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Procurement Procedure Manual

Standard Operating Procedures for Procurement in the Public Health Sector

**Ministry of Health
Ghana**

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LIST OF ABBREVIATIONS AND ACRONYMS

a.o's	Among others
ADB	African Development Bank
AG	Auditor General
ATF	Accounting, Treasury and Financial Reporting
BEU	Biomedical Engineering Unit
BMCs	Budget Management Centres
CAG	Controller and Accountant General
CEPS	Customs Exercise and Preventive Service
CHAG	Christian Health Association of Ghana
CIF	Cost, Insurance and Freight
CIP	Carriage and Insurance Paid
CPT	Carriage Paid to
CIP	Cost Insurance Paid to
CFR	Cost and Freight
CIF	Cost Insurance and Freight
CMS	Central Medical Stores
CPAR	Country Procurement Assessment Report for Ghana, WB, March 1996
CTB	Central Tender Board
DDP	Delivery Duty Paid
DDU	Delivery Duty Unpaid
DFID	Department for International Development
DGIS	Directorate General Internationale Samenwerking (now NEDA)
DAF	Delivery At Frontier
DDU	Delivery Duty Unpaid
DDP	Delivery Duty Paid
DMS	District Medical Stores
DMT	District Management Team

DRF	Drug Revolving Fund
EMU	Estate Management Unit
EPI	Expanded Programme on Immunisation
EXW	Ex Works
FAR	Financial Administration Regulation, LI 1234, 13 August 1979
FCA	Free Carrier
FOB	Free On Board
FDB	Food and Drugs Board
FIMTAP	Financial Management Technical Assistance Project
FPLM	Family Planning Logistics Management
GHS	Ghana Health Services
GIMPA	Ghana Institute for Management and Public Administration
GNDP	Ghana National Drug Programme
GOG	Government of Ghana
GSC	Ghana Supply Commission
HASS	Health Administration and Support Services
HRDD	Human Resource Development Division
HSSP	Health Sector Support Programme
ICB	International Competitive Bidding
IDA	International Development Agency
IGF	Internally Generated Funds
ILMIS	Integrated Logistics Management Information System
INCOTERMS	International Commercial Terms (1990)
INRUD	International Network for Rational Use of Drugs
IPA	International Procurement Agency
INCOTERMS	International Commercial Terms
ITB	Instructions to Bidders

JICA	Japan International Co-operation Agency
LIB	Limited International Bidding
LPO	Local Purchase Order
MDA	Ministries, Departments and Agencies
MFED	Ministry of Finance and Economic Planning
MOF	Ministry of Health
MOT	Ministry of Trade
MTEF	Medium Term Expenditure Framework
MSH	Management for Science and Health
MTHS	Medium Term Health Strategy
NCB	National Competitive Bidding
NDF	Nordic Development Fund
NEDA	Netherlands Development Agency
OIPS	Office for International Policy Services
PC	Procurement Committee
PCS	Procurement Consultancy Services
PMU	Project Management Unit
POA	Programme of Action
POW	Programme of Work
PPME	Policy, Planning, Monitoring and Evaluation Division
PSO	Principal Supplies Officer
PU	Procurement Unit
PUFMARP	Public Finance Management Reform Programme
RfP	Request for Proposals
RHMT	Regional Health Management Team
RMS	Regional Medical Stores
RPA	Resident Procurement Advisor
SGS	Societe General de Surveillance
SSDM	Stores, Supplies and Drugs Management Division
TA	Technical Assistance

TAPU	Technical Assistance Procurement Unit
TOR	Terms of Reference
UK	United Kingdom
UN	United Nations
USAID	United States Agency for International Development
VAT	Value Added Tax
VEN	Vital Essential Non - essential
WB	World Bank
WHO	World Health Organisation

Categories of Goods for the Health Sector in Ghana

A. Capital Goods B. Consumables

A.1	Equipment
B.1	Equipment Supplies
A.1.1	Medical Equipment
B.1.1	Spare Parts
A.1.2	Pharmaceutical Equipment
B.1.2	Other Consumables to run Equipment
A.1.3	Laboratory Equipment
A.1.4	Dental Equipment
B.2	Health Service Supplies
B.2.1	Essential Drugs
B.2.2	Vaccines
B.2.3	Contraceptives
B.2.4	Pharmaceutical raw materials
B.2.5	Medical Supplies, X-ray
B.2.8	Laboratory Supplies
B.2.9	Dental Supplies
B.2.10	Packaging and printing materials
B.3	Stationary and other Consumables
A.2	Technical Assistance
A.3	Civil Works
B.1.3	Maintenance service

A.4	Other Capital Goods (e.g. vehicles, furniture)
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CHAPTER 1 APPLICATION OF PROCEDURES

1.1 Introduction

A national legal framework for Public procurement has been passed as law by the Parliament of the Republic of Ghana to provide for safe public procurement practices, establish a procurement board which makes administrative and institutional arrangement for procurement, stipulate tendering procedures and provide for other purposes connected with these.

The documents set forth below have been used as a blue print to developing a broader level framework for this procurement procedure manual.

- The Public Procurement Act of 2003 (ACT 663)
- The World bank Project Appraisal Document on a proposed Development Credit Agreement for the Health Sector Program support project dated 13th January 2003
- Memorandum of Understanding signed between Health cooperating partners and the Republic of Ghana to guide the implementation of the Public Health Sector 5 year Programme of Work (POWII), December 2002.
- Rules and Instructions for Accounting, Treasury and Financial Reporting, Ministry of Health, January 1998.
- Internal Audit Act 2003 Act 658
- Financial Administration 2003 Act 654
- Practical International Procurement Training Manual 1: International Procurement: UN Organisation.

This MoH Procurement Procedure Manual, PPM shall be amended as need be and also whenever the Public Procurement Act of 2003 is amended.

- (a) The instructions contained in this Procurement Procedure Manual sets out the policies and procedures governing the procurement of goods, works and services (consulting and non- consulting) by the Ministry of Health and its agencies for the implementation of agreed programmes. The procedures seek to;
 - i. Guide procurement activities within the Ministry and all its agencies
 - ii. Provide uniform procedures for the procurement of goods, works and services
- (b) The objectives of these procedures are to ensure the use of public resources with due care to economy, efficiency, transparency, accountability, and consistency in procurement management for the Ministry of Health at all levels. Use of these procedures also ensures that the award of contracts is not done in a discretionary manner.
- (c) This manual is the authoritative document on Procurement in the Ministry of Health. Where conflict arises in relation to the Government of Ghana Procurement Act 663, the statutory provisions in the Public Procurement Act will apply. When conflict arises foreign aid funded procurement, where the loan agreement guarantee contract or foreign agreement provides the procedures for

the use of such funds, the donor guidelines shall apply as incorporated in the respective loan/credit agreements.

- (d) All procurement in the Ministry of Health and its agencies shall be based on attainment of best value for money by applying practices that take into account efficiency, economy and transparency in the procurement process through solicitation of bids from all eligible sources. Best value for money means taking into account the optimum combination of total life cost of the goods, works or service necessary to meet a Budget and Management Centre's (BMC) requirements to satisfy the long term goals of the sector and the satisfactory performance in use.
- (e) All procurement decisions must be based on robust assessments of all the options in each set of circumstances throughout the life of a contract by employing mechanisms of effective contract monitoring and control.
- (f) All contractors, consultants and other private sector firms involved in any aspect of procurement using Ministry of Health funds will be required to adhere to the rules and regulations stipulated in this Manual.
- (g) Procurement practices in the Ministry of Health will be required to:
 - i ensure that the Ministry's requirements for goods, works, services, and disposal of stores and equipment, are met through an open and fair process that provides a high degree of competition and optimum value to the economy of Ghana;
 - ii ensure that all bidders have timely notice and opportunity to bid;
 - iii foster national economic development by giving every capable Ghanaian the opportunity to do business with the Government
 - iv encourage Ghanaian businesses to be competitive and to sustain quality product development
 - v adhere to international agreements covering relations with ECOWAS countries, development partners and other countries that create economic opportunities for Ghanaians; and
 - vi utilise UN procurement agencies i.e. UNICEF, UNFPA etc. as appropriate
 - vii use, as appropriate, Procurement Agents to supplement the Ministry's own procurement capacity as required so as to improve on the implementation of procurement plans;
 - viii hold Heads of BMCs accountable for procurement decisions.
- (k.) As a general rule, all BMCs must identify contracts requiring clearance and ensure clearance of all stages and steps of the procurement process.

1.2 Scope of Application

- (a) This manual and resulting guidelines, standard tender documents as outlined in schedule 4 of the Public Procurement Act 663 and standard operating procedures cover the entire scope of procurement in the Health Sector, namely the Ministry of Health and its agencies. Procurement has been defined to include: "The planning and use of Funds available to the

BMC to Acquire Goods, Services and Works and the Disposal of any Stores and Equipment". Specifically, the procedures will apply to the following entities to the extent elaborated upon in the Manual:

- i Ministry of Health - Headquarters
- ii Ghana Health Service - Headquarters
- iii Teaching Hospitals
- iv Specialised Institutions
- v Statutory Bodies
- vi Sub-vented Organisations
- vii Training Institutions
- viii Regional Health Administrations
- ix District Health Administrations
- x District Hospitals
- xi Sub-District health facilities
- xii Any other procurement entities that may be declared under the Public Procurement Act 633

b. Procurement activities take place at different levels. Each level has its specific obligations in relation to the procurement procedures that take place. Procurement responsibilities are usually wider in scope than mere buying and it is important to distinguish between buying, procurement and materials/logistics management. Procurement requires inputs at the specification stage such as offering value-for-money alternative to customers. It also includes expending, staying in touch with the supplier after an order has been placed to ensure conformance with promised delivery schedules.

1.3 Obligation to procure from the Central or Regional Medical Stores in the Procurement of Goods

For the procurement of drugs and non-drug medical consumables and other goods that may be determined from time to time by the Minister; BMCs shall first source their requirements from the Regional Medical Stores (RMS) or Central Medical Stores (CMS) as appropriate. BMCs may only buy the said items from the open market (i.e. outside the Medical Store System) when such items are not available at the medical store and when this is confirmed by the issuance of a "Certificate of Non-Availability" from the Medical Store.

1.4 Concept of Procurement

Procurement is a function responsible for obtaining resources (equipment, logistics, materials, supplies and services) required by an organisation to fulfil its core business

and development programmes. This may be done by purchase, lease, or other legal means.

Procurement is a major function of any organisation. Procurement to obtain goods, services and works are governed by; Quality, Quantity, Time, Price, Source and Place.

The volume and scope of procurement vary from organisation to organisation however; the principles and procedures are basically the same. It is therefore important to understand the application of principles and procedures at all levels.

1.5 Mis- Procurement

Mis-Procurement occurs when procurement is not carried out according to lay down procedures and regulations. Procurement procedures are developed to guide and standardise the conduct of procurement activities at all levels. The procedures ensure that procurement officers and people working within the procurement schedules will carry out these activities as expected. If there is a deviation from the laid down regulations and procedure then mis-procurement is said to have occurred.

The Public Procurement Act (Act 663) put the overall responsibility for procurement in the hands of the Head of the entity. The head of the entity is responsible to ensure that provisions of the act are complied with. This implies that in an organisation or any procurement entity, specific procurement activities may be carried out by different individuals. It is the responsibility of the head of the entity therefore to ensure that all these activities, though conducted by different individuals are effectively coordinated and monitored.

Findings of MoH annual procurement audit will be provided to all Co-operating Partners and the Government by June 30th of each year. Co-operating Partners will provide their comments by July 31st. The Ministry of Health will by August 31st provide the Co-operating Partners with a proposed plan of action to correct any anomalies and errors identified in the procurement audit or review. Taking into account comments from Co-operating Partners, the Ministry of Health will implement such plan of action in accordance with a schedule satisfactory to the Co-operating Partners.

CHAPTER 2 PROCUREMENT ORGANISATION & MANAGEMENT

2.1 Introduction

The organisation of procurement management within Ministry of Health and its agencies is derived from;

1. concept and scope of procurement.
2. organizational structure of the procurement unit at the various levels.
3. role of procurement functions with in.
4. membership of procurement committees
5. responsibilities of procurement officers
6. procurement audit trail
7. role and responsibilities of the Review Boards

2.2 Procurement Committees

- (a) The policy of centralised procurement of certain goods and services within MOH is structured to take advantage of economic of scales which ensures that, there are no replications of expertise at the various procurement units. This organisational arrangements takes—into consideration however, the benefits of decentralised procurement and therefore, the setting up of Budget and Management Centres (BMC). BMC are equivalent to procurement units in the Public Procurement Act 663.
- (b) Every BMC shall establish a Tender Committee in a manner set out in Section 3.7 of this manual. In the performance of its functions, the Tender Committee shall ensure that every stage of the procurement activity has followed the procedures, and sound judgment has been exercised in making procurement decisions.

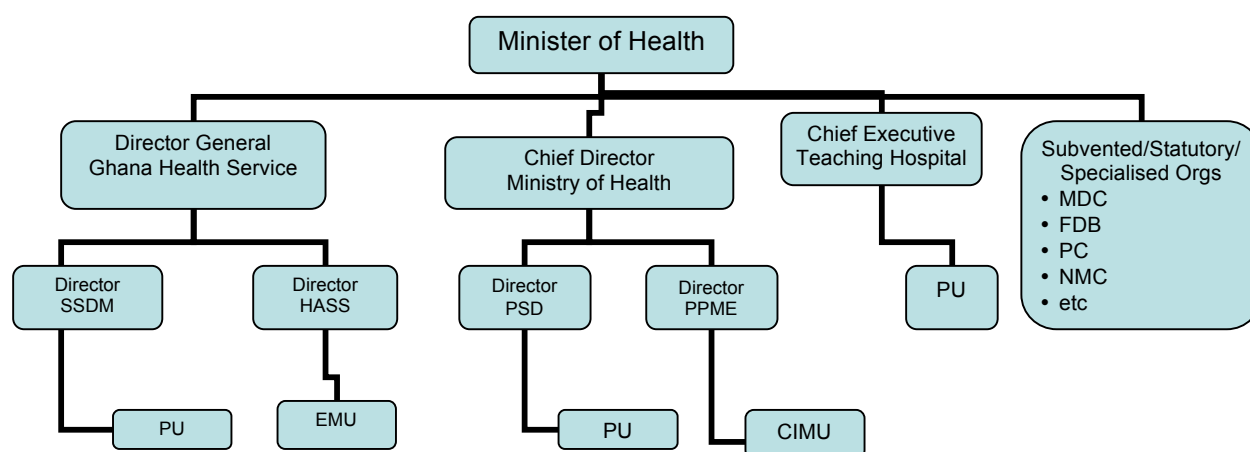
2.3 Steering Committee

A Steering Committee shall be constituted to oversee the procurement of goods, civil works and services. The steering committee is responsible for overall planning, review and approval of contracts above thresholds specified in this procedure.

2.4 Procurement Responsibilities

Procurement within the Ministry of Health shall be planned and executed by BMCs whose responsibilities and functions are detailed in the sections that follow.

Organisational Structure for Procurement in the Ministry of Health



Legend:

PSD	Procurement and Supply Division	MDC	Medical and Dental Council
PPME	Policy Planning and Monitoring Division	FDB	Food and Drugs Board
HASS	Health Administration and Support Services	PC	Pharmacy Council
SSDM	Stores Supply and Drug Management Division	NMC	Nurses and Midwives Council
PU	Procurement Unit	CIMU	Capital Investment Management Unit

2.5 Minister of Health

The Minister of Health shall have overall responsibility for all activities in the Public Health Sector including providing leadership, guidance and overall oversight of procurement management.

2.6 Chief Director

The Chief Director of the MoH shall ensure adequate budgetary and administrative support for procurement within the Ministry and its agencies. He/she shall be responsible for monitoring compliance to the PPM as well as ensuring the application of appropriate sanctions.

2.7 Directorate of Procurement and Supply, Ministry of Health

- (a) The Directorate for Procurement and Supply has overall responsibility for managing the supply chain in the public health sector. This includes procurement, storage, distribution and monitoring.
- (b) More specifically, this Procurement Directorate of the Ministry of Health shall be responsible for;
 - i Formulation/Development of procurement policy, standards, rules, instructions and other regulatory instruments on procurement;
 - ii Monitoring compliance and performance of the procurement function by BMCs;
 - iii Disseminating information relating to procurement;
 - iv Capacity building and training at all procurement levels;
 - v Dealing with complaints and appeals on procurement;
 - vi Providing an annual procurement forum for all stakeholders;

- vii Processing procurement of centralised and complex portfolios;
- viii Providing support to the CIMU and other BMCs in processing procurement; and
- ix Determining appropriate actions required following procurement audits and complaints in collaboration with the audit unit

2.8 Directorate of Policy, Planning, Monitoring and Evaluation, Ministry of Health (PPME)

The PPME shall be responsible for the planning for capital goods including, vehicles, civil works, plant and equipment through the MoH Capital Investments Management Unit (CIMU).

