INTERNAL PROCUREMENT POLICY

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1.Introduction

The Landscape and Waste Management Agency ("**LWMA**" or "**the Agency**"), established in 2009 as a body corporate, plays a pivotal role in the environmental well-being of Seychelles, guided by the Environment Protection (Landscape and Waste Management Agency) Regulations of 2009 and the Environment Protection (Waste Services) Regulations 2021. The Agency is overseen a Board appointed by the Minister of Agriculture, Climate Change, and Environment and managed on a day-to-day basis by its Chief Executive Officer.

1.1 Policy statement

LWMA, as a procuring entity under the Public Procurement Act 2008 ("**the PPA**"), must procure goods, works and services (including consultancy services) in a manner that is compliant with the Act, the Public Procurement Regulations, 2014 ("**the Regulations**"), and any other relevant legislation that is applicable to procurement.

This policy document ("**the Policy**") provides the structure and guidelines for how LWMA procures goods, works and services, including consultancy services, and how it manages contracts it awards following a procurement procedure.

The Policy is intended to allow LWMA employees to understand their roles and responsibilities when it comes to the procurement of goods, works and services.

It is not, however, meant to be a substitute for the PPA and the Regulations and employees should, therefore, ensure that, when conducting procurements, the PPA and the Regulations are consulted to ensure compliance with the legislative framework that underpins public procurement in Seychelles.

1.2 Governing legislation

This Policy has been prepared in line with the PPA, the Regulations and relevant circulars issued by the Procurement Oversight Unit ("**POU**") under the PPA.

Where there is any conflict between the Policy and the legislation governing public procurement, including the PPA, the Regulations and any circulars issued by POU, the legislative provisions as set out in the PPA and/or the Regulations (and any circulars issued by POU) shall prevail.

1.3 Definitions

For the purposes of this Policy, the following definitions as set out in section 2 of the PPA shall apply:

> "**Accounting Officer"** means the Chief Executive Officer, who is, under the Public Finance Management Act 2008, responsible for the management of public moneys, stores and assets of the Agency;
>
> **"bid"** means an offer to provide goods, works or services submitted by a bidder in response to an invitation from a procuring entity and includes a tender, proposal, quotation and, where applicable, an application to prequalify;

"bidder" means a person or group of persons that offers to provide goods, works or services in response to an invitation from a procuring entity and includes, where applicable, a potential bidder and an applicant to prequalify;

"bidding document" means any document issued by a public body on the basis of which bidders prepare bids, and includes any document which contains instructions to bidders, specifications, maps, designs, terms of reference, work schedules, evaluation criteria, bills of quantities, conditions of contract and other similar items;

"bid security" means the security instrument required to ensure that a bid remains valid during the period stated in the bidding document;

"close relative" means a spouse, concubine, partner, child or parent;

"coercive practice" means harming or threatening to harm, directly or indirectly, a person or a person's property, in order to influence that person's participation in a procurement process or affect the execution of a contract;

"collusive practice" means a scheme or an arrangement between two or more bidders, with or without the knowledge of a procuring entity, designed to establish bid prices at an artificial or non-competitive level;

"conflict of interests" means circumstances in which the personal knowledge and official status of a person might benefit, directly or indirectly, that person in another capacity;

"consultancy services" means services of an intellectual or advisory nature, not incidental to the provision of goods or services or the execution of works, such as reports, drawings or designs including engineering designs, supervision, accountancy, auditing, financial services, procurement services, training and capacity building services, management advice, policy studies and advice, assistance with institutional reforms and software development;

"contract" means an agreement between a procuring entity and a supplier, contractor or consultant resulting from a procurement proceeding;

"corrupt practice" means to give, confer, procure, or promise or offer to give or confer, or to procure or attempt to procure, directly or indirectly anything of value to a public officer, to influence his or her action in a procurement process or in the execution of a contract;

"direct bidding" means a procurement method where a bid is obtained directly from a single bidder, without any competition;

"fraudulent practice" means a misrepresentation or omission of facts in order to influence a procurement process, or the execution of a contract;

"goods" means objects of every kind and description including raw materials, manufactured products and equipment, objects in solid, liquid or gaseous form, electricity, as well as works or services or both, incidental to the supply of the goods, if

the value of those incidental works or services or both do not exceed that of the goods themselves;

"limited bidding" means a procurement method for goods, works and non-consultancy services, where bids are obtained by direct invitation to a shortlist of bidders, without open advertisement;

"limited selection" means a procurement method for consultancy services, where bids are obtained by direct invitation to a shortlist of bidders, without open advertisement;

"non-consultancy services" means services other than consultancy services, for the carrying out of works of any kind, with or without the use of vehicles, machinery or equipment, or the provision of operators, technicians or drivers;

"open bidding" means the procurement method for goods, works and non-consultancy services which is open to participation on equal terms to all bidders through advertisement of the opportunity;

"open selection" means the procurement method for consultancy services which is open to application for short-listing on equal terms to all bidders through advertisement of the opportunity;

"procuring entity" means a public body that is undertaking public procurement in accordance with this Act;

"public body" means a Ministry or other agency of the Government or any other body or unit established and mandated by the Government, to carry out procurement using public funds;

"services" means any object of procurement, other than goods or works, which involve the furnishing of labour, time or effort;

"simplified bidding" means a procurement method which compares quotations from a number of bidders.

"supplier" means a contractor, consultant, service provider or natural person or incorporated body that is party to a contract with a procuring entity for the provision of goods, works or services;

"undue influence" includes any form of pressure brought to bear by any official, elected or appointed, who is in a position to provide a benefit to, or exact punishment against, any person involved in procurement activities or decisionsnumber of bidders;

"works" means works associated with the construction, reconstruction, demolition, repair or renovation of a building, road, structure or works, such as site preparation, excavation, erection, building, installation of equipment or materials, decoration and finishing, as well as services incidental to construction, such as drilling, mapping, satellite photography, seismic investigations and similar services provided pursuant to a contract, if the value of those services does not exceed that of the works themselves

2. Purpose and scope

The purpose of this Policy is to provide guidance and best practice to LWMA employees on how to undertake procurement within the Agency.

The Policy, like the PPA and the Regulations, applies to the procurements of goods, works and services.

The Policy is the key document for implementing the Agency's *Procurement Strategy* and ensuring compliance with the managing of public money by LWMA, including compliance with relevant Government financial legislation and regulations.

2.1 General objectives

The main objective of the Policy is to establish LWMA's framework for the procurement of goods, works and services which are governed by the following key principles:

(a) transparency;

(b) prudent use of resources (efficiency);

(c) economy;

(d) competitiveness;

(e) accountability; and

(f) fairness.

2.2 Specific objectives

The specific objectives of the Policy are to:

(a) Ensure that the procurement of goods, works and services (including consultancy services) is undertaken in accordance with the law and in as efficient a way as possible so as to contribute in a timely manner to the fulfilment of the activities detailed in the Agency's yearly Procurement Plan and the effective execution of projects. This process should, as far as possible and as permitted by the PPA and the Regulations, seek to incorporate technological advances and ensure that contracted goods, works and services are obtained under the best market conditions in terms of price and quality.

