other obligations on time and in accordance with the contract.
- (d) ensure that there is right quality and within the time frame, where required;
- (e) review any contract variation requests and make recommendations to the respective tender awarding authority for considerations and such reviews for variation shall be clearly justified

by the technical department in writing backed by supporting evidence and submitted to the head of the procurement function for processing;

(f) manage handover or acceptance procedures as prescribed;

(g) make recommendations for contract termination, where appropriate;

(h) ensure that the contract is complete, prior to closing the contract file including all handover procedures, transfers of title if need be and that the final retention payment has been made;

(i) ensure that all contract administration records are complete, up to date, filed and archived as required; and

(j) ensure that the contractor acts in accordance with the provisions of the contract;

(k) ensure discharge of performance guarantee where required.

PREFERENCES AND RESERVATION IN PROCUREMENT

Subject to availability and realization of the applicable international or local standards, only such manufactured articles, materials or supplies wholly mined and produced in Kenya shall be subject to preferential procurement. KoTDA CEO shall when processing procurement, reserve a prescribed percentage of its budget, which shall not be less than thirty per cent, to the disadvantaged group and comply with the provisions of the Act in respect to preferences and reservations.

ETHICS IN PROCUREMENT

Upholding of ethics is important to the integrity of the entire procurement process. The Authority shall require all members of staff to maintain the highest level of ethical conduct and honesty when performing procurement duties.

All staff in the Procurement and Supply Chain Department shall be expected to observe professional ethics and guidelines as issued by the Chartered Authority of Purchasing & Supply (CIPS).

Provisions of The Public Officer Ethics Act, 2003, KISM Code of conduct and Ethics, PPOA Code of conduct and ethics, chapter Six of Constitution of Kenya, 2010 and Mwongozo guidelines shall also apply in regulating ethical conduct of all members of staff involved in the procurement process.

The guiding ethical principles shall include the following:

- a). Staff involved in the procurement process shall avoid engaging in practices or transactions that create conflict of interest.
- b). All members of staff involved in the procurement process shall ensure that the Authority obtains the best value for money through the procured materials, services, works, and equipment.
- c). Authority employees shall be required to avoid arrangements that might in the long term prevent the effective operation of fair competition.
- d). Employees shall not accept or receive gifts from current or potential suppliers unless such gifts are of very small intrinsic value and are of advertisement nature such as calendars, diaries, and pens.
- e). Employees shall refrain from any business hospitality that might be viewed by others as likely to influence procurement decisions by the Authority
- f). Care should be taken to avoid splitting of orders for specific works, services or materials by ensuring that the approval is within the prescribed authority ceilings

Appendix A: Requisition Form

Appendix B: Procurement Plan Template

Appendix C: Tender /Quotation Opening Form

Appendix D; Request for Quotation

Appendix E: Local Purchase Order

Appendix F: Local Service Order

Appendix G: Inspection and Acceptance Certificate