The specific functions of the CIMU in relation to civil works procurement shall include;

- i Co-ordinating, collating and monitoring of MoH national capital investment plans;
- ii Processing procurement and management of civil works at the national level in collaboration with the Procurement Unit, MOF;

2.9 Stores Supplies and Drug Management Division, Ghana Health Service (SSDM)

- (a) Procurement in the Ghana Health Service headquarters is the responsibility of the SSDM.
- (b) There shall be established a Procurement Unit and Tender Committee within the Ghana Health Service Headquarters, with composition and functions as prescribed in this manual.
- (c) The Procurement Unit of GHS-HQ shall be responsible for
 - i Co-ordination, collation and monitoring of procurement plans from BMCs in the GHS;
 - ii Process procurement at GHS HQ level;
 - iii Provide technical support to other procuring BMCs in the GHS
 - iv Monitor and supervise procurement activities in GHS BMCs

2.10 Health Administration and Support Services Division (HASS), Ghana Health Service (GHS)

- (a) The HASS shall be responsible for the planning of civil works in the GHS through the Estate Management Unit (EMU).
- (b) The specific functions of the EMU in relation to civil works procurement shall include;
 - i. Co-ordinating, collating and monitoring of GHS civil works plans;
 - ii. Processing procurement and management of civil works in the GHS in collaboration with the Procurement Unit of GHS;
 - iii. Provide technical support to other procuring BMCs in the GHS

- iv. Monitor and supervise procurement activities in GHS BMCs

2.11.1 Teaching Hospitals

The Teaching Hospitals are procurement entities that have their own structure and organisation. They are the Korle Bu Teaching Hospital in Accra and Komfo Anokye Teaching Hospital in Kumasi. Other teaching hospitals that may come up in future will operate within this framework

- (a) The Chief Executive of the Teaching Hospital shall have responsibility for procurement activities at the Teaching Hospital.
- (b) There shall be an established Procurement Unit and Tender Committee in each Teaching Hospital, with composition and functions as prescribed in this manual.
- (c) Procurement activities at the Teaching Hospitals shall be undertaken by the Procurement Unit of the Teaching Hospital in accordance with the provisions of the PPM
- (d) The responsibilities of the PU shall include;
 - i Preparation and implementation procurement plans
 - ii Execution of procurement;
 - iii Maintaining an efficient record management system for all procurement activities

2.12 Specialized, Sub-vented and Statutory Bodies

The head of the organisation shall have overall responsibility for procurement activities. Execution shall be undertaken by an officer assigned Procurement responsibility. All procurement activities shall be conducted in accordance with procedures in this manual.

2.13 Regional Health Administration (RHA)

The Regional Director of Health Services shall have responsibility for procurement activities. There shall be appointed in each RHA a Procurement Officer who shall have responsibility for the execution of procurement activities for goods, works and services in the RHA. The specific responsibilities of the procurement officer are as specified in Annex 17. In addition, the procurement officer shall keep and maintain an efficient record management system for all procurement activities and provide technical support to other procuring entities in the region.

2.14 Regional Hospitals

The Superintendent of the Regional Hospital shall have overall responsibility for procurement activities. There shall be appointed in each Regional Hospital a Procurement Officer who shall have responsibility for executing procurement programmes for goods, works and services in the Hospital. The specific responsibilities of the procurement officer are as specified in Annex 17. In

addition, the procurement officer shall keep and maintain an efficient record management system in accordance with the provisions of this Manual for all procurement activities. The procurement officer shall liaise with the RHA procurement officer for technical assistance.

2.15 Training Institutions

The Head of the Training Institutions shall have overall responsibility for procurement activities. The head of the institution shall assign an officer with the responsibility for the procurement of goods, services, supplies and maintenance of buildings, equipment and plants. It shall be a requirement for the officer to keep and maintain an efficient record management system in accordance with the provisions of the PPM for all procurement activities. The officer responsible for procurement shall liaise with the RHA procurement officer for technical assistance.

2.16 District Health Administration

The District Director of Health Services (DDHS) shall have overall responsibility for procurement activities in the district. The DDHS shall assign an officer the responsibility for the procurement of goods, works, services, supplies and maintenance of buildings, equipment and plants. It shall be a requirement for the officer to keep and maintain an efficient record management system in accordance with the provisions of the PPM for all procurement activities. The officer responsible for procurement shall liaise with the RHA procurement officer for technical assistance.

2.17 District Hospitals, Sub-districts and other Health Facilities

The head of institution shall have overall responsibility for procurement activities in the above facilities. The head shall assign an officer the responsibility for the procurement of goods and supplies of the facility. It shall be a requirement for that officer to keep and maintain an efficient record system in accordance with the provisions of this PPM for all procurement activities. The officer responsible for procurement shall liaise with the RHA procurement officer for technical assistance.

2.18 Regulatory Bodies

Regulatory Bodies include the Medical and Dental Council, Nurses and Midwives Council and the Pharmacy Council. These are semi-autonomous agencies under the Ministry of Health charges with the responsibility of maintaining standards of practice in their respective professional areas. As organisations under the Ministry of Health, the procurement framework as outlined in this manual applied to these organizations. The head of a regulatory body shall have responsibility for procurement activities. Execution shall be undertaken by an officer assigned Procurement responsibility. All procurement activities shall be conducted in accordance with procedures in this manual.

2.19 Other Procurement Structures

Public Procurement Board (PPB)

The Public Procurement Board acts as the professional advisory and co-coordinating body on procurement. All Procurement Entities, Tender Committees and Tender Review Boards are required to abide by the technical guidelines and regulatory instructions issued by the PPB.

The PPB has responsibility for the overall co-ordination, direction and development of Government procurement practices and procedures. The Board is entrusted with 21 functions under Section 3 of the Act which is summarised as follows:

- **Formulation/Development of public procurement policy, setting standards, rules, instructions and other regulatory instruments on public procurement**
- **Monitoring compliance with requirements established by legislation;**
- **Obtaining and ensuring dissemination of information relating to public procurement;**
- **Facilitating and supporting capacity building in public procurement;**
- **Organising and participating in administrative review of complaints and appeals on public procurement;**
- **Maintaining registers of procurement entities, members and secretaries of tender committees, and of suppliers, contractors, consultants, and records of prices;**
- **Investigating and debaring from public procurement suppliers, contractors and consultants who have contravened the provisions of the Act and Regulations, and communicating a list of debarred firms to Procurement Entities;**
- **Through an annual procurement forum, providing a platform for discussion of issues relating to public procurement; and**
- **Assisting the local business community to become competitive and efficient suppliers to the public sector.**

2.20 Procurement Entity

A Procurement Entity is any public institution undertaking procurement in accordance with the Public Procurement Act. A Procurement Entity is subject to such conditions as may be laid down in the Act, the procurement regulations and any administrative instructions of the Minister for Finance, issued in consultation with the Board.

TYPE OF PROCUREMENT ENTITY EXAMPLES

1. Central Management agencies

- 1.1 Public Service Commission
- 1.2 Office of the President
- 1.3 Office of head of Civil Service

2. Ministries Departments and Agencies

- 2.1 Ministry of Education and Sports
- 2.2 Department of Feeder Roads
- 2.3 Ghana Health Service

3. Subvented Agencies

- 3.1 Ghana Library Board
- 3.2 Ghana News Agency
- 3.3 Ghana Statistical Service

2.20.1 The Head of Procurement Entity

The Head of Procurement Entity and any officer to whom responsibility is delegated are responsible and accountable for actions taken and for any instructions with regard to the implementation of the Act. He/she is responsible to ensure that provisions of the Act are complied with; and concurrent approval by any Tender Review Board will not absolve him/her from accountability for a contract that may be determined to have been procured in a manner that is inconsistent with the provisions of the Act.

The Head of Entity is required to establish a Procurement Unit to undertake all activities related to procurement within the Entity in accordance with the Act and shall appoint or designate a proficient procurement person with the requisite qualifications, experience and skills as Head of the Procurement Unit to undertake the detailed activities of procurement on behalf of the Procurement Entity.

To avoid conflict of interest, the Head of Procurement Entity's role in procurement processes shall be restricted to:

- **review and approval of recommendations for contract awards submitted by the Procurement Unit;**
- **participating as the Chairman or a Member in decisions of a Tender Committee [or Tender Review Board as the case may be];**
- **review of decisions on complaints submitted under Section 79 of the Act; and**
- **signing contracts on behalf of the Procurement Entity.**

The Head of Entity may formally delegate his authority to an officer to undertake any of his powers or responsibilities for procurement under the Act or the Regulations.

Approval of Contract Awards by the Head of Entity

Schedule 1 of the Act provides threshold values up to which the Head of Entity may approve the award of contracts. In considering submissions made by the Procurement Unit, the Head of Entity may:

- **approve a submission;**
- **reject a submission with reasons; or**
- **approve a submission, subject to clarifications or amendments.**

The Head of Entity shall not:

- **modify a submission; or**
- **reject any submission without good reasons in writing.**

Where the Head of Entity has a conflict of interest in any submission, he shall declare his interest in the submission and refer it to the officer to whom authority has been delegated for a decision.

For Contracts above the Head of Entity's threshold as stipulated in Schedule 3, the Head of Entity shall, in consultation with the Procurement Unit, review all documentation and decisions related to the contract and submit the recommendations for approval by the Entity Tender Committee.

2.21 Procurement Unit

The Head of the Procurement Unit (and his/her team) shall be responsible for undertaking and co-ordinating all detailed procurement activities within the procurement entity. This shall include:

- receiving procurement requests from originating officers, checking that the proposed procurement is within the approved procurement plan, and that budgeted funds are available prior to commencement of procurement proceedings;
- ensuring that funds are properly committed prior to issue of any contract or Purchase Order;
- co-ordinating the preparation of specifications, terms of reference, bills of quantities, drawings, short-lists or advertisements, and prequalification, tender or request for quotation documents. Where so required by the Tender Committee, submission of documentation for review and approval by the Tender Committee prior to issue;
- arranging the publication of advertisements and notices of contract award;
- co-ordinating the process of opening of tenders and quotations and ensuring the preparation of formal records of tender or quotation opening in accordance with Section 56 of the Act.
- participating in evaluation activities of the Tender Evaluation Panel and assisting in preparation of formal Evaluation Reports;
- preparing submissions for approval of award by the appropriate authority in accordance with the threshold values established in Schedule 3 of the Act.
- maintaining and updating the database of suppliers, contractors and consultants;
- participating in negotiations with consultants or other tenderers where expressly permitted in the Act or Regulations;
- preparing notification of awards and contracts;
- arranging publication of notices of contract awards;
- preparing contract documents and Purchase Orders, in line with the award decision;
- preparing and issuing tender rejection and tenderer debriefing letters;
- preparing contract variations and modifications;
- assisting with the inspection and acceptance of goods, works and services;
- maintaining procurement records in accordance with Section 28 of the Act and the Regulations.

2.22 Tender Committee

A Tender Committee is required to be established in each Procurement Entity with a structure as defined in Schedule 1 of the Act .

In accordance with Schedule 1 of the Act and the Regulations a Tender Committee is responsible for;

- **review and approval of annual Procurement Plans in accordance with Schedule 1 of the Act, and for review and approval of quarterly updates to procurement plans.**
- **Where any lower value award of contract or issue of a contract modification is made within the delegated authority granted to the Head of the Procurement Entity, the Tender Committee shall provide retrospective verification and approval at its next meeting.**

In considering submissions made by the Procurement Unit or the Tender Evaluation Panel, the Tender Committee may:

- a) approve a submission;
- b) reject a submission with reasons; or
- c) approve a submission, subject to clarifications or minor amendments.

The Tender Committee shall not:

- a) modify a submission, including, in particular recommendations for contract award; or
- b) reject any submission without good and justifiable reason.

Award of contract shall be made solely on the basis of information and evaluation criteria provided in the tender documents or request for proposals, and without recourse to any extrinsic evidence, or influenced by personal or political preferences.

All approvals for award of contract must be within the annual procurement plan for the financial year and the Tender Committee must confirm that sufficient funding is available within the remaining vote code balance.

Where any member of the Tender Committee has a conflict of interest in any submission, he shall declare his interest in the submission, leave the meeting while the matter is considered and shall not participate in the deliberations or decision-making process of the Committee in relation to that submission.

Decisions of the Tender Committee should be unanimous. Where unanimity cannot be achieved after extensive discussions, a decision shall be by simple majority vote with the Chairperson of the Tender Committee having a casting vote in the event of a tie. The result of the voting shall be recorded in the minutes of the Tender Committee together with an explanation of the failure to reach a unanimous decision.

The Tender Committee shall provide explanation and justification of its reasons for any rejection to assist the Procurement Unit or Tender Review Panel in remedying any defects in the submission prior to re-submission to the Tender Committee.

All decisions of a Tender Committee, including reasons for any rejections, shall be recorded in minutes and notified to the Procurement Unit and the Tender Evaluation Panel in writing.

If a procurement exceeds (or is estimated to exceed) the financial authority of the Tender Committee, it must be referred immediately with the Committee's recommendations to the appropriate Tender Review Board for approval.

The secretary of the Tender Committee shall record minutes of all Tender Committee meetings, which shall include:

- **a register of attendance;**
- **a list of all submissions considered;**
- **the decision made for each submission, including any major issues discussed, the reasons for any rejections and any clarifications or minor amendments to which the approval is subject;**
- **any conflicts of interest declared by members; and**

- **any dissenting opinions among Tender Committee members.**

2.23 Tender Evaluation Panels

Each Procurement Entity is required to appoint a Tender Evaluation Panel with the required expertise to evaluate tenders and assist the Tender Committee in its work.

Composition of Tender Evaluation Panels

A Tender Evaluation Panel shall be an ad hoc body of not more than five members constituted for a specific procurement package. The panel shall include members with skills, knowledge and experience relevant to procurement requirements, which may include:

- **relevant technical skills;**
- **end user representation;**
- **procurement and contracting skills;**
- **financial management or analysis skills; or**
- **legal expertise.**

Members appointed to the Panel may be staff of the Procurement Unit but no Member of the Entity Tender Committee shall act as a member of the Tender Evaluation Panel.

Evaluation of low value or routine procurement shall normally be undertaken by the Procurement Unit. Where the evaluation is of a technical specialised nature, additional members may be invited to join the Tender Evaluation Panel..

To ensure transparency, members of the Tender Evaluation Panel shall not be directly involved in the approval of any award of contract.

Proceedings of Tender Evaluation Panels

Recommendations for award of contract shall be made solely on the basis of information and evaluation criteria provided in the tender documents or request for proposals and without recourse to any extrinsic evidence, or influenced by personal or political preferences.

Where any member of the Tender Evaluation Panel has a conflict of interest in any tender evaluation, he/she shall declare his interest in the tender, leave the meeting while the matter is considered and shall not participate in the deliberations or decision-making process of the Panel in relation to that submission.

A formal evaluation report shall be prepared for each evaluation conducted and signed by all participating Members of the Panel.

Except in the case of simple price evaluations, scoring of tenders shall be conducted individually by Members of the Tender Evaluation Panel and the scores formally combined to arrive at a recommendation for contract award. Recommendations of the Tender Evaluation Panel shall be unanimous, but any dissenting views shall be recorded within the evaluation report to be submitted to the Tender Committee.

The secretary of the Tender Evaluation Panel shall record minutes of all Panel meetings, which shall include:

- **a register of attendance;**
- **a list of all submissions considered and the recommendations made;**
- **any conflicts of interest declared by members; and**
- **any dissenting opinions among Tender Evaluation Panel members.**

2.24 Tender Review Boards

A Tender Review Board is a body established in accordance with Schedule 2 of the Act to review procurement decisions within the thresholds set out in Schedule 3 of the Act. The Tender Review Board is to review the activities at each step of the procurement cycle which will lead to the selection of the lowest evaluated tender by the Procurement Entity.

Tender Review Boards are established at the following levels:

- **Central Tender Review Board;**
- **Ministerial/Headquarters Tender Review Boards;**
- **Regional Tender Review Boards;**
- **District Tender Review Boards.**

In considering submissions made by the Procurement Entity, the Tender Review Board may:

- **approve a submission;**
- **reject a submission with reasons; or**
- **approve a submission, subject to clarifications or minor amendments.**

The Tender Review Board cannot:

- **modify a submission, including, in particular recommendations for contract award; or**
- **reject any submission without good and justifiable reason.**

Award of contract shall be made solely on the basis of information and evaluation criteria provided in the tender documents or request for proposals and without recourse to any extrinsic evidence, or influenced by personal or political preferences.

All approvals for award of contract must be within the annual procurement plan for the financial year and the Board must confirm that sufficient funding is available within the remaining vote code balance.

Where any member of the Tender Review Board has a conflict of interest in any submission, he shall declare his interest in the submission, leave the meeting while the matter is considered and shall not participate in the deliberations or decision-making process of the Board in relation to that submission.

Decisions of the Tender Review Board should be unanimous. Where unanimity cannot be achieved after extensive discussions, a decision shall be by simple majority vote with the Chairperson of the Board having a casting vote in the event of a tie. The result of the voting shall be recorded in the minutes of the Tender Review Board together with an explanation of the failure to reach a unanimous decision.

The Tender Review Board shall provide explanation and justification of its reasons for any rejection to assist the Procurement Entity in remedying any defects in the submission prior to re-submission to the Tender Review Board.

All decisions of a Tender Review Board, including reasons for any rejections, shall be recorded in minutes and notified to the Procurement Entity in writing.

The secretary of the Tender Review Board shall record minutes of all Tender Review Board meetings, which shall include:

- **a register of attendance;**
- **a list of all submissions considered;**
- **the decision made for each submission, including any major issues discussed, the reasons for any rejections and any clarifications or minor amendments to which the approval is subject;**

- **any conflicts of interest declared by members; and**
- **any dissenting opinions among Tender Review Board members.**

When a procurement exceeds (or is estimated to exceed) the financial authority of the Tender Review Board, it must be referred immediately with the Board's recommendations to the appropriate higher Tender Review Board for approval.

2.25 Originating Departments, Projects or Units

The Originating Officer, Department, Project, Programme or Unit is the initiator of requests for procurement or asset disposal action and has responsibility to:

Ensure that the requirement for procurement is:

- **justified by the needs of the Department, Project, Programme or Unit;**
- **not for goods already available in the Stores;**
- **within the annual procurement plan; and**
- **covered by available funding in the recurrent budget or development plan;**

Prepare the initial specification of the requirement; and

Prepare a Procurement Requisition.

2.26 Tender Opening Committees

Tender Opening Committees are formed as required by the Tender Committee to conduct and supervise each opening session in accordance with the required procedures for tender openings. The Procurement Unit will normally undertake this responsibility for procurements within the financial authority thresholds approved by the Tender Committee.