(b) Achieve greater efficiency in the use of LWMA's financial resources through its projects.

(c) Provide, in a timely manner, the goods, works and service that LWMA may require in order to facilitate the execution of the activities that fall within LWMA's mandate and within the framework of projects that are to be executed by the Agency.

(d) Contribute to sustainable development by means of Agency provisions and procedures for the procurement of goods, works or services.

(e) Obtain the best results from LWMA's spending, including value for money over the lifetime of any procured goods, works or services.

(f) Raise performance standards through fair and effective management of the Agency's suppliers and service providers, to get the best public services for LWMA.

(g) Safeguard the integrity of the public procurement processes by ensuring that the rules and procedures in the Act and the Regulations are follow in order to ensure fairness, accountability and confidentiality.

(h) Demontrate the Agency's commitment to moving towards e-procurement and integrating digital tools, electronic publication of notices, and other changes to the procedures that are consistent with the PPA and the Regulations in order to streamline procurement, improve efficiency, and maintain secure electronic records, while safeguarding data integrity and adhering to government information technology and data protection standards.

2.3 Exemptions

The procurements listed in section 3 of the PPA do not require the procedures set out in the PPA to be followed. However, such procurements will still require the approval of the LWMA's Accounting Officer and confirmation of funds by the LWMA Financial Controller. In the event, the Accounting Officer is out of office for personal reasons, the person to whom his duties are delegated provide such approval.

In line with section 3 of the PPA, the following procurement procedures are exempted for the purposes of the Act and this Policy:

(a) A public procurement in the case of which adherence to the procedure may result in a disclosure of a State secret.

(b) Procurement undertaken to protect national security or defence, or incidental to the protection of national security of defence.

(c) Contracting for arbitration or conciliation services.

(d) Contracting for financial services relating to the issue, sale, purchase or assignment of securities or other financial instruments.

(e) Contracting for scientific research, if the results are to be used by the procuring entity only.

(f) Entering into a public service contract or an employment contract pursuant to the Public Service Orders ("**the PSO**") or the Employment Act.

(g) Contracting the performance of auditing or special auditing for the purposes of exercising state supervision, if the right of the state supervision authority to order such special auditing is provided by law.

(h) A public procurement in the case of which a contract is entered into according to a mandatory special procedure of an international organisation.

3.0 Compliance and ethical standards

3.1 Procurement Code of Conduct for LWMA Employees

This section focuses on the principles that need to prevail to ensure that the Agency's procurements are conducted ethically.

The requirements stated in this Policy are intended to complement other policies that LWMA may have on acceptable conduct and ethics.

Moreover, the provisions on conduct and ethics as set out in this Policy should be read together with any code of conduct promulgated by the POU under section 101 of the PPA, as well as any statutory provisions contained in the PPA and the Regulations, and any other relevant written law, including the Public Officers' Ethics Act 2008.

Where there is any conflict between the provisions of this Policy and any code of conduct promulgated by POU or any other statutory provision, POU's code of conduct and/or the statutory provisions shall prevail.

The conduct and ethics that are applicable to LWMA employees in respect of procurement are set out below.

The starting point in respect of conduct and ethics is the PPA, and LWMA employees must take note of the following provisions:

(a) **Section 102(1)** which makes clear that a public officer or a public officer's close relative[1] shall not participate as a bidder in a public procurement of LWMA.

(b) **Section 102(2)** which provides that a person who served as a procurement officer or participated in the approval of any procurement activity shall not (i) participate in any manner, as an officer, employee, agent or representative of a supplier in any negotiations or technical discussions leading to an award, a modification or an extension of a contract for such procurement, or (ii) participate personally or substantially on behalf of a supplier in the performance of the contract.

(c) **Section 105(1)** which makes clear that a public officer involved in the planning or conducting public procurement proceedings or contract administration shall (i) discharge their duties impartially so as to ensure fair competitive access to procurement by suppliers, (ii) act in the public interest and in accordance with the objectives and procedures in the PPA, (iii) avoid conflicts of interest, and the appearance of conflicts of interest, in carrying out their duties or in the manner in which they conduct themselves, (iv) not engage in or abet any corrupt of fraudulent practice, (v) keep confidential any information that comes to their knowledge or into their possession relating to procurement proceedings, (vi) not disclose any information

[1] Close relative means a spouse, concubine, partner, child or parent: see section 2 of the PPA.

gained in the course of their employment when subsequently employed by a private concern, and (vii) subscribe to such oath as may be prescribed.

(d) Finally, **section 105(2)** which provides that a public officer or a public officer's close relative[2] shall not participate as a bidder or supplier in any procurement proceeding of a public body, and no award of a contract shall be made to that employee, their close relative, or any body in which the public officer or their close relative is employed in a management capacity of has a substantial financial interest.

Failure to comply with the obligations set out above may:

(a) amount to an offence under the PPA, for which the public officer concerned would be liable to the applicable administrative and legal sanction applicable to them under their conditions of employment and any other enactment (for example, disciplinary action under the PSO); and/or

(b) give rise to criminal sanctions under the Anti-Corruption Act 2016, the Penal Code or other legislative framework.

Ethical principles

LWMA employees shall not use their authority or office for personal gain generally and, in particular, in respect of public procurement.

Personal gain includes, for the purposes of this Policy:

(a) accepting or requesting anything of material value from bidders, prospective bidders or suppliers;

(b) engaging in any procurement that is being run by the Agency;

(c) obtaining any benefit from other persons, whether direct or indirect.

As noted above, any failure to comply with the obligations in this section may amount an offence under the PPA, give rise to disciplinary action against the employee under the PSO, and potentially lead to other legal consequences.

It should be noted in this regard that section 107(2)(b) of the PPA provides that a public officer who uses their position dishonestly or with the intention of directly or indirectly gaining an advantage for themselves or someone else, or causing detriment to a procuring entity commits an offence and is liable to the applicable administrative and legal sanctions applicable to a public officer under their condition of employment and any other enactment.

Conflicts of interest

LWMA employees must also avoid any situation that may amount to a conflict of interest, whether actual or perceived, in the discharge of their duties, including when it comes to carrying out procurements on behalf of LWMA.

[2] As above.

In this respect, LWMA employees must have particular regard to:

(a) Section 8 of the Public Officers' Ethics Act, which provides as follows:

> "***8. Conflict of interest***
> *(1) A public officer shall use his best efforts to avoid being in a position in which his personal interests conflict with his official duties.*
> *(2) Without limiting the generality of subsection (1), a public officer shall not hold shares or have any other interest in a corporation, partnership or other body, directly or through another person, if holding those shares or having that interest would result in the public officer's personal interests conflicting with his official duties.*
> *(3) A public officer whose personal interests conflict with his official duties shall –*
> *(a) declare the personal interests to his superior and comply with any directions to avoid the conflict and;*
> *(b) refrain from participating in any deliberations with respect to any matter where his personal interests may conflict with his official duties."*

(b) The requirements in sections 102(1) and 105(2) of the PPA (see above), which make clear that neither public officers nor their close relatives shall participate in procurement proceedings.

