



KENYA PLANT HEALTH INSPECTORATE SERVICE

PROCUREMENT POLICIES AND PROCEDURES MANUAL

© KEPHIS

TABLE OF CONTENTS

Contents

DEFINITION OF TERMS	5
ACRONYMS	8
FOREWARD.....	9
PREFACE	Error! Bookmark not defined.
CHAPTER 1	12
1.0 INTRODUCTION.....	12
1.1 The Purpose of the Manual.....	12
1.2 Scope	12
1.3 Policy and Legal Framework.....	12
CHAPTER TWO.....	14
2.0 THE PROCUREMENT FUNCTION	14
2.1 Functions and Responsibilities of the Procurement Function.....	15
2.2 Head of Procurement	17
2.3 PROCUREMENT STRUCTURE	18
CHAPTER 3.....	19
PROCUREMENT PLANS	19
Monitoring and implementation of procurement plans.	20
CHAPTER 4.....	21
4.0 THE PROCUREMENT PROCESS	21
4.1 INTRODUCTION.....	21
4.2 Procurement Initiation	22
4.3 Preparing Specifications	22
4.4. Procurement Approvals	23
4.5 Invitation to tenders.....	23
4.6 Opening of tenders	23
4.7 Evaluation of submitted bids	24
4.8 Professional Opinion and Tender Awarding.....	26
4.9. Notification of Award	26
4.10. Extension of Tender Validity Period	27
4.11. Contract Award	27
4.12. Purchase Order.....	27
4.13. Procurement Process at The Regions and PIU's.....	27
4.14. Inspection and Acceptance	28
4.15. Payment Processing.....	28

4.16 Registration of Suppliers	28
CHAPTER 5.....	30
PROCUREMENT METHODS	30
5.2 Open National Tender	30
5.3 Alternative Methods of Procurement.....	30
5.3.1. Restricted Tendering	30
5.3.2. Direct Procurement.....	31
5.3.4. Request for Proposals	32
5.3.5 Request for Quotations	33
5.3.6. Low Value Procurement.....	33
5.3.7. Force Account.....	34
5.3.8. Electronic Reverse Auction	35
5.3.9. Framework Agreement.....	35
5.3.10. Two Stage Tendering.....	37
5.3.11 Design Competition	38
5.3.12. Community Participation as a Method.....	38
5.3.13. Specifically Permitted Procurement.....	41
5.3.14 International Open Tender.....	41
CHAPTER 6.....	43
PROCUREMENT OF CONSULTANCY SERVICES	43
6.0. Introduction.....	43
6.1 Expression of Interest (EOI)	43
6.2 Request for Proposal (RFP).....	43
6.3 Selection Procedures.....	44
6.3.1 Quality and Cost Based Selection (QCBS).....	44
6.3.2 Quality Based Selection (QBS)	45
6.3.3 Least Cost Selection (LCS).....	46
6.3.4 Fixed Budget Selection (FBS).....	46
6.3.5 Individual Consultant Selection (ICS).....	46
6.3.6 Single Source Selection (SSS).....	47
6.3.7 Competitive Negotiations	48
CHAPTER 7.....	50

7.1 Tender Opening Committee	50
7.2. Evaluation Committee	50
7.3. Inspection and Acceptance Committee	51
7.4. Disposal Committee.....	51
7.5. Functions of the User Department.....	51
CHAPTER 8.....	53
8.1. Introduction	53
8.2. Receiving Goods	53
8.3. Inspection of Goods.....	53
CHAPTER 9.....	54
9.1. Introduction	54
9.2. Stock Taking.....	54
9.3. Responsibilities of HP in Stores Management.	54
9.4 Responsibilities of officer in charge of stores.	55
9.4.1 Procurement and Maintenance of Motor vehicles, plant Equipment and Machinery.....	56
9.4.2 Procurement and Maintenance of Motor vehicles, plant Equipment and Machinery.....	56
9.4.3 Procurement and Maintenance of ICT equipment and related accessories.....	56
CHAPTER 10	57
10.0 DISPOSAL OF STORES AND EQUIPMENT.....	57
10.1. INTRODUCTION	57
10.2. Procedure for Disposal of Assets	57
CHAPTER 11.....	58
11.1. Introduction	58
11.2. Supplier Evaluation and Appraisal	58
CHAPTER 12	60
12.1 Contract Management and Administration	60
12.2 Contract Administration.....	61
APPENDIX 11 TEMPLATES	63