2.27 Inspection/Takeover Teams

The receipt of all goods, and the validation of work completed for works and services is subject to inspection and verification an Inspection Team. This includes Initial and Final Takeover inspections for works, and the inspection and receiving Teams for goods. Members of these Teams should not also be Members of the Tender Committee that approved or supervised the procurement process.

CHAPTER 3 PROCUREMENT PLANNING

3.1 Introduction

The Ministry of Health Procurement Policy in this manual is based on worldwide competitive bidding standards and practices adopted by procurement practitioners and Donors. The objective is the attainment of best value for money by applying practices that take into account efficiency, economy and transparency in the procurement process through solicitation of bids from all eligible sources.

3.2 Responsibility for Procurement

Each BMC is responsible for planning and execution of procurement activities using funds at its disposal subject to the provisions of this Manual and to any such further conditions as may be laid down by the Minister. The Head of BMC and any officer to whom such responsibility is delegated shall be responsible and accountable for actions taken subject to the provisions of this PPM.

3.3 Schedule of Approval Authorities and Limits

The Minister or his/her delegate must authorize/approve procurement activities within their expenditure thresholds.

3.4 Role of Tender Committees and Tender Review Boards

The role of the Tender Committee is not to evaluate but to approve proposed contract awards or use of exceptional methods of procurement.

- (a) There shall be a Tender Committees as well as a Hospital/Health Institution Tender Review Committee
- (b) Central, Ministry, Regional and District Tender Review Boards have been formed to approve the procurement according to thresholds stipulated (Ref. Section 6.2) for civil works, goods, consulting and non consulting services by all ministries departments and agencies. Principally they serve as review boards for procurement in the country.
- (c) In the procurement of civil works, goods, consulting and non consulting services concurrent approval shall be sought from the appropriate Tender Board after evaluation and recommendations after award have been made by the BMC.

3.5 Procurement Monitoring and Evaluation

Each Tender Committee will establish a monitoring system subject to approval by the minister of health or his/her delegate to continuously monitor all procurement information related to program implementation. The monitoring should provide information on procurement implementation by BMC, in each case including the number and amount of contracts procured and the procurement method used. Such information will be recorded in the Procurement Register in the form prescribed in this PPM. The MOH Tender Committee through the Procurement Unit shall collate and compile all information relating to procurement in the

Ministry and its agencies. The Monitoring system shall be consistent with the Public Procurement Board 's monitoring framework

3.6 Procurement Decisions

Procurement decisions made by any BMC shall be taken in a corporate manner through consensus building, meaning that internal units concerned shall actively participate and be involved in the decision making process and that any decision by the Head of BMC or his/her representative shall be taken based on documented proofs and must be in accordance with the standard Government procurement regulatory framework.

3.7 Procurement Planning

Effective procurement requires adequate planning. This section highlights the processes involved in planning procurement activities at the different levels.

- (a) Planning for procurement should start with the technical considerations relating to economic and efficient implementation of BMC programs. Collection and orderly presentation of pertinent information, including objectives are fundamental to procurement planning. Planning for procurement eliminates the number of rush orders and results in lower purchase costs and improved service delivery. Such planning should also take into consideration the information needs of the supply chain from initiation through to onsite delivery on a holistic basis.
- (b) All procurement should be initiated sufficiently early so that delivery schedules are acceptable and no premium is paid for urgent deliveries. Planning for procurement results in obtaining materials on hand when needed. Effective procurement planning or the lack of it has a very definite impact on the overall schedule of the sector and the attainment of sector objectives.
- (c) Each BMC shall prepare an annual procurement plan showing contract packages, the estimated cost for each package, the procurement method, processing steps and processing times, up to completion. No later than the last day of September of each fiscal year each BMC shall submit to its Tender Committee the procurement plan for the following year for approval. After budget approval and quarterly thereafter, each BMC shall submit an update of the procurement plan to the Procurement Committee.
- (d) After approval of the BMC Procurement Plan, it shall be submitted to the next level Tender Committee for collation and aggregation into the composite plan of the Ministry of Health.
- (e) The Annual Procurement Plan should be related to the yearly overall plan and budget of each BMC. There should be a clear link between service output and the consumables needed to support the delivery of the services.

Procurement Planning Process

Procurement planning is part of budget implementation or execution. In order to avoid delivery delays, the planning of procurement activities is frequently carried out in advance of budget approvals and/or the availability of funds for procurement. The process starts by all heads of department submitting their approved inputs approved as part of the budget. Information is also obtained from the Stores. This is to reduce the risk of stock outs, overstocks and emerging issues. A team is formed to develop a procurement plan which is guided by the budget ceilings.

The procurement planning process applies the following procurement planning cycle method.

- a. Situation analysis: this involves conducting a review of the previous procurement plan to determine what has been achieved and what is outstanding. It also involves reviewing the changes in the organisational framework and operations.

Procurement in the Ministry of Health and its agencies shall be based on attainment of best value for money by applying practices that take into account efficiency, economy and transparency in the procurement process through solicitation of bids from all eligible sources. Best value for money means taking into account the optimum combination of total life cost of the goods, works or service necessary to meet a Budget and Management Centre's (BMC) requirements to satisfy the long term goals of the sector and the satisfactory performance in use.

- (h) *All procurement decisions must be based on robust assessments of all the options in each set of circumstances throughout the life of a contract by employing mechanisms of effective contract monitoring and control.*
- (i) *All contractors, consultants and other private sector firms involved in any aspect of procurement using Ministry of Health funds will be required to adhere to the rules and regulations stipulated in this Manual.*
- (j) *Procurement practices in the Ministry of Health will be required to:*
 - ix *ensure that the Ministry's requirements for goods, works, services, and disposal of stores and equipment, are met through an open and fair process that provides a high degree of competition and optimum value to the economy of Ghana;*

- x ensure that all bidders have timely notice and opportunity to bid;*
- xi foster national economic development by giving every capable Ghanaian the opportunity to do business with the Government*
- xii encourage Ghanaian businesses to be competitive and to sustain quality product development*
- xiii adhere to international agreements covering relations with ECOWAS countries, development partners and other countries that create economic opportunities for Ghanaians; and*
- xiv use, as appropriate, Procurement Agents to supplement the Ministry's own procurement capacity as required so as to improve on the implementation of procurement plans;*
- xv Heads of BMCs are accountable for procurement decisions.*

As a general rule, all BMCs must identify contracts requiring clearance and ensure clearance of all stages and steps of the procurement process.

- b. Set objectives: The procurement objective guides in the conduct of procurement activities and help evaluate the entity's operation at specific intervals. The procurement process involves achievement of targets
- c. Determine methods for procurement based on thresholds: Various methods are applied in procurement of goods, works and services. Each of the procurement methods used is based on a threshold.
- d. Prepare the procurement plan: The procurement plan is a written document. It indicates the products to procure, methods, targets and milestone and cost.

3.8 Procurement Planning Cycle

This involves selection, forecasting, quantification, sourcing, receiving, storage, distribution, inventory control, monitoring, and financing. Health Sector procurement plans involved three categories and these are Goods, Services and Works. Each process starts as follows:

- Situational analysis:
 - Goods
 - Services
 - Works
- Setting objectives/targets,
- Decision making,
 - Estimation and Quantification
 - Source of funding
 - Costing annual estimates

The essence of a procurement plan is to come up with a list of procurement activities intended to be implemented within a specified period of time normally annually. The plan must include timelines for each stage of the procurement process as well as the estimated cost of each activity. The procurement plan shall be subjected to reviewed throughout the given period. e.g. an outbreak of a seasonal disease, where there might be the need to procure certain goods or services which is not part of the original procurement plan. Under such circumstances, the procuring entity shall revise the procurement plan to include the new requirements provided funds are available.

Specifications.

Specifications can either enhance or inhibit competition. It is state law that competition be sought to the maximum feasible degree. This can be accomplished by describing goods or services in a manner that meets the agency's needs and encourages competition. The following specifications (descriptive) categories are listed in the desired order of use:

- Generic (Performance or Design). Buyers in the Purchasing Department must analyze incoming requirements with a view toward soliciting the requirement on a generic basis. Under appropriate circumstances, performance specifications (setting forth the performance requirements), design specifications (setting forth the essential characteristic of the goods being bid), or qualified products list may be used.
- Brand Name or Equal. When it is determined to be impractical to develop a generic specification, a brand name may be used to convey the general style, type, character and quality of the article desired. Unless otherwise provided in the IFB, the name of a certain brand, make or manufacturer does not restrict bidders to the specific brand or manufacturer identified. When citing a brand name, please list more than one brand that will satisfy your requirements;
- Proprietary. A proprietary specification restricts the acceptable products to those of one manufacturer. It is appropriate to use a proprietary specification when the

desired product must be compatible with or is an integral component of existing equipment or products, or where pre-qualification of products is necessary to support specific needs of a program; is covered by a patent or copyright; must yield absolute continuity of results; or is one with which a user has had extensive training and experience and the use of any other similar piece of equipment would require considerable reorientation and training. Upon solicitation, every effort must be made to obtain full competition among the distributors, which carry the manufacturer's product. The determination for the use of a proprietary specification shall be made in advance, in writing, and submitted with the requisition and must be included in the procurement file.

- Sole Source. Requirements for goods or services that are available from only one source shall be supported by a sole source justification.

3.8 Procurement Entities and Tender Committees

The procurement entity is any person, group of individuals or organisation that depends on public funds for procurement activities. This includes individuals who spend public funds on official duties and institutions such as hospitals, Regional and district health administrations, training institutions.

The head of the entity is the budget holder. He/she is responsible and accountable for all procurement activities in the entity.

Tender Committees is a group of individuals brought together to facilitate the planning, implementation and monitoring of procurement activities in an entity.

Tender Committees shall be established in all BMCs that have executive procurement functions within the Ministry of Health and its agencies. The Committees shall have responsibility for the review of implementation of procurement procedures and approval of recommendations of tender evaluation panels. Procurement Committees may co-opt members on a permanent or adhoc basis as may be required to facilitate its proper functioning. A member shall not delegate his/her responsibility to any other person. A vacancy in the membership shall not affect decisions of the committee. The functions of the committees are detailed below.

Functions of Tender Committees

Tender Committees shall have the following functions;

- i Review and approve procurement plans in order to ensure that they support the objectives and operations of the BMC.
- ii Confirm the range of acceptable costs of items to be procured and match these with the available funds in the BMC's approved budget.
- iii Review the schedules of procurement and specifications and also ensure that the procurement procedures to be followed are in strict conformity with the provisions prescribed in the Public Procurement Act 663

- iv Ensure that the necessary prior review and threshold requirements are adhered to with reference to the appropriate tender review board where necessary
- v Facilitate contract administration and ensure compliance with all reporting requirements
- vi Ensure that stores and equipment are disposed of in compliance with this PPM.
- vii Make decisions based on sound judgement for awards/orders based on recommendations made to it
- viii Endorse every intended purchase before implementation
- ix Approve recommendations for contract awards

3.9 Evaluation Panels

To assist the performance of its functions Procurement Committees shall appoint technical the relevant evaluation panels with the required expertise as appropriate for the evaluation of specific tenders. The evaluation panel shall conduct evaluation based on predetermined and publicly published evaluation criteria. The Evaluation panel forwards the evaluation report to the Tender Committee for decision on contract award.

3.10 Modifications

- (a) In the case of contracts subject to prior review by a next level Procurement Committee, before granting a material extension of the stipulated time for the performance of the contract, agreeing to any modification or waiver of the conditions of such contract, including issuing any variation order or orders under such contract (except in cases of extreme urgency) which will in aggregate increase the original amount of the contract by more than 10 percent of the original price, the BMC shall inform the appropriate Tender Committee of the proposed extension, modification, or variation order and the reasons thereof.
- (b) In the case of contracts which are not originally subject to prior review by a next level Procurement Committee, any proposed modification of contract which will make the revised contract price exceed the procurement method threshold and/or the BMC's threshold must be cleared with the appropriate Procurement Committee.

3.11 Emergency Procurement and Donations

- (a) Emergency procurement and donations shall be undertaken in a natural disaster, epidemics and others subject to the Public Procurement Board's approval in accordance with Act 663 Section 40.
 - i For each emergency procurement or donation specific agreement has to be reached including the procedures to be followed;
 - ii The Procurement Unit/Officer will be the focal point for all emergency procurement and donations;
 - iii The Tender Committee of the next higher level has the authority to approve all waivers on the procurement methods to be used.

3.12 Suppliers/Contractors and Specifications Database

- (a) One of the greatest challenges within a procurement organization is to establish specifications and reliable competitive sources for goods, works and services to be procured.
- (b) Sources of supplies shall be established using any of the following means:
 - i advertisement in newspapers and publications, requesting suppliers and manufacturers of a range of products and contractors;
 - ii invitation to tender for specific requirements, again using the media;
 - iii information from Trade Directories and reference manuals provided by specific industries;
 - iv circulating letters to known trading organizations, Chambers of Commerce, Embassies/Commercial attaches and other similar organizations;
 - v attendance at local Trade Fairs and Exhibitions, collecting manufacturers brochures for future study and analysis;
 - vi discussion with other Procurement Managers through contacts with local Institutions, and
 - vii the Internet

3.13 Supplier/Contractor Evaluation

- (a) When suppliers/contractors have been located and identified using the sourcing techniques outlined above, the next step is to evaluate their suitability for inclusion in the list for procurement under shopping, direct or selective bidding procedures.
- (b) The supplier/contractor is initially asked to complete a Supplier Information Form to provide information on its operations. For procurement by ICB and NCB relevant sections of the information required on this form may be incorporated in the bidding documents and as part of the evaluation criteria where these do not conflict with the agreed procurement guidelines of registration as agents and where appropriate, VAT Registration Number or Tax Clearance Certificate.
- (c) Supplier/Contractor qualification data shall be on specified criteria and assessed as "Pass or Fail".
- (d) On completion of the evaluation, the assessment is to be confirmed by the Head of Procurement Unit as appropriate, before a supplier/contractor is included in the supplier/contractor database.

3.14 Materials Specifications

- (a) The specification of an item should be that most suited to the general purpose for which it is intended and not only upon the design, cost or quality. It is particularly important to avoid the use of brand names in material specifications. Where unavoidable, the phrase "or equivalent" should be used.

- (b) A performance (or generic) specification gives a clear idea of the function, application, and performance required of the supplied goods or services. From such specifications, Suppliers can often provide new improved or cheaper solutions. Conformance (or specific) specification restricts the Supplier to providing the actual article physically specified. Any of these could be used as and when necessary.
- (c) Specification must be clearly, accurately and completely drawn so as to leave no doubt in the supplier's mind as to what the purchaser requires. Unnecessarily restrictive requirements, which may unduly limit the number of bidders, shall be avoided.
- (d) Specifications should be drawn up by the user departments in consultation with the Procurement Unit. Where appropriate, assistance must be sought from technical experts to ensure the preparation of the right specifications.

3.15 Suppliers/Contractor and Materials Specification's Databases

The procurement units shall develop a database of competent suppliers/contractors and material specifications which shall be regularly maintained and updated to ensure its accuracy and reliability. Such databases will become an invaluable management tool for facilitating the objectives of the supply process in the sector i.e. efficiency, economy, and transparency without sacrificing quality.

3.16 Supplier/Contractor Performance Appraisal

- (a) On completion of a contract, the performance of the Supplier/contractor shall be assessed. The Supplier/Contractor's adherence to contract instructions, responses to progress enquiries, time of completion of delivery, quality of job done shall be the basis of performance appraisal.
- (b) The assessment shall be carried out by a Procurement Entity. A supplier/contractor who performs poorly may have the chance to justify why their names should not be deleted otherwise, his/her name deleted from the supplier/contractor database.

3.17 Capacity Building for Procurement

Capacity to support the revised procedures would be built and sustained at all levels, i.e. staff of BMCs, policy makers, private sector, civil society, media, auditors and heads of all BMCs. Public awareness, training on procurement management, for procurement staff to ensure proficiency, production and distribution of procurement manuals and standard bidding documents etc would be some of the key capacity building activities to be facilitated by the Ministry of Health Procurement Unit.

3.18 Complaints, Appeals, and Sanctions

A means for lodging complaints/appeals on officials who do not follow the prescribed procedures have been provided for in Chapter 9 to address the complaints of aggrieved bidders and other stakeholders. In the first instance interested parties can bring complaints to the Head of the BMC; at the second level the complaint may be addressed, to the Director of Procurement & Supply, MOH

for administrative remedies to correct any violation of the regulations. In the event that the Director is unable to resolve the matter, the complainant may be escalated to the Minister.

Where a case of misapplication of procedures has been established in accordance with the provisions of the Public Procurement Act of 2003 (ACT 663), appropriate sanctions shall be applied.

CHAPTER 4 PROCUREMENT SELECTION METHODS

4.1 Introduction

This section describes the different methods to be used for procurement in the Ministry of Health. The principles of these methods comply with the Public Procurement Act 663, the World Bank's "Guidelines for Procurement under IBRD Loans and IDA Credits" and "Guidelines for Selection and Employment of Consultants by World Bank Borrowers", which are based on internationally acceptable standards for public procurement, and Annex 3 of the Memorandum of Understanding signed by Cooperating Development Partners within the Health Sector.

4.2 Tendering Procedures

The under-listed procurement methods shall be followed.

- i Prequalification
- ii International Competitive Bidding
- iii National Competitive Bidding;
- iv Limited International Bidding;
- v Local or international shopping (for goods);
- vi Price quotations or Selective tendering (for Works);
- vii Direct Contracting (Orders);

4.2.1 Prequalification

Prequalification of bidders shall be conducted for large or complex works, or in any other circumstances in which the high costs of preparing detailed bids could discourage competition, such as custom-designed equipment, industrial plant, specialized services, and contracts to be let under turnkey, design and build, or management contracting.