(c) The requirements of section 105(1) in respect of those staff who are involved the planning or conducting of public procurement proceedings or contract administration (see above).

Conflicts of interest may arise in a number of circumstances where private or personal interests of persons employed by LWMA may influence the impartial and objective performance of their duties, or may be perceived to do so. This is likely to be particularly pertinent in procurement matters.

Private or personal interests include, but are not limited to, any actual or potential advantage that they may obtain, whether financial or otherwise, or where their personal interests may be in conflict with their professional ones.

Any failure on the part of LWMA employees to:

(a) disclose a conflict of interest, actual or potential;

(b) participate in a procurement proceeding being carried out by the Agency;

(c) otherwise act in a way that is prohibited by the PSO, the Public Officers' Ethics Act, the PPA, or any other relevant enactment;

(d) fail to avoid conflicts of interest more generally, whether by accepting gifts or hospitality (in respect of which, see below) or for some other reason,

may result in that employee being found to have committed a disciplinary offence under the PSO or an offence under the PPA, or to give rise to other legal consequences, whether criminal or civil.

Confidentiality and accuracy of information

LWMA employees shall not publish or disclose to any unauthorised person or third party, otherwise than in course of their duties, the contents of any document, communication or information whatsoever, which relates to or which has come to the knowledge of that person in the course of that person's duties under this Policy.

LWMA employees shall also respect the confidentiality of information gained in the course of their duty and shall not use such information for personal gain or for the unfair benefit of any bidder or supplier.

Information given by LWMA employees in the course of their duty shall be true, fair, equal and not designed to mislead or give advantage to specific bidders or suppliers.

Any failure to keep information relating to procurement confidential or to otherwise disclose or publish such information other than in the proper and authorised course of the duties of a public officer may give rise to disciplinary action against the employee or otherwise amount to an offence under section 107(2)(f) of the PPA, for which the public officer is liable to the applicable administrative and legal sanctions applicable to them under their conditions of employment and any other enactment.

Competition

LWMA employees shall treat all bidders and suppliers with fairness and impartiality, and shall seek to ensure the effective operation of fair competition, having regard to the fact that the PPA provides flexibility to allow specific contracts to be awarded without competition in specific circumstances.

Gifts and hospitality

LWMA employees shall ensure that they comply generally with the relevant rules in relation to gifts and hospitality as set out in Order 119 of the PSO, which states as follows:

> "***119. PRESENTS AND GIFTS***
> *(Refer to the Procedures Manual 61)*
>
> *(a) Public Service employees are forbidden to solicit, give or receive valuable presents for services rendered in their official capacity whether in the shape of money, goods, free passage, except where the free passage is given through government or by virtue of the position held by the employee ex-officio within a Commercial Public Enterprise organisation, or other personal benefits.*
>
> *(b) This Order applies not only to employees themselves but also to their immediate families, and the public service employee shall be held responsible for its observance by their families.*
>
> *(c) The restriction on the acceptance of a gift or advantage does not apply in the following circumstances:-*
>
> *(i) where it is of insignificant value;*
>
> *(ii) where it has been made collectively by a number of colleagues to mark an appropriate occasion such as marriage, departure from a post or retirement;*

(iii) where it is in the form of private or official hospitality or entertainment given on an appropriate occasion or appropriate surroundings;

(iv) where it is received in circumstances in which it cannot be refused without detriment to the public interest and receipt of the gift is reported to the Principal Secretary[3] concerned who will give instructions for its disposal.

Provided that if an employee feels any doubt about the propriety of accepting the gift or advantage in any of these circumstances, he/she should, in his/her own interests, report the matter without delay to his/her immediate supervisor."

In particular, LWMA employees shall refrain from accepting any gift or hospitality that is not excluded by Order 119(c) of the PSO.

The above restriction is particular important in the context of procurement, and LWMA employees must be especially vigilant to ensure that no gifts or hospitality is/are accepted which may appear to have an influence in the making of business or procurement decisions as a result of accepting that gift or hospitality.

Given the provisions of the PSO on gifts and hospitality, LWMA employees should not accept any form of gifts or hospitality from third parties save for those of insignificant value.

Gifts or hospitality of *insignificant value* may include:

(a) Branded stationery (mugs, pens, notepads, etc.) from a supplier or service provider.
(b) Modest refreshments such as coffee, tea or snacks during a meeting.
(c) Light meals or drinks during a business meeting.
(d) Invitations to networking events or training with refreshments.

The above are provided as a guide only, and LWMA employees should still exercise caution and discuss such gifts or hospitality with their supervisor if in any doubt.

Any failure to comply with the rules set out above may result in disciplinary action being taken against the relevant employee.

Reporting of unethical conduct

It is the responsibility of all LWMA employees to report any unethical conduct that they uncover or suspect in relation to other employees or any bidders or suppliers.

Such conduct must be reported to Senior Management to allow for further investigations to be undertaken and appropriate action to be taken if the conduct is substantiated.

Reporting unethical conduct in public procurement is a critical step to ensuring transparency, accountability, and fairness in LWMA's procurement processes, and allows the Agency to take action against employees, bidders or suppliers who are found to have been involved in such unethical conduct.

[3] In relation to the Agency, such reporting would be to the Accounting Officer.

Senior Management should follow the procedure set out in **Annex 1** when a complaint is raised about ethical conduct in relation to a procurement matter.

Examples of unethical conduct

Beyond the broad categories of conduct that is to be avoided under the Procurement Code of Conduct for Employees set out in this section of the Policy, the following are examples of the type of conduct that must be avoided (the list is non-exhaustive):

(a) Revealing confidential or "inside information" either directly or indirectly to any bidder or prospective bidder.

(b) Discussing a procurement with any bidder or prospective bidder outside the official rules and procedures for conducting procurements in such a way that is intended to confer an advantage on that bidder.

(c) Favouring or discriminating against any bidder or prospective bidder in the drafting of technical specifications or standards or the evaluation of bid.

(d) Destroying, damaging, hiding, removing, or improperly changing any official procurement document, which may also give rise to offences under other legislative regimes, including the Access to Information Act.

(e) Accepting or requesting money, travel, meals, entertainment, gifts, favours, discounts or such other benefit(s) from bidders or prospective bidders (see the section above on *Gifts and hospitality*).

(f) Requesting, coercing or pressuring any LWMA employee, in the course of a procurement proceeding, to violate this Policy or the PPA.

(g) Ignoring illegal or unethical activity by bidders or prospective bidders, including any offer of personal inducements or rewards.

3.2 Procurement Code of Conduct for Bidders and Suppliers

LWMA shall put in place a code of conduct that all bidders will need to agree to as part of any bid. The code of conduct will be in the form set out at **Annex 2**.