DEFINITION OF TERMS

Asset	movable and immovable property, tangible and intangible, including immovable property, stores, equipment, land, buildings, animals, inventory, stock, natural resources like wildlife, intellectual rights vested in the state or proprietary rights;
Bid Bond	A bid bond is issued as part of a supply bidding process by the contractor to the project owner, to provide guarantee, that the winning bidder will undertake the contract under the terms at which they bid.
Bill Of Quantities	A bill of quantities is a document used in tendering in the construction industry in which materials, parts, and labor are itemized. It also details the terms and conditions of the construction or repair contract and itemizes all work to enable a contractor to price the work for which he or she is bidding.
Board	KEPHIS Board of Directors.
Budget	An estimation of revenue and expenses over a specified future period of time and is usually compiled and re-evaluated on a periodic basis
Capital Expenditure	Capital expenditure or capital expense is the money an organization or corporate entity spends to buy, maintain, or improve its fixed assets, such as buildings, vehicles, equipment, or land
Complex And Specialized Contracts	Contracts that include procurement where the terms and conditions of an agreement are different from standard commercial terms and conditions.
Consultancy Services	Services of predominantly an intellectual, technical or advisory nature, and includes services offered by all professionals;
Contract Period	The period between contract signing and the end of the defects liability period
Contract Administration	Management of terms of procurement or asset disposal contracts made with contractors or suppliers after tender award by a procuring entity, for the purpose of assuring compliance with obligations such as timely delivery, quality and quantity inspection, acceptance, payment, claims, dispute resolution and completion, among other terms.
Contract	An agreement concluded between the procuring entity and a contractor (or contractors) resulting from a tendering proceeding;
Head of Procurement	The person in charge of the procurement function
Kenya Institute Of Supplies Management	A Kenyan professional body established under the Supplies Practitioners Management Act, 2007. Representing members of the supply chain profession.
Managing Director	The Accounting Officer of Kenya Plant Health Inspectorate Service appointed under Section 10 of KEPHIS Act (NO. 54) of 2012 and as described under section 17 of the PFMA

Procurement Function	A division within a procuring entity staffed with procurement professionals who are officially concerned with managing the procurement and asset disposal process and reports directly to the head of procuring entity functionally and administratively.
Procurement Professional	A person who has academic and professional qualifications in procurement or supply chain management from a recognized institution and is a full registered member of KISM pursuant to section 16 of the SPMA 2007 and licensed pursuant to section 20 of the SPMA 2007.
Procurement	The acquisition by purchase, rental, lease, hire purchase, license, tenancy, franchise, or by any other contractual means of any type of works, assets, services or goods including livestock or any combination and includes advisory, planning and processing in the supply chain system.
Procurement Plan	An annual document which defines the products and services that a Public Body will obtain from external suppliers
Responsive Bid	A tender is responsive if it conforms to all the eligibility and other mandatory requirements in the tender documents.
Supply Chain Management	The design, planning, execution control and monitoring of supply chain activities which includes procurement, purchasing, logistics, transportation, warehousing, storage, stock control, contract management and distribution, with an objective of creating value to meet the objectives of the procuring entity;
Supplier Database	A list of accredited prospective providers which PE must keep pursuant to the PPDA Act.
Tender	An offer in writing by a candidate to supply goods, services or works at a price; or to acquire or dispose stores, equipment or other assets at a price, pursuant to an invitation to tender, request for quotation or proposal by a procuring entity
Tenderer	A person who submitted a tender pursuant to an invitation by a public entity
Tender Box	A lockable secure physical or virtual box where tenders are submitted including by electronic means so as to be opened only after the tender submission deadline;
Tender Document	The Invitation to Tender and all documents listed therein, the Technical Specifications, the Agreement and their respective appendices and any other document issued by a procuring entity.
Tender Security	A guarantee required from tenderers by the procuring entity and provided to the procuring entity to secure the fulfillment of any obligation in the tender process and includes such arrangements as

	bank or insurance guarantees, surety bonds, standby letters of credit, cheques for which a bank is primarily liable, cash deposits, promissory notes and bills of exchange tender securing declaration, or other guarantees from institutions as may be prescribed
The Act	The Public Procurement and Asset Disposal Act, 2015
The Regulations	Public Procurement and Asset Disposal Regulations, 2020
Urgent Need	The need for goods, works or services in circumstances where there is an imminent or actual threat to public health, welfare, safety, or of damage to property, such that engaging in tendering proceedings or other procurement methods would not be practicable;
User Department	The unit of a procuring entity that requisitions the goods, works or services being procured;
Works	A combination of goods and services for the construction, repair, renovation, extension, alteration, dismantling or demolition of buildings or roads