Prequalification shall also be conducted for the supply of specialised goods such as essential drugs, vaccines, sera etc as determined by the Minister. This ensures that invitations to bid are extended only to those who have adequate capabilities and resources. Prequalification shall also be conducted to determine eligibility for preference for domestic contractors, manufacturers and suppliers. Prequalification shall be based entirely upon the capability and resources of prospective bidders to perform the particular contract satisfactorily, taking into account the following;

- i Bidder's experience and past performance on similar contracts,
- ii Bidder's capabilities with respect to personnel, equipment, and construction or manufacturing facilities.

Bidder's Financial Position

4.2.2 International Competitive Bidding (ICB)

- a) ICB procedures shall be used whenever open competitive tendering is used and effective competition cannot be obtained unless foreign firms by nature or by value of contract are invited. ICB procedures are also used for goods and works contracts exceeding the thresholds indicated in the Public Procurement Act 663.
- b) ICB tenders shall be openly advertised and all eligible bidders shall be allowed to submit bids.
- c) ICB tender documents must be in English and express a freely convertible currency
- d) ICB tender documents must contain technical specifications which are in accordance with national requirements which is also based on an international trade standard.
- e) ICB tender documents must contain general and special conditions of contract
- f) The bidding period shall not be less than 6 weeks from the first date of advertisement or the date of availability of the tender document whichever comes later.
- g) The advertisement shall be made in a national newspaper of wide circulation. Additionally, the advertisement shall be placed in the International press at least 6 weeks prior to the deadline of submission of bids

Procedures for ICB

- Allow for at least 30 days for submission of sealed bids
- State clear specific time, date and place for bid submission and opening.
- Submissions must be opened publicly by a properly constituted panel in the presence of Bidders and or their representatives who choose to attend.
- Constitute Evaluation Panel to evaluate submissions
- Submit evaluation report to Tender committee for approval
- Award contract on received of approval from tender committee

4.2.3 National Competitive Bidding (NCB)

- a) National Competitive Bidding procedure shall be used where a BMC decides that only domestic suppliers or contractors may submit tenders either by nature or by value of contract.
- b) The local currency (Cedi) shall generally be used for the purposes of bidding and payment unless specified otherwise in the bidding documents.
- c) If foreign firms wish to participate under these conditions they shall be allowed to do so however foreign bidders will be expected to abide by all the NCB rules.
- d) Only the Standard Bidding Documents for NCB agreed with the Public Procurement Board, as amended from time to time, shall be used for bidding;

- e) Invitations to bid shall be advertised in at least one widely circulated national daily newspaper and the Public Procurement Bulletin.
- f) Deadline for submission of bids shall be at least thirty (30) days from the date of publication or the date of availability of the Tender Documents;
- g) no special preference shall be accorded to any bidder, either for price or for any other terms and conditions, when competing with foreign bidders, State-owned enterprises, or small scale enterprises;
- h) except with prior concurrence with the Public Procurement Board, the Co-operating Partners, there shall be no negotiation of price or unit rates with the bidders, even with the lowest evaluated bidder;
- i) extension of bid validity shall not be allowed without prior concurrence of the Public Procurement Board, Co-operating partners: (i) for the first request for extension if it is longer than eight (8) weeks; and (ii) for all subsequent requests for extension irrespective of the period;
- j) re-bidding shall be not be carried out without the prior concurrence of the Public Procurement Board and co-operating partners;

Procedures for NCB

- Obtain formal request for items from the Procurement plan or needy department
- Check for availability of funds/source of funding for the product(s)
- Prepare bidding document
- Provide tender identification number
- Clearly specify quantity, unit size and specification of Products
- Advertise in at least one national media (Print and Electronic where applicable).
- Allow for at least 30days for submission of sealed bids. Envelops containing bids must be address to the purchaser clearly stating the Tender number and address of purchaser. Envelop must be marked "not to be opened until date and time of bid opening"
- State clear specific time, date and place for bid submission and opening.
- Submissions must be opened publicly by a properly constituted panel in the presence of Bidders and or their representatives who choose to attend.
- Constitute Evaluation Panel to evaluate submissions and make recommendation for award.
- Submit evaluation report to Tender committee for approval
- Award contract on received of approval from tender committee

4.2.4 Restricted Tendering for Works, Goods and Non-Consulting Services

- a) Restricted Tendering is like shopping for goods, it is a limited tendering which functions by direct written invitation without open advertisement, but from a selected list of contractors. In cases where restricted tendering is used in lieu of ICB or NCB, this method would require prior approval of the Public Procurement Board and/or Cooperating Partners.
- b) Restricted Tendering procedures shall be used for contract values as indicated in PPA 633. Other exceptional reasons which justify restricted tendering as a departure from ICB or NCB procedures would be:
 - i limited number of interested/eligible contractors;
 - ii time constraints or emergency;
 - iii other mitigating factors;

Procedures for Restricted Competitive Bidding

- Obtain formal request for items from the Procurement plan or needy department
- Check for availability of funds/source of funding for the product(s)
- Prepare bidding document
- Provide tender identification number
- Clearly specify quantity, unit size and specification of Products/items
- Allow for at least 6 weeks for submission of sealed bids
- State clear specific time, date and place for bid submission and opening.
- Submissions must be opened publicly by a properly constituted panel in the presence of Bidders and or their representatives who choose to attend.
- Constitute Evaluation Panel to evaluate submissions
- Submit evaluation report to Tender Committee for approval
- Award contract on received of approval from Tender Committee

4.2.5 Price Quotation for Works, Goods and Non- Consulting Services

- a) Shopping shall be used for procuring readily available off-the-self goods of standard specifications for commodities that are small in value as indicated in Section 6.
- b) Quotations shall be solicited from as many different suppliers as possible but in any case not less than three. Invitation for quotations shall be in writing and will indicate the description and quantity of the goods as well as desired delivery time, and place of delivery, including date, time and place of submission of quotations.

- c) Quotations shall be in writing and shall be opened and evaluated at the same time as indicated in the Request for Quotations. The Request for Quotations should indicate that quotations submitted later than the time and date specified in the request would be rejected.
- d) Depending on circumstances, quotations may be submitted by e-mail, telex or fax if so specified.

4.2.6 Direct Contracting (orders)

- a) Procurement through placing direct orders (single sourcing) as a method is not encouraged; however, where it is necessary to be used, it shall be restricted to and reserved for:
 - i. procurement of items which are proprietary in nature
 - ii. repeat orders to meet additional requirements of the same product or for essential spares from the supplier of an earlier procured equipment, provided there is no upward revision in the price of the item or a change in specification
 - iii. extension of works contracts where this is deemed the most economic procedure; and
 - iv. Exceptional cases, such as in response to natural disasters.
 - v. The use of Direct Contracting in lieu of competitive tender as provided for in this manual would require prior approval of the Public Procurement Board and/ or Cooperating Partners.

Procedures for Sole Sourcing

- Write officially seeking approval from your tender review board
- Based on approval, formally inform the supplier about the Quantity, unit size and specification of product required

4.3 Tender Opening Panel

- a) In all the above situations except for Direct Contracting a Tender Opening Panel of not less than 3 officials, not limited to but including staff from the Procurement Unit shall be composed to open the bids.
- b) Representatives of bidders shall be invited to witness the bid opening under ICB and NCB.

4.4 Tender Evaluation Panel

- a) A Tender Evaluation Panel must be set up to undertake the evaluation of bids.
- b) The panel shall be made up of a minimum of three persons who shall work in a secure place where all the bidding documents must be kept.
- c) Members of the Panel shall be selected based on their knowledge on the works, goods or services to be procured as well as experience in procurement procedures

4.5 Applicable Law

The applicable Laws under which the contracts shall operate are the Laws of the Republic of Ghana

4.6 Open Tendering Procedures

- a) Upon receipt of the Procurement Plan or requisition to procure and notification of availability of funds, the Procurement Officer shall prepare an operational schedule and proceed with the procurement process to ensure delivery in a timely manner.
- b) For open competition, bids will be invited on the basis of detailed public invitation notice and bid documents. The bid documents shall contain detailed information on the following:
 - (i) Instructions to Bidders
 - (ii) Conditions of Contract
 - (iii) Schedule of Requirements
 - (iv) Specifications or Bills of quantities/ drawings
 - (v) Standard Forms e.g. Bid Securities, Performance Securities

4.7 Management of Contract Information

- a) A file(soft/hard copies) shall be opened for every contract upon which a status summary form shall be affixed.
- b) The procurement officer must enter the expected time schedules on this form to serve as a yardstick by which actual procurement processing time can be compared with the procurement plan and to help maintain a concise and chronological summary of all actions from initiation to completion stage of the procurement.
- c) The information contained in the status summary will provide a full history of transactions, for the purpose of:
 - i. providing a summary background information to ensure informed decision making at each stage of the procurement cycle;
 - ii. providing information on actions taken by Procurement personnel in the procurement cycle;
 - iii. providing information for review and investigation of certain actions; and
 - iv. Furnishing essential information in the event of any inquiries, litigation or audit.

4.8 Preparation of the Bidding Document

Bidding Documents shall be prepared in respect of all contracts. The level of detail of the bidding document will depend on the size and nature of the contract. The bidding document shall specify clearly the:

- i items required
- ii bidding procedure, technical and quality characteristics
- iii criteria for bid evaluation and contract award.

4.9 Specifications

- a) Specification must be clear, accurate and complete, and must be drawn up in such a manner as not to be unnecessarily restrictive, thereby unduly limiting competition.
- b) Specifications drawn should leave no doubt in the minds of potential bidders as to the nature of the goods, works or services required.
- c) Specifications must be drawn up by the user departments in consultation with the procurement units.
- d) Where technical considerations are involved, expert assistance shall be sought to draw up the right specifications.

4.10 Drawings

- (a) Where appropriate, drawings should be used to support specifications and to elaborate on the scope and detail of the required items.

4.11 Bid Security

The purpose of a bid security is to provide the purchaser with the security that the validity of a bid will be maintained until the contract is awarded and signed, and a performance security is furnished within the time stipulated.

The Bid Security to be submitted shall be a Bank Certified cheque, Letter of Credit, or Bank guarantee from a reputable Bank.

The bid securities shall remain valid for a period of 28 days (or four weeks) beyond the bid-validity period.

- a) The bidding document must state whether a bid security is required. In determining the amount of a bid security, consideration should be given to the quantity and value of the items required.
- b) The bid security amount shall be in the range of 1 percent - 3 percent of the total bid price and in the format specified in the tender document.
- c) Where a bid security is required, it shall be provided with the bid on/or before the deadline specified for submission of bids. After the bid opening, bid securities would no longer be accepted nor made where not submitted in a non compliant manner. All bids without bid securities or adequate bid securities shall be rejected.
- d) The purchaser shall call in the bid security if the bidder withdraws his bid before expiry of its validity or refuses to sign the contract after bid acceptance or in a situation where the bidder refuses to provide the required performance security after signing the contract of award.
- e) Bid securities shall be released to the successful bidders after the contracts have been accepted and a performance security furnished. Bid securities of unsuccessful bidders shall be released after awards have been made or upon expiry whichever ever comes first.
- f) Bid securities shall also be returned upon termination of the bidding proceedings or upon withdrawal of a bid prior to the deadline for the submission of bids.

4.12 Delivery Periods

- a) Delivery and performance schedules stated in the bidding document shall be designed with regard to the following
 - i. urgency of need for supplies works or services;
 - ii. production of the item
 - iii. market conditions
 - iv. transportation mode
 - v. time for obtaining and evaluating bids and awarding contracts
 - vi. delivery terms, e.g. FOB, CFR, CIF and CIP.
- b) The bidding document shall indicate the latest delivery schedule acceptable to the purchaser; any offer beyond this time may be penalized or declared non-responsive.
- c) The point of delivery shall be specified in the bidding document.

4.13 Bid Validity

The bid validity period required specified in the bidding document shall be a period sufficient to allow evaluation and award of contract. In the event of a delay in the evaluation and award process, an extension of the bid-validity shall be requested from the bidders in writing before the expiration date. Bidders shall also be requested to extend their bid security accordingly. However, bidders who do not choose to do so, will not forfeit their security.

4.14 Bid Currency

- a) The currency of bid shall by default be the Cedi unless specified otherwise in the bidding document.
- b) The bidding document shall also specify the common/base currency for evaluation purposes. Such base currency may be a convertible currency. The inter-bank selling exchange rate established by the Bank of Ghana on the date of bid opening or as specified in the bidding document shall be used for conversions of other currencies to the base currency.
- c) The currency of bid shall also be the currency of contract and payment.

4.15 Performance and Liquidated Damages

Provision shall be made for liquidated damages as a clause in the bidding documents. This clause will apply if or when the timely performance of the contract is critical to the purchaser who may reasonably expect to suffer loss if the contractor or supplier fails to deliver or perform the contract as required. An appropriate amount shall be charged.

4.16 Packing and Marking

- a) The bidding document shall specify appropriate instructions on the method and nature, preservation and packing, and the markings to be made on the packages to ensure that goods will be protected from damage, theft and pilferage while in transit.

- b) Where goods are to be transported to sites without storage, it shall be requested that the goods be packed in non-returnable containers.

4.17 Approval of Bidding Document

- a) Where bidding documents have been prepared by an external agent (i.e. engineering consultant, procurement agent) they must be submitted to the Ministry of Health for approval.
- b) Where the contract is being financed by a Donor and the agreement is that the bidding document is cleared with the Donor before issue, this must be observed.

4.18 Invitation for Bids

- a) On approval of the bidding document, advertisements shall be placed in the newspapers or invitations sent directly to selected bidders as the case may be inviting eligible bidders to respond to the invitation to bid.
- b) The invitation for bids is intended to alert the business community to the upcoming procurement opportunities and should therefore be given wide publicity so that eligible qualified bidders can register their interest and look forward to receiving the bidding document.
- c) As a general rule, all such invitations for bids shall allow sufficient bidding time (i.e. the period between the invitation for bids and the opening of bids) to enable bidders to purchase the bidding documents and submit bids.
- d) In the case of the process where bidders are supposed to purchase bidding documents, all eligible bidders shall provide their names, contact addresses, telephone and fax numbers (where available) to enable the procuring entity and the bidder any required communication before bid opening.

4.19 Activities during Bidding Time

- a) If after issuing the invitation for bids, but before the time of bid opening, it becomes necessary to make changes in specifications, delivery schedules, opening dates, etc., or to correct a defective or ambiguous statement in the invitation, it shall be accomplished by issuing an amendment to the invitation for bids in the form of an addendum. This amendment shall be given to every bidder to whom the invitation has been furnished.
- b) A bidder may also request clarification/s in the bid. In such situations the Procurement Unit shall respond if the request is received within a reasonable time (as specified in the invitation to bid) prior to the deadline for submission of bids. Such a response shall be sent out to all who have been furnished with the bidding document to those purchasing bidding documents thereafter, without revealing the source of the enquiry.
- c) Before issuing an amendment to an invitation for bids, the time period remaining until bid opening and the need for extending this period must be considered. Where there are only seven (7) days before the time for bid submission, consideration should be given to an extension of time. Such notification must be included **in** the amendment.
- d) No further action can be taken on a tender when it is discovered that amendment is made to the bid document without sufficient time for bidders to correct their bids. Unless such amendment has been issued in sufficient time to permit all

prospective bidders to consider such invitation in submitting or modifying their bids.

4.20 Postponement of Bid Opening

- a) An amendment postponing bid openings may be issued:
 - i. When the Procurement Entity has made substantial change in the bid invitation or a justifiable reason from a bidder requesting for postponement is received.; and
 - ii. When unanticipated events interrupt the normal governmental process so that conducting the scheduled bid opening will not be practicable.
- b) In such situations, the new bid-submission date shall be advertised.

4.21 Cancellation of Invitation before Opening

- a) Invitations for bids should not be cancelled unless such cancellation is clearly in the public interest or where there is no longer a requirement for the supplies or services or where amendments to the invitation would be of such magnitude that a new invitation is desirable.
- b) Where an invitation is cancelled, bids which have been received shall be returned unopened to the bidders and a notice of cancellation shall be published in the same media as used for the invitation of bids, or sent to all prospective bidders to whom the invitation for bids was furnished.

4.22 Bid Submission, Opening and Recording

4.22.1 Bid Submission

- a) Bids shall be submitted to the address in the Invitation for Bids not later than the exact date and time set for bid opening. Bids shall be submitted in the numbers specified in the invitation to bid and in sealed addressed envelopes.
- b) All bids including all modifications received prior to the time of opening shall be kept secure and unopened in a tender box. Necessary precautions shall be taken to ensure that the tender box is kept secure.
- c) Bids submitted after expiry of the deadline shall be declared late and shall not be considered; such bids shall be stamped - "late" and returned unopened to their respective bidders.
- d) If a procurement entity issues clarification or modification documents or if a meeting is held, the procurement entity shall prior to the expiry of the deadline for the submission of tenders extend the deadline given to suppliers and contractors reasonable time to take the clarification or modification, or the minutes of the meeting into account in their tenders
- e) Bids shall be submitted in writing, signed in a sealed envelope or any other form specified in the bid document. Generally, telegraphic or faxed bids shall not be accepted.

4.22.2 Bid Opening

- a) Bids must be opened by a panel of at least three senior officers of the BMC, in the presence of bidders' representatives who wish to attend the opening.
- b) The official designated as the Bid Opening Officer shall open the bids at the time and place set in the bid invitation. The Bid Opening Officer shall then personally and publicly open the tender box and subsequently open the bids received and read the following contents within each submitted bid aloud to all persons present and have it recorded.
 - i. Name and address of supplier
 - ii. Tender price
 - iii. Withdrawals (If any)
 - iv. Substitutions (If any)
 - v. Modifications (If any)
 - vi. Bid Security Details (Absence /Presence, Amount and Source)

Suppliers who are not present may request this information to be communicated to them.

- c) The original of each bid shall be initialled by the panel and carefully safeguarded. The copies of submitted bids shall be compared with the originals and corrections made to the copies if any. Where corrections exist, only corrected copies shall be used for evaluation. The original submitted bids are kept by an independent authority.