4. General procurement requirements

All procurements carried out or undertaken by LWMA, regardless of the cost of the goods, works or services being procured, must adhere to the following general requirements:

(a) Be approved by or subject to a delegation from the Procurement Section. The Procurement Section must have oversight of all procurements and be copied into correspondence in cases where other sections have been given delegated authority to undertake procurements.

(b) The contracting of all goods, works or services must be in line with LWMA's needs and must satisfy the Agency's requirement at all times as set out in the Procurement Plan.

(c) All procurements must seek to use competitive bidding methods (e.g. the simplified bidding method, request for sealed quotations, or open, limited or selective bidding) as far as reasonably practicable.

(d) Where simplified bidding or low value methods are deemed appropriate, templates issued by POU should be used, where possible.

(e) A record of all procurements undertaken by LWMA shall be kept in accordance with regulation 17 of the Regulations, which demonstrates that all requirements of the PPA, the Regulations and this Policy have been met and carried out.

5. Roles and responsibilities

Having procurement structures in place is essential for conducting procurement proceedings in a smooth, efficient and effective manner within LWMA.

These structures provide a formal framework that guides procurement processes, aligns them with the Agency's goals, and ensures consistency and control over all purchasing decisions.

Having such structures in place not only optimises procurement processes but also adds value to the Agency by improving resource management, reducing risk, and supporting long-term success.

The procurement structures of LWMA are as follows:

1. PROCUREMENT SECTION

The Procurement Section is, pursuant to section 36 of the PPA, the unit within LWMA with responsibility for managing procurement activities of the Agency in accordance with the PPA and obtaining the required approvals from the relevant approvals authority.

Without prejudice to the generality of the above, the functions of the Procurement Section are, in accordance with section 36(3) of the PPA, as follows:

(a) To plan the procurement activities of LWMA and recommend the appropriate method of procurement.

(b) To prepare solicitation documents, bid notices, shortlists, evaluation reports, contract award recommendations and contracts.

(c) To manage the bidding process, including pre-bid meetings, clarifications, and the receipt and opening of bids.

(d) To manage the evaluation of bids and any prequalification or negotiations.

(e) To manage contracts and oversee contracts management by a designated contracts manager.

(f) To prepare any procurement reports required by POU, the National Tender Board, an Accounting Officer, or a Procurement Committee.

Overall, the Procurement Section is responsible for processing all procurement and project requests that are budgeted and funded under the LWMA budget and any grants that are to be administered by the Agency. However, the Procurement Section may, with the agreement of the Accounting Officer, delegate the procurement of certain goods and services to other sections in the Agency. Any such delegation will be set out in writing and will specify the relevant thresholds that apply in respect of such procurements and procedures that will need to be followed by the section concerned when it comes to approvals and oversight.

The Procurement Section is headed by a Procurement Manager.

2. VETTING COMMITTEE

LWMA may put in place a Vetting Committee to compliment the work of the Procurement Section.

3. ACCOUNTS SECTION

The Accounts Section is headed by the Financial Controller and is responsible for ensuring that all procurements are carried out within the limits of the approved budget and that the funds have been allocated for the purpose of the goods, works or services being procured.

4. END-USER

The end-user is the person or part of LWMA from whom/which the request for goods, works or services originates (i.e. the person or section that makes the request for the procurement of the relevant goods, works or services in the first instance).

The end-user is responsible for overseeing the request for the procurement, for designing and developing the technical specifications for the procurement procedure, and for overseeing the contract once awarded must have relevant and sufficient technical expertise in the object of the procurement.

Typically, a person in an end-user section should not be appointed on any evaluation committees or be part of the approvals authority. The functions of the end-user are listed in **Annex 3**.

5. EVALUATION COMMITTEES

The Agency shall, pursuant to section 41 of the PPA, appoint an ad hoc evaluation committee for any procurement that is conducted by LWMA in accordance with the Act.

The ad hoc evaluation committees shall be responsible for the evaluation of tenders, proposals or quotations, and the preparation of bid evaluation reports for submission to the relevant approvals authority.

The Accounting Officer shall not be part of an ad hoc evaluation committee.

The ad hoc evaluation committee shall comprise of not less than three members and may include a member who is not an employee of LWMA Members of the ad hoc evaluation committee shall possess skills, knowledge and experience in relation to a procurement requirement, which may include technical skills, procurement and contracting skills, financial management or analysis skills, or legal expertise.

The ad hoc evaluation committee should strictly evaluate bids according to the criteria specified in the bidding documents in order to ensure value for money for the Agency.

The functions and composition of the evaluation committees are indicated in **Annex 4**.

6. APPROVALS AUTHORITY

In accordance with section 37(5) of the PPA, the approvals authority for the procurement of goods, works and non-consultancy services shall be:

Column 1	Column 2
Threshold	**Approval Authority**
Not exceeding SCR250,000	Approval is given by Accounting Officer (Chief Executive Officer)
Exceeding SCR250,000 but not exceeding SCR850,000	Approval is given by Procurement Committee
Exceeding SCR850,001	Approval is given by National Tender Board

The approvals authority for the procurement of consultancy services shall be:

Column 1	Column 2
Threshold	**Approval Authority**
Not exceeding SCR75,000	Approval is given by Accounting Officer (Chief Executive Officer)
Exceeding SCR75,000 but not exceeding SCR250,000	Approval is given by Procurement Committee
Exceeding SCR250,000	Approval is given by National Tender Board

Under the LWMA's governance framework, prior to commencing a procurement that will be for more than SCR 250,000, Board approval is required.

6. Methods of procurement

LWMA may conduct procurements of required goods, works or services through a variety of methods.

Pursuant to section 56(1) of the PPA and regulation 35 of the Regulations, LWMA must use one of the procurement methods specified in Part VI of the Act.

The choice of procurement method shall be determined in accordance with the conditions specified in Part VII of the PPA, taking into account (a) the estimated value of the procurement, (b) whether the procurement is of goods, works, non-consultancy or consultancy services, (c) any special circumstances, such as a limited number of potential sources or an emergency requirement, and (d) whether national or international competition is required.

In the choice of the procurement method, LWMA must also take account of those matters set out in the regulation 35(2) of the Regulations.

The reasons for the selection of an procurement method shall be stated in the procurement record.

The methods specified in Part VI are as follows:

(a) **Open bidding**[4] – the objective of which is to obtain value for money and promote private sector participation through maximum possible competition. Open bidding is to be used for the procurement of all goods, works and non-consultancy services.

(b) **Limited bidding**[5] – the objective of which is to obtain competition and value for money to the extent possible where the circumstances do not justify or permit the use of open bidding. Limited bidding may be used where the goods, works or services are only valuable from a limited number of suppliers or where there an urgent need for the goods, works or services and engaging in open bidding would be impractical.