ACRONYMS

KEPHIS	Kenya Plant Health Inspectorate Service
BoQ	Bills of quantities
CIT	Contract implementation team
EOI	Expression of interest
GRN	Goods received note
HP	Head of Procurement
LPO	Local purchase order
PPADA 2015	Public Procurement and Asset Disposal Act, 2015
QCBS	Quality cost based selection
RFP	Request for proposal
RFQ	Request for quotation
HOD	Head of department
KISM	Kenya Institute of Supplies Management
MD	Managing Director
NT	National Treasury
OIC	Officer in charge
RM	Regional manager
TOR	Terms of reference
PPRA	Public Procurement Regulatory Authority

FOREWARD

Public expenditure through procurement of goods works and services is an important avenue for ensuring the provision of public services in Kenya. The integrity of the entire process from tendering all the way to provision of the same services or delivery of the goods and their use is an indispensable indicator of the robustness of management of public resources and fidelity to the constitution of Kenya. These goals are best assured through an institutional framework for securing oversight by the legislature, adherence to value for money principles by all agencies that receive public money and by availability of orderly accounts to enable the Office of the Auditor General to render an opinion.

Public procurement plays a pivotal role in the economic development of any country. In Kenya, it is the means through which government spends revenue raised annually, for the implementation of public service delivery. As such, a public procurement system that is economically inefficient invariably undermines the government programs for economic growth. Cognizant of this fundamental role, Article 227 of the Constitution of Kenya mandates Parliament to prescribe a framework within which policies relating to procurement and asset disposal shall be implemented. Specifically, it requires that any state organ or public entity contracting for goods or services must do so within a system that is fair, equitable, transparent, competitive and cost-effective. The Constitution, in Article 46, further requires that goods shall meet the desired consumer standards which promote sustainable development through strategic sourcing and consumption.

The development of this procurement policy and procedures manual is a key milestone in repositioning the Procurement Function in KEPHIS for efficient and effective service delivery as envisaged in the Constitution of Kenya 2010. Supply Chain Management is one of the cornerstones in the implementation of Vision 2030 which envisages a globally competitive and prosperous nation with a high quality of life.

The PPADA 2015 provides that for the purpose of ensuring that the accounting Officer's decisions are made in a systematic and structured way, an accounting officer shall establish systems and procedures to facilitate decision making for procurement and asset disposal. The act further provides for the establishment of a procurement function that shall be responsible for rendering procurement professional advice to the accounting officer. This is a major contributory factor to the provision of goods, works and services thus supporting the realization of KEPHIS mandate.

The Kenya Plant Health Inspectorate Service Board of Directors is responsible providing strategic direction, exercise control and remain accountable to stakeholders. This responsibility makes the Board strategic and central to the corporation's economic management by creating an enabling environment for effective and efficient operations. To achieve this vision and aspiration it is important that clear guidelines in procurement are put in place.

It is against this background that this policy manual is developed to guide procurement activities within KEPHIS. Staff are therefore called upon to adopt, customize and utilize this policy and procedures manual alongside existing legislations.



Hon. Joseph M'eruaki M'uthari
CHAIRPERSON. BOARD OF DIRECTORS

PREFACE

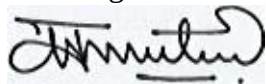
This manual seeks to give guidance, advice and operating instructions on all matters relating to procurement within KEPHIS, which is a public institution. Procurement in the Public Service is guided by The Constitution of Kenya, 2010, The Public Procurement and Asset Disposal Act, 2015, The Public Private Partnerships Act, 2013, The Public Private Partnerships Regulations 2014 and The Public Procurement and Asset Disposal Regulations 2020. Article 227 of The Constitution of Kenya 2010 sets out the values which are paramount to any Procurement process. It states that when a state organ or public entity contracts for goods, works and services, it should do so in accordance with a system that is fair, equitable, transparent, competitive and cost effective.

The Public Procurement and Asset Disposal Act 2015, being a law, must strictly be followed to ensure fairness, value for money, public confidence, and to avoid attracting criminal liability. Further, those who procure goods works or service at inflated prices will be surcharged for the loss resulting from their actions. A person convicted of an offence under The Public Procurement and Asset Disposal Act, 2015 shall be liable to a fine of Kenya Shillings four million (KShs. **4,000,000.00**) or ten (10) years imprisonment or both if the person is a body corporate, to a fine not exceeding KShs. ten (10) million shillings. In addition to the penalty the public officer involved shall be subject to internal disciplinary action while any other person who is not a state or public officer shall be debarred (Section 176).