4.22.3 Recording of Bids

- a) The Tender Opening Officer shall call out the contents, which shall be recorded by the members of the opening panel. Also to be recorded are delivery periods, provision of Bid Securities, and samples (if these are required).
- b) At the end of the bid opening, panel members and representatives of bidders (if present) shall append their signatures to the bid recording sheet.
- c) Minutes of the bid opening must be prepared by the procurement officer and placed on the procurement file. Copies of the minutes shall be distributed to the appropriate Tender Committee and the foreign funding agency if any, for comments and subsequent approval.

4.22.4 Bid Samples

- a) Samples should generally be requested for, only if other methods of description are not feasible or adequate. Such samples must be submitted with the bids if required.
- b) Where samples are required to be submitted by suppliers as a condition for qualification, inspection of such samples should be done by a joint team drawn from the Procurement unit, and the user agencies.
- c) Samples submitted shall be stripped of any marks which may enable identifying them with their suppliers, and thereafter coded before the inspection takes place. This would prevent the possibility of bias in selection.

- d) The person who strips and codes the samples shall not participate in the inspection process and shall not disclose the identification of the samples to the inspection team.

4.22.5 Rejection of all Bids after Opening

- a) After the evaluation of bids an award shall be made to the lowest evaluated bidder unless there are valid reasons to reject all bids and cancel the invitation.
- b) To prevent such an occurrence, every effort shall be made to anticipate changes in a requirement before bids are submitted and to notify all prospective bidders of any resulting modification at least 7 days before bid submission in accordance with paragraph 4.22.1 above to enable them to adjust their bids accordingly.
- c) Generally, an invitation for bids should not be cancelled due solely to an increase in requirements of items to be procured. In such situations, an award should be made and the additional quantity treated as a new procurement or awarded to the successful bidder as a repeat order, in accordance with paragraphs 3.9 and 4.2.1.5 above. Bids shall not be rejected solely for reasons to re-tender in order to obtain lower prices or a preferred bidder.
- d) Invitation for bids shall be cancelled if, during evaluation, it is detected that all the requirements relating to availability and specifications have not been met by bidders. In this event, the Tender Committee shall make revisions to the specifications and scope of the contract and invite new bids, either from the initially pre-qualified bidders or after approval of the next level procurement Entity, from the bidders who submitted bids.
- e) Invitation for bids may be cancelled if during evaluation, it is detected that all the bids were not independently submitted in open competition but rather, bidders colluded and submitted their bids in a manner that undermines the procurement process.
- f) When it is determined that all bids be rejected, the Procurement Unit shall notify bidders.

4.22.6 Non-disclosure of Tender Evaluation Details

Information relating to the examination, clarification, evaluation and comparison of tenders shall not be disclosed to suppliers or contractors or to any other persons not involved officially in the examination, evaluation, comparison of tenders or in the decision on which tender should be accepted, except as provided in section 28 on the record of procurement proceedings.

4.22.7 Examination of Bids

- a) Bids shall be subjected to preliminary examination to identify and eliminate incomplete, invalid or substantially non responsive bids. The following, but not limited to criterion, must be checked:
 - i. Bidder's eligibility: if the bidder falls within the countries eligible to bid
 - ii. Goods offered eligibility if the items to be supplied by the bidder are from such countries that are eligible to participate in the bid

- iii. completeness: whether the bid form has been signed and an appropriate bid security furnished (if required), in conformity with the bidding documents;
- iv. presentation: whether all items have been quoted for especially if the procurement is in the form of a package/lots.
- a) bids shall be determined as non-responsive if:
 - i. a bid fails the preliminary examination;
 - ii. a bid does not meet the minimum bid specifications;
 - iii. a bid substantially exceeds the required delivery schedule;
 - iv. a bid imposes conditions which modifies requirements of the invitation, making it substantially different from what is required
 - v. the price quoted is subject to adjustment when a fixed price is called for.
- b) where samples have been requested for, a sample shall be checked for conformity first before examining the bids; only bids with acceptance samples shall qualify for further examination and evaluation.

4.22.8 Minor Irregularities in Bids

- a) A minor irregularity in any bid may be waived if it is merely a matter of form and will not result in any variation in price, quality, quantity, delivery or performance of services and whose correction or waiver would not be prejudicial to others and would not change the material content of the bid.
- b) No change in a matter of substance in a bid except for purely mathematical error shall be corrected.
- c) where there is discrepancy in the extension to the unit price, the unit price shall govern. All such errors should be corrected and the bidders notified. A bidder shall not be permitted to retain any errors in extension or totals. A bidder who does not agree with the correction of such errors will be disqualified and bid security forfeited.
- d) A procurement entity shall give prompt notice of the correction to the supplier or contractor that submitted the Tender Document.

4.22.9 Currency Conversion

Bid prices quoted in various currencies shall first be converted to a common base, the Cedi or a convertible currency using the selling exchange rate established by the Bank of Ghana at the date specified in the bidding document (a commonly acceptable date is the date of bid opening)

4.22.10 Evaluation and Comparison of Bids

- a) A procurement entity shall evaluate and compare the tenders that have been accepted in order to ascertain the successful tender in accordance with the procedures and criterion set out in the invitation to bid document and the Public Procurement Act 663 Section 59.

- b) The purchaser's evaluation of a bid will take into account, in addition to the bid price quoted, one or more of the following factors as specified in the bid document.
- i. All costs incidental to delivering of the goods to their final destination, including cost of inland transportation, insurance, etc.;
 - ii. delivery schedule;
 - iii. deviation's in payment schedule from that specified in the bidding document;
 - iv. the cost of components, mandatory spare parts, and service;
 - v. the availability after-sales services and support including spare parts for the equipment offered in the bid;
 - vi. the projected operating and maintenance costs during the life of the equipment;
 - vii. the performance and productivity of the equipment offered;
 - viii. other specific criteria stated in the bidding document.

4.22.11 Incidental Services

- a) A supplier may be required to provide services such as performance or supervision of on-site assembly, installation or start-up of the supplied goods, furnishing of tools for assembling, maintenance of goods or conduct of training for personnel.
- b) Prices charged by the supplier for the preceding incidental services shall be requested for in the bidding document.

4.22.12 Price Adjustment

- a) If bids are invited on prices subject to adjustment, that is for contracts whose delivery exceeds 18 months, the formula to be used must be specified in the bidding document.
- b) Bids with adjustable prices shall be compared on the basis of the base excluding the price adjustment.
- c) If in response to an invitation for bids subject to price adjustment, a bidder quotes a fixed price, no special consideration shall be given. The fixed price must be compared to other bid prices subject to adjustment.

4.23 Contract Award, Monitoring and Shipment

4.23.1 Recommendation for Award

- a) After evaluation, the lowest evaluated bid shall be selected for award by the evaluation panel within the bid validity period.
- b) In the event of any difficulties which may delay award beyond the Bid validity period, bidders should be requested before expiration of their bids to extend the bid validity period.
- c) In the event that the lowest evaluated bidder declines to sign the contract, the next lowest evaluated bidder will be awarded the contract.

4.23.2 Notification and Signature of Contracts

- a) Notification of contract award shall be communicated by the Head of the BMC and signing of contracts will be carried out in accordance with the thresholds specified in Section 6.2;
- b) In all cases, contracts will be awarded to persons or firms deemed to be the lowest evaluated and responsive bidder, according to criteria specified in the tender documents, provided they demonstrate their qualification to perform the contract if awarded.

4.23.3 Post-qualification

- a) After having selected the lowest evaluated bid, the bidder's qualifications in respect of technical and financial capability, past performance and other information deemed necessary, shall be reviewed to ensure that the contract will be performed satisfactorily. Site inspections may be organized in the process of the review.
- b) If the lowest evaluated bid fails to meet the post qualification criteria specified in the bidding documents, the test shall be applied to the next lowest evaluated bid.

4.23.4 Notification of Contract Award

- a) Once the lowest evaluated bidder is accepted, the contract is awarded by notification to the successful bidder. The notification must be documented and signed by the appropriate authority. Based on the procurement expenditure threshold set for ministerial and regional tender review boards, notifications may also be published in the Public Procurement Bulletin. Notification shall contain the name of the winning bidder, competitors, price announced at bid opening, evaluated price, scope of contract,
- b) The Notification shall also contain specific time bound information related to post evaluation activities beginning with negotiations, contract signing, contract start and completion dates. For ICBs, notification of award of contract must be delivered not more than two weeks after "no objection " from the Public Procurement Board and/or Funding Agencies or Development Partners.
- c) The successful bidder shall be required within 30 days of the award notification to confirm in writing acceptance of the bid offered together with the appropriate Performance security (if required).
- d) Upon receipt of the documents required in Subsection (b) above, the Procurement Officer shall prepare two (2) copies of a contract form for signature by the two parties. The document comprising the contract and conditions of contract shall be those specified in the bidding documents. The Contracts will be forwarded to the appropriate official to sign his/her portion. The procurement officer shall then send to or invite the suppliers/contractors to sign their portion of the contract forms.
- e) All unsuccessful bidders should be notified once the contract has been awarded. Bid securities of unsuccessful bidders should be promptly returned after awards have been made. The original copy of the Bid Security shall be sent to the issuing Bank with a copy to the bidder and another copy retained on the procurement file.

4.23.5 Distribution of Signed Contracts

After the contract forms have been duly signed, by both supplier/contractor and purchaser, copies shall be distributed together with copies of the Notification of Award as follows:

- i. one copy to the Supplier/Contractor;
- ii. one copy to each of the donor agencies;
- iii. one copy to the Accounts office for payment purposes;
- iv. one copy to the user (where applicable);
- v. one copy placed on the procurement file.

4.23.6 Performance Security

- a) The requirement for a performance security shall be specified in the bidding document.
- b) If required, a performance security shall be a percentage (between 5 - 10%) of the contract price and shall be provided by the supplier/contractor within 30 days of receipt of contract notification and in any case before contract signature.
- c) A performance security shall be in the form specified in the bidding document.

4.23.7 Transportation

The mode of transportation and destination of delivery shall be specified clearly in the bidding and contract documents.

4.23.8 Insurance

- a) Insurance requirements for goods and works shall be clearly specified in the bidding and contract documents.

4.23.9 Payments

- a) The method and conditions of payment to be made to the supplier/contractor shall conform to those set out in the bidding document and contract documents.
- b) When the commercial bank establishes the LC, the Accounts Officer shall notify the supplier promptly and inform the Procurement Unit accordingly .
- c) Where final payment is to be made after delivery of the items, the items must be checked and an acceptance certificate issued before authority is given for such payment to be made. For imported goods all payment should be supported by shipping documents.
- d) Prices charged by the supplier for goods shall not, with the exception of any price adjustments authorized in the bidding document or contract, vary from the prices quoted by the supplier in his bid. Payment for works contract will be made in the procedures specified in the particular contract.
- e) Payment of the contract price shall be made in the currency of the contract, which must also be the currency of the bid.

4.23.10 Pre-shipment Inspection

All goods to be supplied from outside Ghana shall be subjected to pre-shipment inspection. Price inspection may be waived where prices were obtained through international/national competitive bidding.

4.23.11 Contract Monitoring

- a) In order to ascertain the movement of the consignment and ensure timely arrival, the Procurement unit must be in close contact with the supplier. Expediting may be in the form of a simple phone call, a fax message or a letter.
- b) Expediting of orders shall be undertaken mainly by the clearing/procurement officers. A determination of dates at which expediting would be done should be taken soon after LC's have been established or advanced payment has been made. A reasonable time may be fixed between the date of establishing the LC or advanced payment and the time of delivery.
- c) The Expediting Officer shall set up a reminder system whereby dates for expediting orders made shall be entered. Records of various orders placed shall be entered and filed in chronological order and referred to every time. This record shall be updated as and when information is received on the orders and closed when delivery is completed.
- d) For expediting, a customized letter of enquiry to the supplier on the status of orders made shall be used.
- e) The Clearing and Forwarding Section shall submit periodic status reports on all outstanding orders. As part of the management information system, where additional information is required, a customized status form shall be used by the Procurement and Logistics sections to enquire from the Clearing section the status of a specific shipment.
- f) Expediting for works contract will be the responsibility of the technical consulting firm or official charged with the supervision of the construction works

4.24 Clearing & Delivery and Post Delivery Considerations

4.24.1 Clearing and Delivery

- a) Where the contract is awarded to a local supplier or foreign supplier on CIP (point of delivery), then delivery must be made by the supplier to the place indicated.
- b) Where the award is on C&F/CIF basis, as soon as the shipping documents are received, the Clearing section shall make the necessary application for exemption from duty (if needed) or may go ahead and process the necessary documentation needed for clearing the goods. If this is done, goods can be cleared from the Ports immediately when they arrive.
- c) Where the imports are on C&F basis, provision of insurance cover shall be the responsibility of the Procurement Unit. Accordingly, upon receipt of shipping documents by the Procurement Unit, these must be given to the clearing section which shall apply to the approved insurance agent for the necessary provision of insurance cover.

- d) When cleared from the port, the goods shall be delivered to the Central Medical Stores, Tema or any other assigned stores where they shall be checked by the storekeeper or any other person nominated by the DPS for this purpose, for quality and quantity against the suppliers invoices. This information must then be entered on the SRV which is completed in triplicate, and distributed as follows:
- a) one copy to the Accounts section for payment;
 - b) one copy to the user section for a report on the condition of the goods received to be sent to the Procurement Unit;
 - c) one copy, placed on the Stores files.

4.24.2 Warranty/Defects Liability Period

- a) Where warranty is required to be given for items supplied or works, the warranty requirements shall be specified in the contract documents. The warranty period shall be calculated from the time of delivery (commissioning or installation) of the goods, works or as specified in the contract documents.
- b) During the warranty period the supplier/contractor shall compensate the purchaser for losses due to defects resulting from faulty design, materials and workmanship which become manifest.
- c) The user shall notify the Procurement Unit in case of any defect detected in any items supplied which are still under warranty. The Procurement Unit shall in turn promptly notify the supplier or contractor in writing of any claims arising. The Procurement Unit may take such necessary action to claim compensation, at the supplier's expense, if a supplier fails to remedy the defect whilst the goods are still under warranty.

4.24.3 Defective Goods/Works

- a) After goods procured have been delivered, if the user agency is not satisfied with the goods, because they are of sub-standard quality or otherwise do not meet the specifications as stated in the contract, the [user] shall complete and issue a faulty purchases questionnaire to the procurement unit. This will provide the procurement unit with the necessary information to enable it to re-assess the performance of the supplier in question, as well as take such appropriate action as may be permitted in law or under the supplier's contract. If required, a copy of this report will be sent to the funding agency for their information.
- b) Reports (adverse or otherwise) shall be submitted by the Storekeeper/user on the quality of goods supplied, copied to the Procurement Unit to enable them to update their database on supplier and item information. Copies of such reports may be forwarded to the Public Procurement Board and/or respective funding agency/Donor for their information, if required.

4.24.4 Unsatisfactory Suppliers/Contractors

- a) Where goods delivered or works are found unsatisfactory, a report shall be submitted by the Procurement Unit to the Head of the Procuring Entity. The supplier/contractor shall be informed of the complaint and the supplier will be debarred from participating in future business.
- b)

- c) The Procurement Unit shall open a file to hold records on all defaulting, poor or unsatisfactory suppliers/contractors. Such records shall include those suppliers/contractors who made very late deliveries, and/or supplied sub standard goods (or defective goods/works).
- d) Suppliers/Contractors who fail to deliver on time, or deliver sub-standard or poor quality goods /works not in accordance with specifications or are otherwise in breach of their contracts, shall have their records annotated as such and be blacklisted and duly notified accordingly.

CHAPTER 5 PROCUREMENT OF CONSULTANCY SERVICES

5. Introduction

This Chapter covers guidelines for the procurement of Consultancy Services. Consultancy services referred to herein are classified as those of intellectual and advisory nature and can be differentiated from other physical or technical services such as operations and maintenance of equipment and facilities, surveys, and aerial photography.

5.2 Conflict of Interests

The General Conditions of Contract comprise the conflict of interests that may present themselves in contracts for consultancy services. Consultants should

- foremost defend the interests of the Government without considering the possibility of future assignments;
- not engage, either directly or indirectly, in professional or commercial activities that would be incompatible with the activities that they have been entrusted with in terms of their contract, or after completion of their contract, as indicated therein;
- Avoid all possible conflicts with other activities of their firm or with other individual assignments.
- not be engaged in other assignments that are incompatible with the assignment for which they are making proposals.
- not be associated with firms that furnish goods or carry out works for the program that they are preparing or provide assistance to;
- not provide advice for two different components of the program that would have conflicting objectives

5.3 Procurement Methods for the Selection and Employment of Consultants/Consulting Firms

The following procurement methods shall be used.

- i Competitive Selection
- ii Single Sourcing

5.4 Competitive Selection

(a) This is the most preferred method of selecting consultants. It ensures that all Consultants/Consulting firms have an equal chance of being selected for any assignment. Competitive selection also provides for economy and efficiency in procurement of services. Two main types of competitive selection shall be used;

- i Competition on the basis of technical proposals only.
- ii Competition on the basis of technical and financial proposals.

5.5 Preparation of a Short list

- a) Competitive selection shall be by way of requesting technical and financial proposals from a list of three (3) to six (6) firms.. The short list must not be a mix of consultants and firms for the same assignment
- b) The short list should be prepared from an MOH Procurement Unit Consultancy database or by contacting those with information on relevant consultants or by way of advertising to the public for expression of interest in the particular assignment or a combination of the above. [Where such data bases do not exist either at MOH or GHS they should be developed.]
- c) The following processes for the Recruitment of Consultants requires approval from the next higher Tender Committee;
 - i. Procurement Plan [Objectives, Terms of Reference, Budget, Time Frames]
 - ii. Expression of Interest [optional]
 - iii. Shortlists of Firms
 - iv. request for proposal
 - v. proposal evaluation reports
 - vi. proposal for contract award
 - vii. negotiated contracts

5.6 Expression of Interest

- a) For all large contracts above the threshold specified in Section 6.2, advertisement shall be made in at least one national daily of wide circulation. The advertisement shall state the intention of MOH or Agency to procure Consultancy services and to invite interested consultants to be considered for short listing for an intended assignment. The advertisement shall also state a brief outline of the assignment. -
- b) Sufficient time of not less than 30 days shall be provided for responses, after which a short-list shall be prepared.