(c) **Direct bidding**[6] – the objective of which is to achieve timely and efficient procurement where the circumstances or value do not justify or permit the use of competition. Direct bidding may be used where:

(i) the goods, works or services are available from a single source and no reasonable alternative or substitute exists;

(ii) due to an emergency, there is an urgent need for the goods, works or services making it impractical to use other methods of procurement because of the time involved in using those methods;

(iii) additional goods, works or services must be procured from the same source because of the need for compatibility, standardisation or continuity;

[4] See sections 57-60 of the PPA and Part VII of the Regulations.
[5] See sections 61-62 of the PPA and Part VII of the Regulations.
[6] See section 63 of the PPA and Part IX of the Regulations.

(iv) an existing contract could be extended for additional goods, works or services of a similar nature and no advantage could be obtained by further competition; or

(v) the estimated value of the goods, works or services do not exceed the procurement thresholds set out in Schedule 1 to the PPA.

(d) **Sealed quotations**[7] – this shall only be used for the procurement of readily available commercially standard goods not specially manufactured to the particular specification of the public body, small works, or other small services. Sealed quotations must be requested in writing from not less than three bidders, except where the item in question is not available from three suppliers. The request must contain a clear statement of the requirements of LWMA as to quality, quantity, terms and time of delivery, and other special requirements.

(e) **Single supplier**[8] – this shall be used in cases of extreme urgency. The scope of an emergency procurement shall, as far as possible, be limited to the period of emergency, so that appropriate competitive procurement methods may be utilised at the conclusion of the emergency period. For the purposes of section 65, "extreme urgency" includes a situation where:

(i) Seychelles is seriously threatened by or actually confronted with a disaster, catastrophe, war or an event of force majeure;

(ii) life or the quality of life or the environment may be seriously compromised;

(iii) the condition or quality of goods, equipment, building or publicly owned capital goods may seriously deteriorate unless action is urgently taken to maintain those capital goods in their actual value or usefulness; or

(iv) an investment project may be seriously delayed for want of an item of a minor nature.

(f) **Purchase from another public body**[9] – where LWMA is able to fulfil a procurement requirement through purchase from another public body and there would be no benefit in purchasing from a supplier, it may purchase directly from the public body without the application of any other method of procurement, provided that the other public body is able to meet the requirements of the procuring entity.

LWMA employees should also take note of the following additional methods that might be available on a case by case basis:

(a) **Low value procurement method** for procurement of goods not exceeding SCR 50,000.00 – please refer to POU *Circular for Low Value Procurement* that can be found here: https://www.pou.gov.sc/documents-and-guidelines/circular/50-circular-no-7-of-2023-low-value-procurement/viewdocument/50.

[7] See section 64 of the PPA and Part VIII of the Regulations.
[8] See section 65 of the PPA.
[9] Section 67 of the PPA.

(b) **Sole source method** (which forms part of direct bidding) in accordance with regulation 106 of the Regulations, which is mainly used for procurement of after sales services/maintenance.

(c) **Simplified bidding method** for the procurement of goods not exceeding SCR 250,000.00 – Refer to POU *Circular for Simplified Bidding Method* that can be found here: https://www.pou.gov.sc/documents-and-guidelines/circular/51-circular-no-8-of-2023-simplified-bidding-method/viewdocument/51.

It should be noted that, where it is considered that limited bidding, limited selection or direct bidding (except where the method is used on grounds of the estimated value in accordance with the Regulations), LWMA must obtain the prior authorisation of the approvals authority (see regulation 35(4) of the Regulations).

7. Cases of extreme urgency

As noted above, the PPA permits procuring entities to purchase goods, works or services from a single supplier without competition in cases of extreme urgency.

A non-exhaustive list of situations that may amount to extreme urgency is included in section 65(3) of the PPA.

For the purposes of this Policy, emergency procurement is a process that allows LWMA to purchase goods, works and services during times of extreme urgency as specified in section 65 of the Act.

This section of the Policy seeks to outline the procurement flexibilities that are available to LWMA in situation that amounts to extreme urgency.

LWMA may purchase goods, services or works from a single supplier without competition in cases of extreme urgency.

In instances where LWMA considers that a situation of extreme urgency as catered for under section 65 of the PPA has arisen (or may arise), the end-user department shall obtain the prior approval of the Accounting Officer and inform the Procurement Manager of the situation.

The decision on whether a single supplier award may be made in circumstances of extreme urgency shall be one for the Accounting Officer to take, having regard to the specific facts of the case.

Whilst such a request and any approval may, in certain circumstances, be sought and provided in the course of a telephone call or during a meeting, the end-user must ensure that, at a later date, the decision-making is set down in writing, including by ensuring a formal request is sent to the Accounting Officer and the Procurement Section.

It is to be noted that, in line with section 65(2) of the PPA, the scope of an emergency procurement shall, as far as possible, be limited to the period of emergency, so that appropriate competitive procurement methods may be utilised at the conclusion of the emergency period.

Without seeking to set down any hard and fast rules, in addition to the situations specified in section 65(3) of the PPA, LWMA considers that the following situations may on a case by case basis amount to extreme urgency:

(a) Where there is a national emergency requiring an urgent disaster response and the LWMA is required to fulfil its mandate by joining the national efforts to address the disaster (e.g. fires on the landfill, tsunami, heavy rainfall, high tides, fallen trees restricting commuting, etc.).
(b) Where there is a need to continue operation without delaying resolving issues with infrastructure; resolving community issues to mitigate risks, and other issues.

Any cases involving extreme urgency shall be strictly approved by the Accounting Officer after confirmation of availability of required funds by the Financial Controller.

It should be noted that situations that are created by LWMA through its own failures, delays, lack of planning, or failure to have in place proper risk mitigation are unlikely to constitute ones of extreme urgency under the PPA.

7.1 Establishment of a pre-qualified supplier database for cases involving extreme urgency

Pre-qualification arrangements provide a list of suppliers/contractors/service providers who meet certain criteria.

To the extent permissible under the PPA and the Regulations, LWMA will seek to adopt pre-qualification procedures to obtain a shortlist of pre-qualified suppliers/ contractors/service providers can assist the Agency in cases of extreme urgency.

This pre-qualification process is to be undertaken twice yearly.

The process shall be run in accordance with the pre-qualification requirements set out in the Regulations and subject to POU approval.

The results of the pre-qualification, including the record of the evaluation of applications, shall be submitted to the Chief Executive Officer for authorisation.

The prequalified supplier listing will be used in cases of extreme urgency to expedite the procurement process in such cases.

7.2 Procedures for audits following procurement in cases of extreme urgency

Audits following cases of extreme urgency are critical to evaluate the effectiveness, transparency, and accountability of procurement activities conducted in such cases.

These audits ensure that resources were used appropriately, that the Agency acted in compliance with the PPA and Regulations, and any lessons learned can inform future responses to cases of extreme urgency.

The audits should be carried out by the Procurement Section, with input from the end-user. They should be conducted in line with the methodology set out in **Annex 5**.

8. Electronic procurement (e-procurement)

Electronic procurement is a platform that will allow procuring entities to utitlise technology in the acquisition of goods, works and services.

The main objectives of any e-procurement system is to seek to standardise and make the procurement process transparent, easy, timely, and cost-effective.