KEPHIS shall demand greater efficiency from the procurement function in order to meet its obligation of delivering quality service to its customers.

This Procurement and Disposal Manual is an attempt to streamline procurement activities at KEPHIS in line with public procurement legal provisions. The manual provides guidance regarding procurement activities within KEPI-IIS. It is also expected to address issues of efficiency and effectiveness of KEPHIS's Procurement Function.

The manual operationalizes The Public Procurement and Asset Disposal Act, 2015 and The Public Procurement and Asset Disposal Regulations 2020 within KEPHIS. All members of staff shall therefore be expected to read and familiarize themselves with these procedures. Though every effort has been made to produce a comprehensive manual, there may be unique cases of procurement needs that may not be covered here. Users are therefore required to use this manual together with the KEPHIS Financial Management Policies and procedures manual in addition to obtaining advice from procurement unit. The manual will be amended from time to time as new procedures, regulations, systems and operating methods are introduced. When this happens, staff will be informed of the amendment in writing by the MD through the HP.



PROF. THEOPHILUS M. MUTUI (PH.D.)

MANAGING DIRECTOR

CHAPTER 1

1.0 INTRODUCTION

The Kenya Plant Health Inspectorate Service is a state corporation under the Ministry of Agriculture, Livestock, Fisheries and Irrigation. KEPHIS was established by an Act the KEPHIS Act Number 54 of 2012. Our responsibility is to assure the quality of agricultural inputs and produce to prevent adverse impact on the economy, the environment and human health.

Our Vision

Healthy plants, safe trade and sustainable agro-environment for a prosperous Kenya.

Our Mission

To provide a science based regulatory service by assuring plant health, quality of agricultural inputs and produce for food security, globally competitive agriculture and sustainable development.

Our Values

Customer focus, Professionalism and Integrity, Teamwork, Results Oriented, Innovation and Creativity, Corporate Social Sustainability.

1.1 The Purpose of the Manual

The Manual outlines the procedures, processes and structural set up on how procurement, inventory management and asset disposal shall be conducted within KEPHIS. In this regard, the Manual outlines the roles and responsibilities of all persons and committees that shall in one way or the other be involved in the procurement processes.

The Manual shall be a necessary tool of induction for both existing and new members of staff within KEPHIS to familiarize themselves with the procurement, inventory management and asset disposal processes. The Manual shall be applicable in all procurement, inventory management and asset disposal activities within KEPHIS.

1.2 Scope

This Procurement and Disposal Manual deals with the procurement of goods, works and services in KEPHIS. The manual provides the respective policy guidelines and procedures in respect to the following processes:-

- a) Procurement planning;
- b) Procurement processing;
- c) Inventory and asset management;
- d) Disposal of assets; and
- e) Contract management.

1.3 Policy and Legal Framework

Procurement, inventory management and asset disposal activities are legislated functions

within Public Entities. For this reason, the Manual is prepared within the requirements of the Act and any other legislation referred to in the Act. These legislations include but not limited to:

- The Constitution of Kenya, 2010 (Article 10,27,46,55,56,201,227 and 232)
- The Public Procurement and Asset Disposal Act, 2015.
- The Public Procurement and Disposal Regulations, 2020.
- The Supplies Practitioners Management Act, 2007.
- Supplies Practitioners Management Regulations, 2015.
- The Public Finance Management Act, 2012.
- The Leadership and Integrity Act, 2012.
- The Code of Ethics of Persons Involved in Procurement, 2019