5.7 Invitation to Submit Proposals

The short-listed firms shall be invited to submit proposals on the basis of a Letter of Invitation (LOI), containing a Request for Proposals [RFP] and Terms of Reference of the particular assignment in conformity with the Public Procurement Act 663 Subsection 68.

The proposals shall be evaluated on the basis of information provided in the Request for Proposals

5.8 Single Sourcing

- a) Single source does not provide the benefits of competition with regard to quality and cost. It also lacks transparency. Therefore Single Sourcing should be used only in exceptional cases.
- b) Single Sourcing may be appropriate only if it presents a clear advantage over competition and specifically in the following instances;
 - i. If the assignment is a natural continuation of a previous work carried out by the specific firm or the individual.

- ii. In cases of emergency or national disaster where rapid selection is essential.
- iii. For very small assignments of amounts specified in Chapter 6.
- iv. In situations where only one firm are qualified or has experience of exceptional worth for the assignment.

Use of Single Sourcing must be approved by the appropriate Procurement Committee

5.9 The Competitive Selection Process

- (a) A competitive selection process shall consist of :
- i Preparation of Terms of Reference (TOR);
 - ii Preparation of Cost Estimates and Budget;
 - iii Advertising for Expression of Interest (if required);
 - iv Preparation of the short list of consultant/s;
 - v Preparation and issuance of the Request for Proposal (RFP)
 - vi Invitation for Submission of Proposals
 - vii Submission of proposals
 - viii Evaluation of technical proposals and quality consideration;
 - ix Evaluation of combined technical and price proposals;
 - x Selection of consultant/s
 - xi Negotiations and award of the contract.
 - xii Signing the contract and performance

5.10 Terms of Reference (TOR)

TOR shall define the objectives of the assignment, scope of services, client's inputs , available data and consultant's expected output. Consulting firms may comment on the TOR and offer suggestions for consideration.

5.11 Preparation of Cost Estimates and Budget

After preparation of the TOR, the procuring agency shall prepare Cost Estimates of the assignment. The Cost Estimates shall include the staff cost and other reimbursable expenses. The Cost Estimate should enable the Procuring Entity to determine the availability of funding and the procurement method required.

5.12 Request for Proposals (RFP)

- (a) RFP shall state the goals and objectives of MOH or its Agency to enter into a contract for the provision of consulting services, the source of the funds, the details of the client, the background and the nature of the contract, and the date by which the services are required.
- (b) The RFP shall also state the mode of submission of proposals, the address to which the proposals will be submitted, the names of other the firms invited, and the criteria for evaluation.

- (c) RFP shall also include the Terms of Reference and Instruction to Consultants (ITC) and criteria for contract award. The Information to Consultants (ITC) shall contain all necessary information that will help the consultants prepare responsive proposals and ensure a fully transparent selection procedure by providing adequate information on the evaluation process and criteria for contract award.

5.13 Submission of Proposals

- a) The time allowed for submission of proposals shall depend on the nature of the assignment, but shall be specified in the RFP and shall allow enough time for consultants to prepare and submit their proposals. If necessary, the Procurement Unit shall extend the deadline for submission of proposals.
- b) No amendments to the technical or financial proposals shall be accepted after the deadline for submission of proposals.

5.14 Technical and Financial Proposals

- a) Where technical and financial proposals are required, such proposals shall be submitted in one unmarked and sealed envelop containing two sealed envelopes, one for technical proposals and the other for financial proposals.
- b) The technical proposals shall be opened first and evaluated. Those firms securing less than the minimum technical score specified in the RfP shall be rejected and their financial proposals returned unopened.
- c) Firms that obtain the pass score shall have their financial proposals opened in the presence of the shorted listed firms that may wish to attend.

5.15 Quality and Cost Based Selection (QCBS)

- a) QCBS is a competitive method of combining quality and cost of services in the selection of the firms. The relative weight to be given to quality and cost shall be determined for each case depending on the nature of the assignment.
- b) The total score shall be obtained by weighting the quality and cost score and adding them together. The weight assigned to the cost and price shall be determined by the relative importance of quality in the assignment.
- c) In any case, the weight of cost shall range between 10 to 30 points out of 100
- d) The technical proposals shall be evaluated taking into account several factors but including the following;
- | | | |
|-----|------------------------------------|------------------------------|
| i | the consultant's experience | (10 to 20 Points) |
| ii | the quality of methodology | (20 to 50 Points) |
| iii | the key professional staff | (30 to 60 Points) |
| iv | knowledge & skills transfer in TOR | (0 to 20 Points) if required |
| v | local participation | (0 to 10 Points) |

5.16 Least Cost Selection (LCS)

- a) LCS method places high emphasis on cost. This method is more appropriate to the selection of consultants for small assignments of a standard or a routine nature where well-established practices and standards exist.
- b) Technical and financial proposals are required, and shall be submitted in one unmarked and sealed envelop containing two sealed envelopes, one for technical proposals and the other for financial proposals. Those firms securing less than the minimum technical score specified in the RfP shall be rejected and their financial proposals returned unopened. The firm having passed the minimum technical score and offering the lowest price shall then be invited to negotiate the contract.

5.17 Quality Based Selection (QBS)

- (a) The main selection criteria in QBS is quality. This is appropriate for the following types of assignments;
 - i complex and/or highly specialized assignments for which it is difficult to define a precise TOR and the consultant is expected to demonstrate innovation in the proposal.
 - ii assignments for which the objective demands the procurement of the best in the field (e.g. Dams, Economic Policy Studies, Management advice.)
 - iii assignments that can be done in substantially different ways.
- (b) Firms scoring the highest score on the technical proposals (provided the score is above the pass mark) shall be invited to negotiate a contract, including the total contract price.

5.18 Selection Based on Consultant's Qualification (CQ)

- (a) This method is appropriate only for small assignments for which the need for preparing and evaluating competitive proposals is not justified.
 - i In such cases, the procuring entity shall prepare the TOR, request for expression of interests and information on Consultants experience and competence relevant to the assignment.
 - ii A short list shall then be established and the consultant/s with the best qualification and references shall be selected.
 - iii The selected firm shall be asked to submit a combined technical and financial proposal and then be invited to negotiate the contract.

5.19 Negotiation of Contract

- a) Negotiation is expected to ensure agreement on all points and to end in a contract. Negotiation shall include discussions on the technical proposals, proposed methodology, work plan, staffing and any suggestions that may be made by the consultant/s to improve the TOR. The Procurement Unit and the firm shall then work out the final TOR, staffing, scheduling of work and clarify (If any) all financial responsibilities like tax and mode of payment. Major reductions in work input should not be made solely to meet the budget. The final TOR and the agreed methodology shall be incorporated in the contract.

- b) The selected firm should not be allowed to substitute key staff, 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
- c) Where the selection process requested for financial proposals, such as under QCBS, the negotiations shall not include rates proposed by the firm.

5.20 Award of Contact

- a) After conclusion of negotiation the contract may then be awarded. The Procurement Unit shall promptly notify other consultants on the short list that they were unsuccessful.
- b) The successful firm is expected to commence the assignment on the date and at the location specified in the contract.

5.21 Data Bank of Consultants

All the agencies and institutions of the Ministry shall establish and maintain a data base on all consulting firms that have the right credentials and have expressed interest to work for the BMC

5.22 Assignment File

The Procurement Unit shall open a file on consultants to monitor the performance of each consultant contract.

5.23 Performance Rating

Consultants who fail to deliver on time, or deliver sub-standard or poor quality services or reports not in accordance with their contracts and Terms of reference shall be blacklisted and duly notified in the database accordingly. Blacklisted consultants may not be eligible for future assignments.

5.24 Procurement Methods for the Selection and Employment of Individual Consultants

5.24.1 When a consulting assignment require the recruitment of a firm, proposals may be requested from a shortlist of individuals. Individual consultants are selected on the basis of their qualifications for the specific assignment by comparing qualifications, experience, and/or using references on past performance.

5.24.2 Terms of Reference (TOR) must be prepared for all individual assignments. Assignments may be advertised in the national press with a brief description of the services required and duration of the assignment, to obtain expressions of interest and provide the Tender Committee with a larger pool of suitable candidates for short listing or interviews.

5.24.3 If consultant/s are selected on the basis of a short list, a simplified LOI/RfP shall be prepared including the TOR, a questionnaire regarding the consultant's qualifications and experience, a request for

comments on the TOR and a form to submit the proposal. A simplified contract document shall be prepared giving the dates of the assignment and the payment provisions, and an annex containing the agreed TOR, the consultant's calendar of the activities and obligations to prepare reports, and the estimated cost of the assignment

CHAPTER 6 PROCUREMENT ENTITY RESPONSIBILITIES AND THRESHOLDS

6.1 Responsibilities

6.1.1 Tender Review Authorities

Tender Evaluation Panels will be formed as needed for the purpose of evaluating particular bids. Tender Evaluation Panels must include staff specialized in the substantive nature of the bid to be evaluated, for example a Tender Evaluation for construction contracts should include civil engineering specialists. Procurement Committees shall be established with a mandate to adjudicate on and to approve proposed contract awards within specified thresholds.

6.1.2 Ministry Tender Committee

1. Chairperson Minister of Health
2. Members
 - a. Head of Finance/Accounts
 - b. Rep from Ministry of Justice (Chief State Attorney upwards)
 - c. three other heads of departments/division one representing user department /division
 - d. two members of parliament from the region, one appointed by the minister and the other chosen by the regional caucus of members of parliament.
3. Secretary Head of procurement Unit/ department
4. Quorum The quorum of the tender committee shall be five members, including the chairperson and members shall not delegate their responsibility to any other person
5. Voting Decisions shall be made by simple majority and the chairperson shall have a casting vote Functions

The committee shall

- a. Review procurement plans in order to ensure that they support the objectives and operations of the entity
- b. Confirm the range of acceptable costs of items to be procured and match these with available funds in the entity's approved budget
- c. Review the schedules of procurement and specifications and also ensure that procurement procedures are followed in strict

conformity with the provisions of this manual and the Public Procurement Act 663.

- d. Ensure that the necessary concurrent approval is secured from the relevant tender review board, in terms of the applicable threshold, prior to the award of contract
- e. Facilitate contract administration and ensure compliance with all reporting requirements under this manual and the procurement act.
- f. Ensure that stores and equipment are disposed of in compliance with this manual and the provisions of the Public Procurement Act 663.

6.1.3 Hospital/Ministry of Health Tender Committee

Chairperson	Minister of Health
Members	two directors from ministry of health Two members of the governing board lawyer appointed by the governing board two clinical heads including beneficiary department head of finance, Ministry of Health chief director, Ministry of Health matron, Ministry of Health
Secretary	head/officer in charge of procurement
Quorum	five
Voting	decisions shall be by a simple majority and the chairperson shall have a casting vote functions

The committee shall

- a. review procurement plans in order to ensure that they support the objectives and operations of the institution and entity
- b. confirm the range of acceptable costs of items to be procured and match these with the available funds in the approved budget
- c. review the schedules of procurement and specifications and also ensure that the procurement procedures to be followed are in strict conformity with the provisions of this manual and its operating regulations and guidelines
- d. ensure that the necessary concurrent approval is secured from the relevant tender review

board, in terms of the applicable threshold prior to the award of contract n and ensure compliance with all reporting requirements under this manual and

- e. ensure that stores and equipment are disposed of in compliance with this manual.

6.1.4 Ministry Tender Review Board

- 1. Membership Five
- 2. Chairperson chairman of Service Council or Public Sector professional with considerable experience in procurement , business management, development or engineering appointed by the minister.
- 3. Members
 - a. Three heads of departments or agencies within the ministry of health appointed by the Minister of Health
 - b. two persons with experience in procurement from the private sector with business, accounting, legal or engineering background.
 - c. Chief Director, Ministry of Health
 - d. Director of Finance and Administration, Ministry of Health
 - e. Head of Logistics and Supplies or Head of the Procurement Unit

6.2 Thresholds for Procurement

- (a) Thresholds for Procurement activity are presented below. The estimated value of each procurement action has to be compared with the thresholds to establish the appropriate
 - i procurement method;
 - ii approving authority;
- (b) Where contracts exceed the threshold for the BMC, they shall be subject to prior review by the next higher level Procurement Committee.
- (c) By December 31st of each year, the minister of health or his/her representative will appoint an independent agent to review the procurement that took place during the preceding year. The procurement audit will be completed and a report submitted to Government by May 31st of each year.
- (d) Thresholds for Procurement Methods

The thresholds for single source procurement and restricted tendering shall be subject to approval from the Public Procurement Board

Table 1: Goods

Procurement Method	Limit (US\$)
Pre-Qualification	Over GHC 35 billion
ICB	Over GHC 15.0 billion
NCB	between GHC 200 million and GHC 2.0 billion
Shopping	less than GHC 200 million

Table 2: Civil Works

Procurement Method	Limit (US\$)
Pre-Qualification	Over 70 Billion
ICB	Over GHC 20.0 billion
NCB	between GHC 500 million and GHC 15 .0 billion
Price Quotation	Less than GHC 500 million

Table 3: Consultancy Services

<i>Procurement Method</i>	<i>Limit (US\$)</i>
Pre-qualification of Technical Works	10% More than Cost of Works
All Individual Contracts Comparison of CVs	Less than GHC 350 million
Advertisement for expression of interest for consulting services in local newspapers	Above GHC 700 million
QCBS/LCS	Less than GHC 700 million
QCBS International advertisement	Above GHC 700 million

6.3 Contract Approval Authorities

For the purposes of contract approval, BMCs have been grouped into four (4) categories based on volume and range of procurement portfolios as follows;

Table 4: BMC Categories

<u>Category</u>	<u>BMC</u>
1	Health Centre
2	District Hospital Polyclinic District Health Administration
3	Regional Hospital Specialised Institutions Training Institutions Statutory Bodies Sub-vented Organisations Regional Health Administration
4	Teaching Hospital Ghana Health Service Headquarters Ministry of Health Headquarters

Levels of Approval Authorities:

Table 5 : Approval Authority Thresholds for BMC Tender Committee in Ghana Cedis - (GHC)

<u>Authority</u>	<u>Limit (\$)</u>			
	<u>Category 1</u>	<u>Category 2</u>	<u>Category 3</u>	<u>Category 4</u>
Goods	Up to 5m	5m to 25m	25m to 50m	50m to 1.0b
Works	Up to 25m	25m to 50m	Up to 100m	100m to 2.0b
Technical Services	Up to 5m	5m to 25m	Up to 50m	50m to 1.0b
Consulting Services	Up to 5m	5m to 25m	Up to 50m	50m to 500m

Table 6: Approval Authorities Thresholds for Head of BMC in Ghana Cedis - (GHC)

<u>Authority</u>	<u>Limit (\$)</u>			
	<u>Category 1</u>	<u>Category 2</u>	<u>Category 3</u>	<u>Category 4</u>
Goods	Up to 5m	5m to 25m	Up to 25m	Up to 50m
Works	Up to 15m	Up to 25m	Up to 50m	Up to 100m
Technical Services	Up to 5m	5m to 25m	Up to 25m	Up to 50m
Consulting Services	Up to 5m	5m to 25m	Up to 25m	Up to 50m

Contract packages of values above the BMC's threshold shall be referred to the DHA, RHA or GHS Tender Committee or the Central Tender Board for approval as appropriate. The approval thresholds for these committees are as follows;

Table 7

<i>Approval Authority</i>	<i>Goods Limit (Cedis)</i>	<i>Works Limit (Cedis)</i>	<i>Technical Services Limit (Cedis)</i>	<i>Consulting Services Limit (Cedis)</i>
DHA Procurement Committee	250m - 1b	500m - 2b	250m - 1b	100m - 500m
RHA Procurement Committee	1b - 8b	2b - 15b	1b - 8b	500m - 3.5b
Central Tender Board	Over 8b	Over 15b	Over 8b	Over 3.5b

6.4 Contract Signing Thresholds

Notification and signing of contracts will be carried out in accordance with the thresholds listed below

Table 8

<i>Signatory</i>	<i>Limit</i>	
Head of BMC	Category 1	\$5,000.00
	Category 2	\$10,000.00
	Category 3	\$25,000.00
	Category 4	\$50,000.00
Director General, GHS Chief Executive, TH Chief Director, MOF	Up to \$50,000.00	
Minister of Health	Above \$50,000.00	

CHAPTER 7 PROCEDURES FOR RECEIPT, ISSUE AND DISPOSAL OF STORES, PLANT AND EQUIPMENT

7.1 Introduction

This Chapter deals with receipt, issue, and disposal of stores in public health sector. These procedures are meant to ensure consistency, efficiency, effectiveness and transparency in the management of stores.

Where stores, plant and equipment become unserviceable as a result of fair wear and tear or become obsolete or surplus, the Officer in charge of such items shall complete a Board of Survey Form.

The Officer in charge shall request the Head of the BMC to convene a Board of Survey comprising representatives of the concerned departments to report on the items and subject to a technical report on them, recommend on the best method of disposal.

7.2 Receipt and Issues of Stores

The receipt and issue of stores shall be conducted in accordance with the provisions of the MOF/GHS Standard Operating Procedures for Stores

7.3 Guidelines for Disposal of Goods & Equipment

Section 83 of the Public Procurement Act,(663) mandates the Head of Procurement Entity to dispose off stocks that become obsolete, redundant and unserviceable or surplus to requirement, in an orderly and systematic manner.