The Agency has started to use e-procurement methods, such as email correspondence, the submission of information using document sharing platforms, and other such tools. The Agency is committed to developing further ways for improving the efficiency of the procurement process in line with the PPA and the Regulations.

To the extent that an e-procurement system is brought online in LWMA and other procuring entities, it will benefit all of those involved in the procurement process from beginning to end. LWMA will seek to implement an e-procurement system established by the Government as part of its ongoing attempts to modernise the Agency.

9. Green procurement

Green procurement is where procuring entities seek to either (a) purchase goods, works or services which are (or are more likely to be) environmentally friendly, or (b) engage suppliers or service providers who are seeking to reduce their carbon footprint through the goods they procure, the systems they adopt, or the services they provide.

Green procurement can be said to involve the integration of environmental issues, such as pollution prevention and reduction of waste, into purchasing or contracting decisions, along with traditional factors such as price, performance and quality.

Green procurement entails practices which encourage suppliers to safeguard the environment by producing goods or offering works or services that are less harmful than traditional alternatives.

Whilst the government has not imposed any policy in respect of green procurement, LWMA will consider – on a case by case basis – whether bidders should be required, as part of the bidding documents, to:

(a) show a commitment to environmentally friendly practices in the goods, works or services they provide;

(b) demonstrate what they are doing to incorporate such practices into their business model(s);

(c) demonstrate that they are not in breach of any statutory requirements relating to the environment.

Such consideration will need to be undertaken with input from POU, having regard to feasibility issues, including whether imposing stringent requirements in terms of sourcing of

goods, etc., might lead to cost increases that would have an impact on value for money outcomes and budgetary constraints.

10. Inclusivity in public procurement

Inclusivity in public procurement involves designing procurement processes and policies to ensure equitable access and opportunities for all, especially marginalised or underrepresented groups. This approach seeks to enhance social equity, fosters economic development, and creates a diverse supplier base. The Agency is committed in this regard to ensuring fair access for all businesses, including small and medium enterprises (SMEs), minority-owned, women-owned, and disability-inclusive enterprises, to the bid for goods, works or services. It will seek to do this by encouraging participation of such groups, and using relevant procurement methods and tools to ensure wider participation.

11. Retrospective approvals

Neither the Accounting Officer or the Procurement Section within LWMA will provide any form of retrospective approval for the entering into by an end-user or any other LWMA employee of any contract for the provision of goods, works or services.

Where an end-user or LWMA employee makes a request for retrospective approval following the entering into of a contract without proper approval in the first place, they and the head of their section will be held directly liable for the procurement and may be subject to disciplinary proceedings for failing to comply with this Policy and the relevant procurement legislation.

The entering into of any such contract without having followed the formal processes may also amount to an offence under the PPA and other legislation.

12. Capacity building and continuous professional development

Capacity building and professional development in relation to public procurement is essential to ensure that the public procurement systems in place in LWMA are in compliance with the law, efficient, transparent, and effective.

Continuous training and education on public procurement will ensure compliance, learning, innovation, and improvement. LWMA employees will be expected to identify their own learning and development needs in relation to procurement and contract management.

The following are examples of what should be undertaken in order to ensure continuous professional development in this area:

Training and education programmes

Procurement certification: All staff in the Procurement Section must undertake the Certificate in Public Procurement Course at The Guy Morel Institute, and enrolment in higher education programmes in procurement and contract management is encouraged.

Workshops and seminars: In-house training sessions focusing on procurement policies, procedures, and best practice will be organised for all LWMA employees involved in public procurement and contract management at least once a year. Such training sessions are mandatory for those involved in purchasing decisions, contract management and contract oversight.

Other relevant training: LWMA employees involved in procurement and contract management will be encouraged to attend other courses organised by the TGMI and other service providers on topics such as sustainable procurement, e-procurement, combating fraud and corruption, ethics, and green procurement.

Monitoring and evaluation

Capacity assessments: LWMA employees involved in procurement and contract management (and relevant managers and members of the Senior Leadership) will required to conduct regular (self-)assessments to evaluate their skills and knowledge gaps in procurement matters and the skills and knowledge gaps of those they manage (where appropriate).

Feedback mechanisms: The Agency will put in place mechanisms to collect feedback from procurement staff and other key stakeholders to improve training programmes and the delivery of procurement services within LWMA.

13. Dealing with supplier grievances

The PPA provides mechanisms for how suppliers aggrieved by procurement decisions may review or challenge such decisions: see, in particular, section 98 which provides a challenge

mechanism to the Chief Executive Officer of LWMA and section 100 which allows an unsatisfied bidder or supplier to appeal to the Review Panel established by section 99 of the Act.

These mechanisms strengthens confidence in public procurement systems, ensures compliance with laws, and fosters accountability.

14. Performance monitoring

Performance monitoring (or contract management) ensures that contracts that are awarded through a procurement procedure are executed efficiently, deliver the intended value, and adhere to agreed terms and conditions of the contract itself, including measurable key performance indicators ("**KPIs**") which are designed to provide a structured approach to evaluate performance, identify risks, and drive continuous improvement.

Key objectives of performance monitoring or contract management

1. **Accountability:** It holds contractors/suppliers/service providers accountable for delivering on their commitments.
2. **Efficiency:** It allows LWMA to undertake proper monitoring against timelines, budgets, and resource utilisation in order to optimise performance.
3. **Compliance:** It ensures adherence to contractual terms, regulatory requirements, and ethical standards.
4. **Value for money:** It is helpful in determining whether the procurement has delivered the intended outcomes and benefits and amounts to value for money.
5. **Risk mitigation:** It allows LWMA to detect and address issues early to prevent delays or failures.

Performance monitoring and effective contract management

Annex 6 sets out the steps for implementing performance monitoring and effective contract management.

15. Anti-corruption and transparency measures

Public procurement, involving significant public expenditure, is often susceptible to corruption and inefficiencies.

To ensure the effective use of public funds and maintain public trust, LWMA has implemented robust anti-corruption and transparency measures as follows:

1. **Transparent bidding processes**

   The Agency shall, in accordance with the PPA, ensure that there is transparency in the bidding process.

2. **Robust monitoring and evaluation**

   It is imperative that monitoring and evaluation of procurement procedures is undertaken on a regular basis in order to ensure risks are mitigated and lessons are learned.

3. **Protection for those who report corruption**

   To the fullest extent possible, LWMA will seek to protect individuals who seek to expose wrongdoing.

4. **Implementation digital tools**

   LWMA uses digital tools where possible to ensure that procurement procedures are better monitored and the risk of fraud and corruption is minimised.

5. **Training on anti-corruption**

   LWMA employees are expected to undertake regular training on anti-corruption laws, ethical standards, and best practice.

6. **Monitoring conflicts of interest**

   LWMA staff are required to undertake mandatory disclosure of personal and financial interests and to ensure that they are acting in accordance with the PPA and the Public Officers' Ethics Act when it comes to procurement procedures run by the Agency.