CHAPTER TWO

2.0 THE PROCUREMENT FUNCTION

- a) The procurement process at KEPHIS is guided by the Constitution of Kenya, 2010 and various statutory provisions including the public procurement legislative framework, statutes thereon, and internal administrative guidelines that are issued from time to time.
- b) The procurement function of KEPHIS is anchored on the provisions of section 47(1) of the Act that provides for establishment of a procurement function that shall be handled by procurement professionals whose qualifications are recognized in Kenya and shall be headed by a HP who shall among other functions under the Act, be responsible for rendering procurement professional advice to the accounting officer.
- c) The procurement function of KEPHIS is also premised on sound professional principles, practices and ethics that apply in the area of Supply Chain Management thus, KEPHIS recognizes and applies, in its procurement operations, guidelines by the professional bodies of Supply Chain Management.
- d) The KEPHIS strategic plan provides the framework within which the operational guidelines on procurement are based. Thus, it is recognized that the procurement function must be carried out with the efficiency necessary to ensure that KEPHIS achieves its stated vision of ensuring "Healthy plants, safe trade and sustainable agro-environment for a prosperous Kenya".
- e) Procurement staff at KEPHIS shall endeavor to efficiently fulfill these five procurement objectives:
 - Right quality of goods, works and services;
 - Goods and services made available at the right time;
 - Goods and services availed at the right place;
 - Goods and services availed in the right quantity subject to the availability of funds; and
 - At the right price.
- f) KEPHIS shall at all times obtain value for money spent on procurement by ensuring that only those items which are needed are bought and that these items are of good quality, and that they are stored appropriately to preserve their quality.
- g) Procurement staff will endeavor to adhere to the following core values:
 - Professionalism in carrying out duties;
 - Integrity in dealing with customers and the general public;
 - Transparency and accountability in all activities;

- Fair play in dealing with users and suppliers;
 - Promotion of public confidence in the procurement process; and,
 - Promotion of fair competition in procurement process.
- h) In order to accomplish the procurement mandate in accordance with the cited statutory provisions and professional guidelines, KEPHIS has established a professional Procurement Function which is headed by the HP. The function shall be responsible for handling all procurement activities within the organization
- i) The Procurement Function is expected to execute the procurement mandate and also provide advisory services on procurement to KEPHIS Management and other organs of KEPHIS to ensure total compliance with the Act, Regulations 2020, and other statutory requirements.
- j) Through the establishment of the various Regions and PIU's, some administrative functions of KEPHIS have been decentralized. However, to enhance compliance with procurement laws, the various Regions and PIU's shall carry out their procurement through the HP with all approvals through the MD.

2.1 Functions and Responsibilities of the Procurement Function.

Procurement Unit shall undertake the following functions:

- i. Interpretation, implementation, and enforcement of public procurement law.
- ii. Providing advice to the MD and all other departments on all matters relating to procurement.
- iii. Preparation of the consolidated annual procurement plan.
- iv. Maintain and continually update standing lists of registered suppliers.
- v. Liaise with PPRA in respect of the Authority's register of procuring agents;
- vi. Prepare tender and asset disposal documents to facilitate fair competition;
- vii. Prepare, publish and distribute procurement and disposal opportunities including invitations to tender, request for quotations and proposals, pre-qualification documents and invitations for expressions of interest;
- viii. Coordinate the receiving and opening of tender documents;
- ix. Submit a list of registered or prequalified suppliers or contractors or consultants to the MD for approval;
- x. Issue procurement and asset disposal documents to candidates in accordance with the Act and these Regulations;
- xi. Propose the membership of relevant committees under the Act to the MD for consideration and appointment;
- xii. Coordinate the evaluation of tenders, quotations and proposals;

- xiii. Recommend for consideration of the negotiation of a procurement by the evaluation committee where negotiations are allowed by the Act and the Regulations and participate in negotiations;
- xiv. Prepare and publish tender awards;
- xv. Prepare contract documents in line with the award decision;
- xvi. Prepare and issue debriefing letters;
- xvii. Prepare contract variations and modifications documents;
- xviii. Maintain and archive procurement and asset disposal documents and records for the required period;
- xix. Provide information, as required, for any petition or investigation to debar a tenderer or contractor or any investigation under review procedures;
- xx. Implement the decisions of the MD, including disposal committee and coordinating all procurement activities;
- xxi. Provide secretariat services to the evaluation, inspection and acceptance, and disposal committees;
- xxii. Liaise with the NT and PPRA on matters related to procurement and asset disposal;
- xxiii. Prepare and submit to the NT and the PPRA reports required under the Act, the Regulations and guidelines of PPRA;
- xxiv. Monitor contract management by user departments to ensure implementation of contracts in accordance with the terms and conditions of the contracts;
- xxv. Report any significant departures from the terms and conditions of the contract to the MD
- xxvi. Recommend for transfer of a procurement or asset disposal responsibility to another procuring entity when need arises;
- xxvii. Prepare consolidated procurement and asset disposal plans;
- xxviii. to advise the organization on aggregation of procurement to promote economies of scale;
- xxix. Co-ordinate internal monitoring and evaluation of the procurement and supply chain function;
- xxx. Carry out market surveys to inform the placing of orders or adjudication by the relevant awarding authority; this shall be continuous to develop an internal resource base which shall be used by KEPHIS for Price Comparisons and establishment of market trends. The data bank shall be used for both technical and financial evaluation of bids as well as procurement planning.
- xxxi. Conduct periodic and annual stock taking;
- xxxii. Certify the invoices and vouchers to facilitate processing of payment to suppliers;
- xxxiii. Recommend extension of the tender validity period;
- xxxiv. Verify that the available stock levels warrant initiating a procurement process.