These Guidelines are designed to assist Procurement Entity to dispose off their surplus goods and equipment in an efficient, consistent, equitable and accountable manner. The guidelines provide practical information on how to manage the disposal process and select the most appropriate disposal option.

The definitions of unserviceable, obsolete or surplus stores, plant and equipment shall be:

Obsolete: any item of stores plant and equipment which is rendered incapable of further effective use by developments in technology, incompatibility with associated items, or where the annual maintenance and breakdown costs can be certified to exceed thirty percent (30%) of the estimated cost of a new replacement item.

Unserviceable: any item of stores, plant and equipment which cannot be used for the intended purpose in its present condition due to major defects or damage, and is beyond economic repair. Classification as beyond economic repair for this purpose shall be determined on the basis that repair costs are certified to cost more than fifty percent (50%) of the current market price of a new replacement item.

Surplus: any stores item which has not moved for a period in excess of two years, or any item of plant or equipment which has remained unused for a period in excess of one year, and where no potential use for the item can be envisaged within the Entity.

7.4 Authority to Dispose

In accordance with the provisions of the Public Procurement Act, 2003 (Act 663):

- ❑ **The Heads of the Procurement Unit shall arrange for periodical survey at quarterly interval of all stocks and equipment held by the Unit, to ascertain whether any item have become obsolete, unserviceable or surplus to requirement.**
- ❑ **The survey shall be undertaken by a team of at least three persons, comprising the following:**
 - A representative from the Procurement Entity's Administration//Finance department.
 - The Storekeeper or Stockholder.
 - A senior officer from any public or private institution with special knowledge of the items to be surveyed shall be invited to act as a Technical Person to the committee.

The reason for any item becoming surplus, obsolete and unserviceable shall be explained and recommendations submitted on the mode of disposal.

The report of the survey shall be submitted to the Head of Procurement Entity. Upon receipt of the report of the survey, the Head of Entity shall instruct the Stores department to dispose off or supervise the disposal of the equipment or supplies in accordance with the recommendation of the survey team.

The Board of Survey's recommendations shall be approved by the Head of Procurement Entity and the items shall be disposed of as approved.

7.5 DISPOSAL OPTIONS

The choice of the most appropriate disposal option will normally be influenced by the nature of stocks to be disposed, their location and market value.

The Items shall be disposed off in any of the following manner;

7.5.1 Transfer to Government Department or Other Public Entity.

Transfer to other government departments or other public entities with or without financial adjustment is applicable where; an asset can be usefully deployed by another procurement entity;

Actions:

The Storekeeper should:

Liase with the recipient entity for a formal transfer of ownership and removal of the items from the premises.

7.5.2 Sale by Public Tender.

Items with an initial cost of GHC 50million or more must be disposed of by Public tender, unless the item is more than 10 years old.

Sale by Public tender shall also be conducted where the estimated value of the asset, or group of asset packaged together, is of sufficient value to justify the cost of conducting a public tender.

Actions:

The Store keeper should:

Request the procurement unit to initiate a formal tender

process which will include:

- **Preparation of tender document**
- **Placement of Advertisement**
- **Receipt, Opening and Evaluation of Tenders**
- **And the items offered to the highest tenderer, subject to a reserve price.**

7.5.3 Sale by Public Auction.

Disposal by public auction shall be conducted for items of that have an estimated value of less than GHC 5 million and also when sufficient items can be assembled for disposal to justify the costs of conducting the auction process.

Actions:

The Storekeeper should:

Request the procurement unit to invite an Auctioneer to facilitate the auction of the items.

Instructions relating to the sale should include timeframe for sale, target revenue, condition and location of assets, reserve price, and end-user restrictions. The instruction will constitute the authority for the Auctioneer to undertake the sale.

7.5.4 Destruction, Dumping or Burying

Disposal by destruction, dumping or burying shall be used where the asset has no residual value and cannot be converted into any other form which subsequently give it value.

To ensure that the destruction, dumping or burying is properly executed, it is recommended that a committee of at least three persons supervise the process.

Actions:

The Committee should:

Obtain approval from the relevant Environmental/Health Agency to destroy, dump or bury the items.

Should supervise the destruction, dumping or burial, at an appropriate place.

7.6 Determination of Market Value of Assets

Valuation can play an important part in the effective and efficient disposal of goods as it provides an important reference point to help procurement entities select the most appropriate disposal option.

The most accurate determination of value is always what the competitive market is prepared to pay. In addition to this, there are a number of agents who could provide procurement entities with expert valuations to ensure that the seller's expectations from sales are realistic. It is suggested, however, that entities only engage the services of an agent if the goods are of sufficient value.

It is important to be aware that in some cases, valuers may apportion a value on a good that is based on their replacement cost (for insurance purposes). It should be recognized that this value will often be considerably more than what will eventually be realized at sale. Alternatively, valuers can claim that goods have nil book value after depreciation when in fact they could realize a considerable sum at sale. It is therefore recommended that entities identify an appropriate type of valuation and instruct the valuer accordingly.

The basis for evaluation should always be market value taking into account that assets should be sold 'as is, where is' without warranties.

7.7 Revenue from Sales

Proceeds from sales shall be paid into the consolidated fund or as may be directed by the Controller and Accountant General.

7.8 Authority to Dispose

- (a) When stock becomes obsolete, redundant, unserviceable or surplus to requirements, the items should be disposed off in an orderly and systematic fashion.
- (b) An effective disposal policy ensures transparency in the process, protects the organization from possible fraud or wastage, and releases both warehouse space and money otherwise locked up in the stocks for further use.
- (c) Heads of Agencies shall arrange for periodic surveys at 12 months intervals of all stocks and equipment's held by their departments to ascertain whether any item have become surplus, obsolete, or unserviceable to requirement.
- (d) Equipment becoming permanently unserviceable or reaching a state in which it cannot be used economically or safely shall be taken out of use and placed in secure custody.
- (e) A survey shall be undertaken by a team composed of the following;
 - i. A representative from the Administration/Finance departments.
 - ii. A representative from Procurement and Supplies Directorate, MOF, Stores, Supplies and Drug Management Division, GHS or the Supplies and Logistics Section of the organisation as appropriate
 - iii. The Storekeeper or Stockholder of the relevant stores; and
 - iv. A Senior Officer from any public or private institution with special knowledge of the items to be surveyed shall be invited to act as a technical person to the Survey Board.
 - v. The technical person shall inspect the goods or equipment to ascertain their serviceability or otherwise.
 - a. The reasons for any item becoming surplus, obsolete or unserviceable shall be explained and recommendations submitted on the mode of disposal as indicated in paragraph 0 below
 - b. The Board of Survey recommendations shall be approved by the Tender Committee and the items shall be disposed of as approved.
 - c. Upon receipt of the report of the survey the Tender Committee shall instruct the Procurement Unit to dispose of or supervise the disposal of the equipment(s) or supplies in accordance with the recommendations of the survey team.

A Procurement Entity shall effect disposal in any of the following ways;

- i. Transfer to other government departments with or without financial adjustment as may be directed;
- ii. Sale by Public tender;
- iii. Sale by Public Auction;
- iv. Disposal by dismantling and use as spares for other government properties; and

v. Dumping, destruction and burying as appropriate.

7.9 Procurement Register and Filing System

This PPM presents a procurement filing system for use by BMC's during procurement. The experience is that lack of an efficient procurement filing system causes long and costly delays in the search for documents at critical moments when procurement issues arise, memoranda for contract management must be prepared, or when procurement post reviews need to be carried out (procurement assessments, post reviews under the new post review procedure, or project audits).

Procurement filing has specific characteristics. Files are based on the three procurement categories (works, goods, consultant services/training) and should span the entire procurement process per contract in each category in an efficient and easily accessible manner (from advertising through contract signature and management.). The filing system must be set up by a person familiar with document management, and maintained professionally in order to remain useful. Staff handling the procurement register and filing system should be trained

7.9.1 Filing Structure

A filing system needs to be set up in a coherent manner to allow quick filing of documents, easy maintenance and easy research. The filing structure proposed below has been derived from existing systems that meet these criteria.

Create File Boxes or drawers according to the procurement categories Works, Goods and Consulting Services/Training

Such Procurement category boxes are created for each project

For each project, a general box, labelled "PG" (Procurement General) is created to contain the appraisal report, Loan Agreement and related documents, as well as the list of reference numbers for bulky bid documents and contracts in the three procurement categories, which must be kept separately.

Computer Printed labels should be used on all filing boxes/drawers for clear legibility.

Boxes for Works carry a large "W", box for Goods a large "G" and for Consultant Services a large "C"

Each contract is filed in the relevant procurement category box for the project (a contract for works goes in the "Works" box, a contract for goods goes in the "Goods" box, and a consultant's contract goes in a "Consultants" box), and each box carries the name of the contract.

Each box per procurement category (works, goods, consultant services) contains individual folders for (i) each procurement step for the contract

concerned , (ii) a folder for complaints and (iii) a folder for procurement reviews or technical audits. If there are many contracts per procurement category (for example “works” contracts in a road project), the various boxes may fill a whole shelf, or a drawer of a cabinet.

For each contract, larger boxes are created to keep bulky bidding and contract documents, which are given reference numbers. These documents consist of the prequalification and bidding documents, consultants’ proposals and contract documents. These documents are given reference numbers, which are listed on a “Bidding Document Sheet” or “Proposal Document Sheet” (in the case of consulting services). The reference list is placed in each Procurement General box for the project. This is to ensure that such documents will always be rapidly traceable.

7.9.2 Filing Folders

The following boxes and folders shall be created for each procurement cycle at all levels.

7.9.3 General Folders

Basic Document folder: Contains Appraisal Report, Loan Documents
General Procurement Notice with publication date; list with reference numbers for bulky documents filed separately

Folder for Procurement Reviews/ Audits for each project

Box for bulky documents (prequalification documents, bidding documents, large contract documents, with reference numbers listed on the reference list filed in the “general” box above)

Below are sample folders for each contract in procurement category (works, goods, consulting services)

7.9.4 Works

Complaints Folder

Prequalification Folders

Launching Prequalification Folder

Prequalification Notices (in-country, UNDP, Journals or Technical Magazines, if applicable, and consular or diplomatic representatives of eligible member countries) with publication date

No-objection by Bank to Prequalification Document (the document itself is filed in the “Bulk box” with a reference number. This reference number is listed on the list kept in the general project box – see above)

Launching date of prequalification

Prequalification Evaluation Folder

Report on opening of requests for prequalification
Prequalification Evaluation Report
Bank Analysis of Prequalification Evaluation Report (with reference number to Prequalification Evaluation Report)
Bank No-objection to list of Pre-qualified firms

Bidding Folders

Bid Launching Folder

Specific Procurement Notice with publication date
Bank No-objection to draft Bidding Documents ((the bid document itself is filed in the "Bulk box" with a reference number. This reference number is listed on the list kept in the general project box - see above)
Clarifications asked by bidders and written replies from the MoH
Minutes of Pre-bid meeting (if applicable)
Modifications/addenda to bidding documents (if any)

Bid Evaluation Folder

Bid-Opening Report

Government's notice on composition and start of evaluation committee
Clarifications requested from bidders
Bid Evaluation Report (with reference number to bidding documents received)
Bank Analysis/comments by the Bank of Bid Evaluation Report and/or no-objection to recommendations

Bid Award Folder

Copy of Letter of Acceptance by the Successful Bidder
No-objection from the Bank to signed contract
Copy of signed contract (placed in the procurement document box with reference number on the list kept in the general project box)
Copy of letter to the Bank transmitting signed contract for disbursement

Contract Management Folder

Contract amendments
Contract supervision reports
Change Orders
Payment Certificates
Completion certificates ("provisional" and "final" acceptance)
Copies of guarantees
Claims and Disputes (liquidated damages)

7.9.5 Goods

Complaints Folder

Bidding Folders

Bid Launching Folder

Specific Procurement Notice with publication date
No-objection from Bank to draft Bidding Documents (placed in the procurement document box with reference number on the list kept in the general project box)
Modifications/addenda to bidding documents (if any)

Bid Evaluation Folder

Bid-opening report
Government notice on composition and start of evaluation committee
Clarifications requested from bidders and written replies
Bid Evaluation Report (with reference numbers to bidding documents received)
Analysis of Bid Evaluation Report and recommendation
Comments by the Bank and/or no-objection to Government

Bid Award Folder

Copy of Letter of Acceptance (to be obtained from the Successful Bidder)
No-objection to signed contract
Copy of signed contract
Copy of letter to the Bank transmitting signed contract for disbursement

Contract Management Folder

Contract amendments
Inspection certificates
Payment Certificates
Completion certificates
Copies of guarantees
Claims and Disputes

7.9.6 Consultancy Services (Firms) and Training

General Folder

Request for Expression of Interest and publication date
List of consulting firms having expressed their interest Documentation provided by Consultants

Complaints Folder

Proposal Folders

Proposal Launching Folder

Comments/no-objection from the Bank to proposed short list
Draft Request for Proposal (RfP) and Terms of Reference
No-objection/Comments by the Bank to draft RfP
Notice by MoH of RfP sent to short listed firms

Proposal Evaluation Folder

Notice by Borrower of proposals received and opening of technical proposals
Notice by Borrower of appointment of evaluation committee
Evaluation Report and Recommendation
Analysis/comments by the Bank of Evaluation Report
No-objection by the Bank to recommendation for selected consultant
and authorization to negotiate

Proposal Award Folder

No-objection from the Bank to draft contract
Copy of signed contract
Letter to the Bank transmitting copy of signed contract for disbursement

Contract Management Folder

Contract Amendments
Consultant Reports
Technical Assistance Reports
Claims and Disputes

Folders for Contracts with Individual consultants for technical assistance and training: Name on a folder for each individual consultants, and containing his CV and evaluation if employed before.
Folder for procurement reviews and audits

CHAPTER 8 TENDER ADMINISTRATION & CONTRACT MONITORING

8.1 Introduction

- (a) A contract refers to the conditions in the Tender Documents and all other official documents that are part of the tender (and negotiations in the case of consultant's contracts). The point at which a contractor begins the implementation of the contract is dependent on the terms and conditions in the Standard Bidding and Contract Documents. In ICB, the contract may impose certain responsibilities according to which the buyer will have to take action before the contract can begin, e.g. the buyer must make the necessary arrangements for the opening of a Letter of Credit (L/C) considering the fact that, any delay in this action postpones the contract starting date. The contractor, in turn, has responsibilities once the contract is signed.
- (b) The contract makes reference to the other documents that form an integral part of the overall Conditions of Contract i.e.
- i Bid form and Price Schedule;
 - ii Schedule of Requirements;
 - iii Technical Specifications;
 - iv General Conditions;
 - v Special Conditions;
 - vi Notification of Award.

8.2 Contracting

Contracting is the entity entering into formal legally agreement with the supplier/contractor by signing a written procurement contract document after the supplier/contractor have submit acceptance letter to the notification of award of contract. The contract document contains all the term/condition of the contract and it is binds both the entity and the supplier/contractor.

The head of the entity inform the supplier/contractor by the award notification the intention of the entity to award contract to the supplier/contractor after which the contract document is prepared for the contracting. The contracting document has terms of reference in conformity with the tender document.

8.2.1 Type of Contracts

There are three main contracts for an entity contracting or coming into contract with the supplier/contractor. The types of contract depend on the kind of item or service that need to be provided.

The types of contracts are as follows;

Goods Contract:

it is the physical product articles or things described in the contract that are supplied to the entity. It involves the total transfer of ownership from Supplier/contractor (seller) to the entity (buyer).

Service Contract: it is the activity that does not result in the total ownership like that of goods. It either facilitates or creates change in the procurement entity that is intangible e.g. clinical treatment of mental problem of child.

Contract for Works: it involves construction and rehabilitation of a place e.g. office.

8.2.2 Contract Expediting:-

The process whereby an entity monitors or makes follow up on contract to make sure the supplier/contractor adhered to the conditions or term of references in the contract and that the items are delivered accordingly and at the right time, which is the prescribed dead line in the contract. It also serves as a system to encourage suppliers/contractors to meet delivery date for orders and or to effect immediate delivery on overdue contracts. A special unit, the logistics or a procurement officer does the expedition. He/she has to be in constant contact with the supplier/contractor. It is done by visiting the supplier/contractor's premises, telephone call, e-mail and by fax.

processes for contract expedition for each entity are as follows;

- Get specific details of contracts: the specific information of the condition or what the contract document states.
- Check for delivery period: the latest date of delivery as in the contract document.
- Make follow-up on contract suppliers: this done by visiting the office of the supplier/contractor, call, e-mail, faxes and letter.
- Check for performance security
- Check on conformity of product supplied with specification: make sure supplies are the same to what is in the contract agreement.

8.2.3 Contract Terms

The legal standard rules, conditions or contractual obligations written in the contract document which is agreed upon by the procurement entity and the supplier/contractor. It defines the objective of the contract, the scope, specification and the input of the procurement entity and the supplier/contractor. It binds the procurement entity and the supplier/contractor to be committed to the contract and performs accordingly.

8.3 Contract Monitoring

- (a) The responsibility of procurement ends when the contract has been fully executed. Copies of the duly signed contracts have to be distributed to the different parties involved, such as end-user, institution responsible for distribution (e.g. CMS), accounts office and donors where applicable.
- (b) Monitoring the correct and timely completion of contracts is of paramount importance. This is the responsibility of the respective unit in charge of the specific procurement activity. The Schedule of Requirements, the delivery terms

and the full set of documentation agreed upon in the contract offer essential information for proper contract monitoring.

- (c) It is important to monitor and evaluate the procurement plans. Monitoring will ensure that focus is placed on what is intended to be procured. Evaluation will help to determine where the principles and objectives of the plan have been met to support the delivery of quality health service. It will also help to determine problems and how to deal with these in future. The specific steps in procurement planning are discussed below.

- Preparation of procurement register
- Review of Delivery schedules

This is a plan system required or agreed date, time and the rate at which delivery is being made for the items procured by an entity. It is a set plan routine, which is trickily followed to make sure goods, or service procurement is delivered at the right time, to avoid delay in delivery.