7. **Conduct corruption risk assessments**

   The Agency shall conduct risk assessments to identify vulnerabilities in the procurement processes and address them proactively.

ANNEXES

ANNEX 1

Procedure for investigation complaints about unethical conduct

What follows is a step-by-step guide on how to proceed once a report of unethical conduct has been reported to Senior Management or where the Senior Management decides to investigate such matter of its own volition.

1. Acknowledge receipt: The Accounting Officer or other member of the Senior Management Team will, save in respect of an anonymous complaint, send a confirmation to the person who reports the unethical conduct that their report has been received and assign a unique reference or case number for tracking the case.

2. Ensure confidentiality: Where appropriate, seek to safeguard the identity of the person who reported the incident, having regard to matters of procedural fairness.

3. Seek to protect sensitive information and limit information sharing within the organisation, i.e. only share details only on a need-to-know basis within the investigative team.

4. Form a preliminary investigation panel: The Accounting Officer will set up an investigation panel to undertake a preliminary investigation. The panel will comprise of at least three members with expertise in one or more of the following areas: procurement, legal compliance, and investigations. The members selected must avoid any conflict of interest to the individuals or entities involved.

5. Preliminary investigation: The panel will:

Prioritise the case: Consider the severity, potential financial loss, reputational damage, and legal implications.

Check jurisdiction: Ensure the matter falls within the Agency's authority to investigate, and/or whether other entities, including POU, the Anti-Corruption Commission Seychelles or the Seychelles Police Force, need to be informed.

Verify evidence: Cross-check submitted documents and verify their authenticity.

Determine credibility: Review the complaint and any evidence for clarity, relevance, credibility, and to ensure that it the case is not vexatious.

Gather additional information: Request clarifications or additional evidence from the person who submitted the complaint or such other persons, as necessary.

Determine next steps: Provide recommendations to Senior Management as to whether the case should (a) be closed with no further action, (b) is one in respect of which a formal investigation would be appropriate, and/or (c) be referred to another relevant authority.

6. Initiate a formal investigation

- **Follow legal and ethical standards:** Any formal investigation or inquiry into the relevant conduct should be conducted fairly and in accordance with due process.
- **Interview relevant parties:** Speak with witnesses, procurement officials, and other stakeholders that may be involved.
- **Analyse records:** Review contracts, procurement documents, communication logs, and such other documents or records as the investigation panel considers necessary.
- **Document findings:** Keep detailed records of all investigative actions and findings and produce a report, together with any recommendations, and submit the report to the Accounting Officer.

7. Outcome

- **Where misconduct in the procurement procedure is found by the investigation panel:**
    - The Accounting Officer will need to consider what, if any, action should be taken in relation to the procurement proceeding or contract that may have been awarded by the Agency (as the case may be), any employees that may have been involved in any misconduct, and any other persons who may be implicated.
    - Such action may include termination of a procurement proceeding or contract award (as the case may be), disciplinary action being taken against employee(s) (in line with the procedures set out in the Public Service Orders and the PPA), and/or reporting the matter to relevant regulatory bodies or law enforcement agencies (e.g. POU, the Anti-Corruption Commission Seychelles, and the Seychelles Police Force).
- **Where misconduct in the procurement procedure is not found by the investigation panel:** The Accounting Officer should nonetheless assess whether there are any lessons to be learned arising out of the report.

8. Communicate the outcome: The Accounting Officer shall inform the person who reported the incident of the outcome of the matter. The Accounting Officer may, where appropriate, decide to report the findings to the relevant oversight bodies (e.g. POU) and/or the Auditor General.

ANNEX 2

Procurement Code of Conduct for Bidders and Suppliers

All bidders and suppliers shall comply with this code of conduct ("**the Code of Conduct**").

Ethical behaviour

Bidders and suppliers are required to ensure that they act in accordance with the highest ethical standards when it comes to procurement.

The Public Procurement Act 2008 ("**the PPA**") requires them, amongst other things, to ensure that they (a) have not previously been suspended from procurement proceedings (see section 90(1)(c)), (b) do not have a conflict of interest in relation to a procurement requirement (see section 90(1)(f)), and (c) do not provide false information (see section 95(1)(a)), connive or interfere with the participation of other bidders (see section 95(1)(b)), or otherwise act in a way that is corruptive, collusive or anti-competitive.

From a policy perspective, ethical behaviour on the part of bidders and suppliers is not only required in law, but will also ensure the sanctity of procurement processes conducted by LWMA, and that the outcome of such processes is fair and competitive.

Bidders and suppliers must respond to the LWMA's tenders in an honest, fair and comprehensive manner, accurately reflecting their capacity to satisfy the requirements stipulated in the bidding documents or contract documents, and submitting bids and entering into contracts only if they can meet the requirements of the procurement proceeding.

Ethical and practice principles and rules

The following ethical and practice principles and rules shall be observed and adhered to by all bidders and suppliers during every stage of any procurement procedure:

(a) Bidders and suppliers must maintain integrity in their business dealings and in their professional conduct. LWMA shall not provide advice to bidders or suppliers in relation to their business undertakings and preparation of bids.

(b) Bidders and suppliers must avoid associations with businesses and organizations which are in conflict with this Code of Conduct.

(c) Bidders and suppliers must comply with the bid security provision as and when requested in the bidding document.

(d) Bidders and suppliers must strive to provide goods, works, and services of high quality and accept full responsibility for all goods, works and services provide.

(e) Bidders and suppliers must perform all contractual obligations to which they are bound.

Conflicts of interest

Bidders and suppliers shall not bid as part of any procurement procedure:

(g) for which they are automatically precluded by virtue of sections 102(1) or 105(2) of the PPA; or

(h) which would otherwise constitute a conflict of interest in respect of goods, works or services they are already providing or as a result of any personal or other relationship that has given them access to information about the procurement that would give them an unfair advantage in the proceeding.

Bidders and suppliers must disclose to LWMA, as part of the procurement procedure, any conflicts of interest, actual or perceived, that cannot reasonably be avoided.

Bidders and suppliers must also disclose any situation of actual or potential conflict that impacts, or may impact, on their ability to serve the best interests of LWMA, or that may reasonably be perceived as having this effect. Add declaration wording.

Confidentiality and accuracy of information

Information given by bidders and suppliers in the course of procurement proceedings or the performance of contracts shall be true, accurate, complete in all material aspects, fair, and not false or misleading.

Bidders and suppliers shall respect the confidentiality of information received in the course of performing a contract and shall not use such information for their own gain or advantage.

Gifts and hospitality

Bidders and suppliers must not offer gifts or hospitality, directly or indirectly, to any employees of LWMA, including any procurement officers, or accept such gifts that may be offered by an LWMA employee.

Influence

Bidders and suppliers must not influence or seek to influence the actions or decisions of any LWMA employees, including those involved in procurement proceedings, contract execution, or contract management.

Bidders and suppliers must not misrepresent facts in order to influence a procurement proceeding or the execution of a contract to the detriment of the Agency.

Fraudulent, collusive, corruptive or anti-competitive practices and conduct

Bidders and suppliers must engage in fraudulent, collusive, corruptive or anti-competitive practices or conduct, which may include but is not limited to:

(a) abetting or colluding with other businesses and organisations with the intention of depriving LWMA of the benefits of free and open competition;

(b) conniving to interfering with the participation of other bidder

(c) engaging in any other deceptive, fraudulent, collusive, coercive or financial practices, such as corruption, price fixing, under-pricing or other improper financial practices; and/or

(d) interfering or seeking to influence the procurement process, bidding process and evaluation process.

ANNEX 3

End-user

Functions of the end-user

The end-user is a key component of procurement and plays an important role in the success of any procurement process.

The end-user helps to identify who will use the product or service being purchased and what the needs are.

The end-user can also help to ensure that the product or service meets the needs of the organisation.

The key elements of the end-user's role in the procurement process are to:

(a) adequately define the end-user's needs (including determining estimated requirements/quantities, specifications);

(b) identify the minimum and desirable elements for the goods, works or services; and

(c) ensure that there is adequate consultation as to those needs and requirements.

Key responsibilities of the end-user

The end-user is responsible for:

(a) ensuring that procurement processes is conducted in an effective and efficient manner;

(b) ensuring that the requirements of the procurement take into account the Agency's needs and are aligned with the Agency's objectives;

(c) contributing towards drafting the procurement specifications and technical expertise/input; and

(d) being involved throughout the procurement exercise.

ANNEX 4

Responsibilities and composition of evaluation committees

1. Introduction

In line with section 41 of the Public Procurement Act 2008 ("**the PPA**"), LWMA appoints an ad hoc evaluation committee for each procurement.

2. Responsibilities

The responsibilities of each Committee are as follows:

(a) To evaluate tenders, proposals or quotations in accordance with the PPA and the Public Procurement Regulations 2014 ("**the Regulations**"), and prepare technical and financial evaluation reports for submission to the approvals authority (see section 41 of the PPA and regulation 88 of the Regulations).

(b) To ensure that all functions that are required by the PPA and the Regulations to be undertaken by the Committee in respect of the specific procurement requirement have been carried out.

(c) To be mindful at all times of all applicable laws, regulations and guidelines relating to public procurement.

(d) To engage in the highest level of ethical practice in integrity, objectivity, accountability and transparency, with zero tolerance to corruption, bribery or yielding to any form of undue influence.

3. Composition

Pursuant to section 41(4) to (6) of the PPA:

(a) Each Committee shall be established by the Accounting Officer and shall possess skills, knowledge and experience relevant to a procurement requirement which may include (a) technical skills, (b) procurement and contracting skills, (c) financial management or analysis skills, or (d) legal expertise.

(b) The number and level of expertise of each Committee shall depend on the value and complexity of the procurement requirement.

(c) Subject to the PPA, a member of the National Tender Board or a Procurement Committee shall not be a member of a Committee.

ANNEX 5

Procedure for post procurement audits in cases of extreme urgency

Objectives of audits

1. **Transparency:** Verify that procurement activities adhered to ethical and legal standards.

2. **Accountability:** Identify and address any possible instances of fraud, corruption, or negligence.

3. **Efficiency:** Assess whether procurement activities achieved value for money and met their objectives more generally.

4. **Learning:** Highlight successes and areas for improvement to enhance future responses to cases of extreme urgency.

Key phases of audits

1. **Planning the audit**

    - **Assemble the audit team:** Include procurement specialists, legal advisors (when required), and end-user section.

    - **Develop an audit plan:**

        - Outline the timeline, methods, and resources required for the audit.

        - Specify documentation and data to be reviewed.

    - **Establish criteria:** Use relevant regulations, procurement policies, and emergency protocols as benchmarks.

2. **Gathering information**

    - **Collect documentation:** Including any guidelines or deviations approved during the case.

    - **Conduct interviews:** Engage with procurement officials, suppliers/contractors, and end-users to gather insights into the procurement process.

    - **Analyse data:** Use data analytics tools to identify any potential irregularities, such as overpricing, repeated awards, or unexplained delays.

3. **Evaluating compliance**

    - **Adherence to the PPA and the Regulations**

- Assess whether the procurement procedure was in compliance with the PPA and the Regulations.

- Examine any deviations that were sought from POU and whether these were justified.

- **Contract management:** Verify that contract terms were adhered to, including quality, delivery timelines, and payment schedules.

- **Conflict of interest and fraud:** Investigate potential conflicts of interest, collusion, or fraudulent activities.

4. **Assessing performance**

- **Value for money:** Compare prices paid to the suppliers with market rates to identify any potential overpricing or wastage.

- **Timeliness:** Evaluate whether goods, works or services were delivered within the required timeframes.

- **Impact assessment:** Determine whether procurement outcomes met the objectives of the case of extreme urgency, such as delivering critical good, works, supplies or services.

5. **Reporting findings**

- **Draft an audit report:**

  - Summarise findings, including compliance issues, inefficiencies, and successes.

  - Highlight any irregularities or instances of fraud and recommend actions.

- **Engage stakeholders:** Share the report with the Accounting Officer and any other stakeholders, including POU and, where necessary, others in government.

6. **Implementing corrective actions**

- **Improve processes:** Update procurement protocols in respect of cases of extreme urgency based on audit findings (if required).

ANNEX 6

Performance monitoring and contract management

The following steps set out how performance monitoring and effective contract management should be undertaken.

1. **Define clear and measurable KPIs**
    - KPIs should be **SMART** (Specific, Measurable, Achievable, Relevant, Time-bound).
    - Categories of KPIs:
        - **Quality:** Meets or exceeds agreed standards.
        - **Timeliness:** Delivered within the specified schedule.
        - **Cost:** Delivered within budget.
        - **Sustainability:** Aligns with environmental and social objectives.
        - **Customer satisfaction:** Meets the expectations of stakeholders or end users.
    - Clearly outline performance expectations, targets, and penalties for non-compliance in the contract.
    - Include terms for performance reviews and corrective actions based on KPI and other outcomes.
2. **Establish a monitoring framework**
    - Assign responsibility for monitoring to a dedicated contract management team or contract manager.
    - Define reporting timelines (e.g., monthly, quarterly).
    - Use tools and technologies to automate data collection and reporting (e.g.- procurement systems).
3. **Collect and analyse data**
    - Gather data from:
        - Contractor reports.
        - Site visits and inspections.
        - Feedback from stakeholders or end-users.

- Use analytics tools to identify trends, deviations, or potential risks.

4. **Conduct regular performance reviews**

   - Schedule performance reviews with contractors/suppliers/service providers to assess progress against KPIs.

   - Discuss any issues, delays, or deviations and agree on corrective or remedial actions.

   - Document findings for accountability and future reference.

5. **Report performance outcomes**

   - Share performance results with stakeholders (e.g. project owners, Senior Leadership).

6. **Enforce penalties**

   - Impose penalties for non-compliance, such as warnings or contract termination.