- Revision of procurement plan
In order to avoid delivery delays, planning of procurement activities is frequently carried out in advance of budget approval and also forms part of the legal requirement for financial administration in the country. In the normal course, budget gets approved; the funds approved may not cover all the proposed expenditure and therefore the need to review the procurement plan. The Procurement plan must be review every quarter, when funds are made available for activities.

In order to achieve the review of the plan, the plans needs to be prioritised using previous performance indicators and tools such activities.

- Evaluation of supplier performance
Supplier performance takes two forms performance on the quality of the goods to meet the specifications and the performance on the delivery time specified.

8.3.1 Monitoring Contract Performance

To make sure contracts or order are being executed at the required standard, specification and at the right time the procurement entity should have constant contact with the supplier/contractor. Expediting system is in place to check on contracts to make sure orders are delivered on time. There is periodic review of the contract the procurement entity has entered into with supplier/contractor at regular basis to check that contracts are being perform according to the promises or commitment made by the supplier/contractor in the tender or contract document and they are being adhere to.

It ensures suppliers/contractors comply with the contract terms and reveals any non-compliance in the contract if it occurs and provides facts about how suppliers/contractors are performing against given expectations.

The hold a certain amount or percentage of the contract sum as performance security binding the suppliers/contractors to perform according to the contract terms. The percentage is 5% to 10% and above determined by the procurement entity

Effectively monitoring contract performance requires setting up systematic process to enable the procurement entity to check the performance of the contract. The following the process for an entity to monitor the performance of a contract:

1. Set performance targets by designing efficient and effective measures to check performance.
2. Periodic reviewing of the contract, if there are any changes or amendments to the contract.
3. Expediting of contact, contacting supplier/contractor for delivery to be done at the right time.
4. Inspection of items in the scope of the contract to make sure suppliers/contractors delivery according or comply with contract terms, specification.
5. Report any non-compliance to management for correction as soon as possible or the necessary action taken.

8.3.2 Preparation and Notification of Awards

After the bid evaluation and the lowest or the best evaluated bidder is selected, recommended by the evaluation panel and approved by the procurement committee, the procurement entity prepares the award notification and it is signed by the head of the BMC. The award is given to firms which are the lowest or best evaluated, responsive bidders, met the criteria, condition in the bidding document and specification of items being requested for by the procurement entity. Also provided they prove or demonstrate their capability and qualification to perform if been awarded the contract.

8.3.3 Award Notification

The award notification is a letter to inform or communicate to the supplier/contractor about the intention of the procurement entity to award contract to the firm as the lowest or the best evaluated bidder.

The award notification must contain date, the name of the winning bidder, the specification of the goods, service or works and the price that was announced at the bid opening or the evaluated price and sign by the head of the BMC or the appropriate authority.

The successful bidder is required within 20 days of the award notification to confirm and accept in writing acceptance letter to procurement entity the intention to accepting the award of contract.

With international competitive bidding (ICB) the bid security is release when the award notification is being issued to the bidder.

The original of the award notification is issued to bidder while a copy is kept on the procurement cycle file of the procurement entity for future reference and even for records purposes.

8.3.4 Acceptance of awards

After the successful bidder is being issued with a signed award notification, the bidder shall reply in writing a letter of acceptance accepting the award of contract by the entity and the firm's readiness to sign contract with the entity.

Based on the acceptance letter from the successful bidder and the contract document are being prepared for the contractual agreement between the entity and the supplier/contractor. Without the supplier/contractor accepting the award the contract cannot or should not be prepared.

8.4 Termination of Contract

- (a) There are a number of reasons why a contract may be terminated by the Procurement Entity.
- i Where the contractor has failed to supply any or all of the goods within the contracted time frame or fails to perform its contractual obligations the Procurement Entity may invoke termination for default. Such termination does not affect the Procurement Entity's right to other remedies for default.
 - ii Where a contractor has become bankrupt or insolvent the Procurement Entity may terminate the contract. Whilst such termination will not involve any compensation, the Procurement Entity still retains all other contractual rights to remedy problems or disputes which might have begun before the insolvency including ongoing disputes and arbitration.
 - iii The Procurement Entity may have reasons to cancel the contract for its own convenience. In such cases the Procurement Entity must notify the contractor in writing specifying a definite termination date. Goods that have been produced up to 30 days after the termination date must be accepted and paid for by the Procurement Entity.
- (b) In all cases notice for termination should be given in writing stating the reasons for the termination.

8.5 Managing of Procurement Agents

- (a) To enhance implementation of the annual procurement plan, the MOF Procurement Unit may engage the service of a Procurement Agent for the execution of procurement activities.
- (b) The selection of the agent shall be done through an open competitive tender. Procurement Services are either executed by international organisations such as UNICEF or by Procurement Agents.
- (c) Where the use of a Procurement Agent from an existing shortlist forms part of funding conditions, such conditions may be complied with, as in the Protocols developed for such methods. (Sometimes Donors insist on the procurement part of a project being handled through a Procurement Agent from their short list. For the management of this kind of procurement a Protocol Procurement Services by Procurement Agencies has been developed). The Protocol contains the activities with related time schedule for both the procuring organisation and MOF.

8.5 Procurement Register

- (a) The Requests for Quotation, Notifications of Award and Contract shall be registered in a Procurement Register (PR), which is specifically maintained to monitor the procurement process. The maintenance of this Procurement Register is the responsibility of the Procurement Officer.
- (b) The Requests for Quotation, Notifications of Award, and Contract are prepared by the respective Procurement Officers, after which they are sent to the Chairman of the Tender Committee for the necessary signatures.
- (c) Local Purchase Orders (LPOs) shall be prepared by a procurement officer or a supply officer (in absence of a procurement officer), signed by the head of the BMC, authorised by the head of accounts (after verifying the availability of funds) and verified by an internal auditor.
- (d) The following information about the Procurement processes will be captured in the PR:
 - i Date of Request for Procurement/Indent/Planned Procurement Activity
 - ii Name of Institution/BMC that applied request/ Annual Procurement Plan
 - iii Number
 - iv Procurement Method
 - v Date of Request for Quotation/Preparation of Tender Documents
 - vi Date of Decision of Procurement Committee/"no objection" by World Bank
 - vii Contract Date and Number/LPO Date and Number
 - viii Name(s) of supplier(s)
 - ix Codes, unit size, short description and quantity of units, unit price, total costs per item and expected delivery date
 - x Date of Shipping Documents received
 - xi Quantity delivered and actual delivery date
 - xii Stores Receipt Voucher Date and Number
 - xiii Payment Voucher Date and Number
 - xiv Remarks
- (e) The Procurement Officer shall file all documents centrally in sequential order or by date. All documents related to a procurement activity will be filed in a separate file.

8.6 Procurement Management System Software

- (a) The Ministry of Health Procurement Unit has developed an in-house Procurement Management System Software (PMS) which is to be used to support the routine procurement information management. It has modules for the generation of Request for Quotations, Award Notifications and Contracts. It has generates reports including the procurement register and other relevant procurement indicators.
- (b) The system shall be installed at all the major BMC and all procurement activities shall be performed using the system after implementation and commission.

CHAPTER 9 APPEALS, COMPLAINTS & SANCTION SYSTEMS

9.1 Introduction

This chapter deals with inappropriate behaviour, indiscretions, fraudulent and corruptive actions by individuals or firms and about genuine complaints on the treatment of bids? A difference must be made between the substances of complaints: complaints on the treatment of bids, and complaints about the personal behaviour of government officials or bidders. These are two different matters altogether.

9.2 Right to review

- (a) Any supplier, contractor, or consultant that claims to have suffered, or that may suffer loss or injury due to a breach of a duty imposed on the BMC by the provisions of this manual may seek review.
- (b) The following procedures notwithstanding (a.) shall not be subject to review
 - i. Selection of procurement method
 - ii. Choice of selection procedure
 - iii. Limitation of procurement proceedings
 - iv. Decision by BMC to reject tender/proposals/offers/quotations.

9.3 Review by BMC

- (a) A complaint shall, in the first instance, be submitted in writing to the Head of BMC who shall within 21 days of receipt of complaint issue a response.
- (b) The head of BMC shall not entertain a complaint unless it was submitted within 20 days after the supplier, contractor, or consultant submitting it became aware of the circumstances giving rise to the complaint or when that supplier, contractor or consultant should have become aware of those circumstances, whichever is earlier.
- (c) Unless the complaint is resolved by mutual agreement between supplier/contractor that submitted it and the BMC, the head of the BMC shall, within 21 days after the submission of the complaint, issue a written decision. The decision shall:
 - i State the reasons for the decision; and
 - ii If the complaint is upheld in whole or in part, indicate the corrective measures that are to be taken.
- (d) The decision of the head of the BMC shall be final unless the complainant request for further redress at a higher procurement entity.
- (e) A supplier, contractor or consultant is entitled to seek review, may submit complaint to the Public Procurement Board within 21 days if the complaint cannot be submitted to a procurement entity because of the entry into force of a procurement contract.

9.4 Procurement Investigation

- (a) The Head of a BMC may if he/she considers that an investigation is necessary or desirable for the purpose of preventing, investigating or detecting a contravention of this PPM, appoint a person or persons to conduct an investigation into any matter related to the conduct of any procurement proceedings by a BMC, or the conclusion or operation of any procurement contract.
- (b) For the purposes of such an investigation the Head of a BMC shall appoint an investigator/committee of enquiry.
- (c) The appointed investigator/committee at any time during normal office hours, with advance notice may enter any premises of the BMC concerned or of any bidder, supplier, contractor, or consultants in the procurement proceedings concerned;
 - i Require any officer, employee or agent of the BMC or bidder, supplier, contractor, or consultant to produce any books, records, accounts or documents;
 - ii Search any premises under investigation for any books, records, accounts or documents;
 - iii Examine and make extracts from and copies of any books, records, accounts or documents of the BMC, bidder, supplier, contractor, or consultant;
 - iv Remove any books, records, accounts or documents of the BMC, bidder, supplier, contractor, or consultant, for so long as may be necessary for the purpose of examining them or making extracts from or copies of them; provided that the investigator shall give a full receipt for any such books, records, accounts or documents so removed;
 - v Require any officer, employee or agent of the BMC, or candidate, supplier, or contractor;
 - 1. To explain any entry of any books, records, accounts or documents;
 - 2. To provide the investigator with such information concerning the management or activities of the BMC or bidder as may be reasonably required.

9.5 Procedures on Completion of Investigation

- (a) On completion of an investigation an investigator shall:
 - i forward report thereon to the Head of a BMC;
 - ii send a summary of his findings and recommendations to the BMC copied to any bidder, supplier, contractor, or consultant whose conduct was the subject of the investigation;
- (b) If, after considering an investigator's report sent to him/her, the Head of a BMC is satisfied that there has been a contravention of this PPM or any other written law in relation to any procurement proceedings or procurement contract, the The Head of a BMC may take such action as, in his/her opinion, is necessary to rectify the contravention, including:

- i annulment of the procurement proceedings;
- ii cancellation of the procurement contract;

9.6 Suspension of Procurement Proceedings;

A declaration consistent with any relevant provisions of this PPM and any other written law, the proceedings or contract concerned shall be annulled, cancelled or have effect, as the case may be, accordingly. Before taking any action as stated above which may adversely affect the rights or property of any person, the Minister shall afford that person an adequate opportunity to make representations in the matter.

9.7 Arbitration

Parties to a procurement contract may agree to seek recourse to arbitration under the prevailing arbitration regime whether or not arbitration was provided for under the tender document or the ensuing contract.

A reference to arbitration shall not be construed as taking away the responsibility of the Chief Director or of the High Court to resolve expeditiously, any grievance brought up for resolution.

9.8 Offences Relating to Procurement

Any person, who contravenes the provisions of this PPM, shall commit an offence. The following shall also constitute an offence:

1. Entering or attempting to enter into a collusive agreement or agreements, whether enforceable or not, with any other supplier or contractor whereby the prices quoted in their respective tenders, proposals or quotations are or would be, as the case may be, higher than would have been the case had there been no collusion between the candidate(s) concerned.
2. Directly or indirectly influencing in any manner or attempting to influence the procurement process with the object of obtaining an unfair advantage in the award of a procurement contract.
3. Altering any procurement document with the intent of influencing the outcome of a tender proceeding. Such alteration shall include but not be limited to forged arithmetical correction, insertion of documents such as bid security or tax clearance certificate after same have been found not to have been submitted at bid opening request for clarification in a manner not permitted under this PPM.
4. An offence committed under this PPM may be appropriately sanctioned by the Chief Director or prosecuted in a court of competent jurisdiction.

CHAPTER 10 CODE OF ETHICS

10.1 Procurement Ethics

Procurement is a human relationship between manufacturers, suppliers and organisation management. This relationship is created by the exchange of goods, services and companying information. This relationship has ethical dimensions that the procurement officers of the entity need to adhere to.

It is standard of moral rules, values and principles of conduct governing individual or group of a procurement entity in performing any kind of procurement activity. It is the study of what is good or right for human beings, the relationship of what is good and right in procurement. These are well-established set of standards to guide individuals or groups of the procurement entity to achieve a high level of professionalism and good conduct.

The principles of ethics are established to encourage all individuals or groups of the procurement entity to conduct them selves as professionals. They are designed to create awareness and serve as guidelines to the procurement entity individuals or groups to be loyal to their unit and treat supplies/contractors as fair as possible to avoid bias and corrupt practises.

Rules and ethical principles guiding all procurement officers include but not limited to the following:

1. Requesting for or accepting of cash, loans and credits from (potential) suppliers are prohibited.
2. Personal interests, that possibly have a conflict of interest with the organization, have to be reported to the appropriate authorities.
3. Also, supplier's presents, recreation, favours and services need to be avoided.
4. All information and information sources regarding the procurement process need to be handled in a way that is exclusively in the interest of the organization.
5. Purchaser can only accept a discount on goods for personal use after written approval from the procurement committee.
6. All potential suppliers, contractors and consultants will get the same, correct information.
7. Suppliers, contractors and consultants will not be requested to give information regarding competitors.
8. All information in supplier's, contractors and consultants offers for goods, works and services will be handled confidentially.
9. Personal reasons will not effect the selection of suppliers.
10. Procurement agencies/units will pursue the highest level of expertise.

11. All agreements and appointments will be kept.
12. Procurement entities/units need to contribute to the advancement of the quality and the status of the procurement.

The following are some of the ethics that procurement officers of an entity need to adhere to and abide by them:

1. Demonstrate loyalty to the organisation by diligently following lawful instructions and policies of the organisation.
2. Know and obey the law of procurement that is the Public Procurement Act 663 and conduct procurement activities in accordance of the law.
3. Avoid any personal business or professional activity that would create conflict between personal interest and the interest of the organisation.
4. Avoid soliciting or accepting money, loans, credits and preferential discounts and acceptance of gifts, favours, services from present and potential supplies/contractors that would influence the decisions
5. During the pre-solicitation phase, maybe staff ought to not allow suppliers/contractors access to information on a particular acquisition before such information is available to the business community at large, thereby giving the suppliers/contractors receiving the information an unfair advantage.
6. Handle confidential or proprietary information's with due care and they should kept confidential not to let it out to any supplier/contractor.
7. Develop, enhance and maintain high stature of professional competence as a competent procurement officer.
8. Personal reasons should not be used in the selection or ward of contract to suppliers/contractors.
9. Promote positive supplier/contractor relationships with courtesy and impartiality. One supplier/contractor is not treated more favourably the other, they all given the same attention.
10. Information about competitive supplier/contractor should not be given to the other if even requested for by any supplier/contractor.
11. Support fair competition for all suppliers/contractors, there should not be bias against or in favour of any supplier/contract.

10.2 Conflict of Interest and Penalties

Conflict of interest is where the procurement officer (s) of the procurement entity has the opportunity to influence the decisions or actions and gain access to valuable information of the procurement process to their interest. The general rule is to strictly avoid any conflict of interest or even the appearance of a conflict of interest.

All procurement officers of the procurement entity involved in procurement must be alert to situations which will lead to actual, potential or perceived conflict of interest and ensure that sufficient safeguard are in place to avoid such situations from arising.

The procurement entity adheres to the following steps to avoid any possible conflict of interest:

1. Avoid actual or potential conflict that will arise between their official duties of the procurement entity and their private interest. Private interest includes financial, the officers relatives or close associate to whom the procurement officer is indebted or own him/her favour.
2. Declare all conflict of interest or relevant private interest to the head of the procurement entity as soon as the officer is aware of them to enable the head decide whether to allow the officer continue or be involved with the specific procurement exercise.
3. Observe prevailing regulations and not make unauthorised disclosure of information or take advantage of tender related information for personal gain.
4. All officers involved in the procurement process, preparing of tender document, specifications and accessing tender must declare their interest if any or as soon they become aware them to avoid conflict of interest during the process.
5. All officers who would be involved in the procurement activities at regular bases are required to sign an undertaking upon taking up the responsibility and the undertaking reviewed at regular intervals.
6. Guiding against inducement attempts by stakeholders as section 32 of Act 663.

10.3 Setting of Complaints and Appeal Committee for Procurement:

If any dispute or difference of any kind whatsoever shall arise between the Purchaser and the Supplier in connection with or arising out of the Contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.

If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Procurement entity or the Supplier may give notice to the other party of its intention to commence

arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given.

Any dispute or differences in respect of which a notice of intention to commence arbitration has been given in accordance with the tender conditions shall be finally settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under the Contract.

Any dispute, controversy, or claim arising out of or relating to this Contract, or breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the Public Procurement Act 663 Arbitration Rules as at present in force.

In the case of a dispute between the Procurement entity and a Supplier who is a national of the Procurement entity's country, the dispute shall be referred to adjudication or arbitration in accordance with the laws of the Public Procurement Act 2003 (ACT 663)

ANNEXES