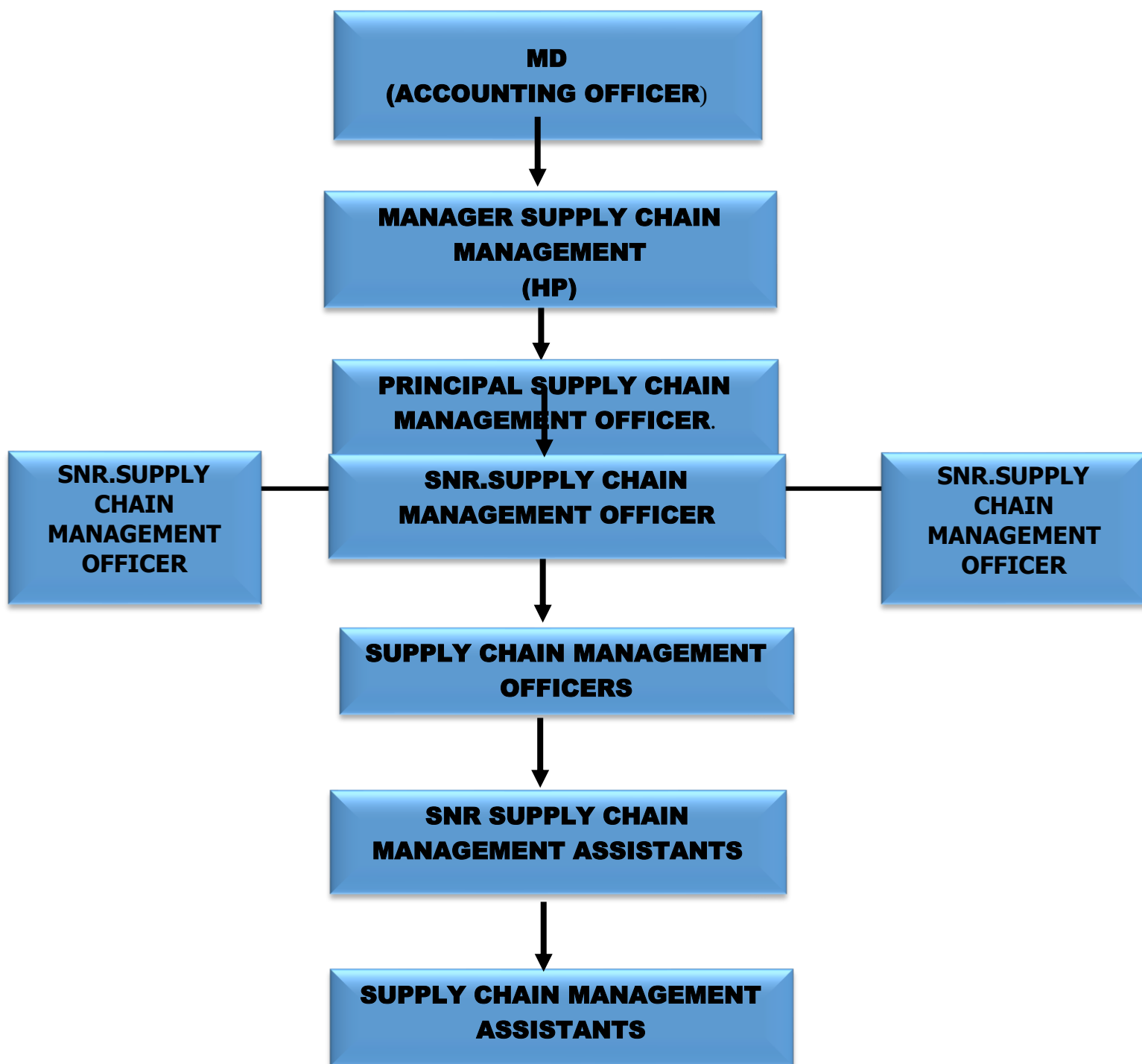
- xxxv. Carry out any other functions and duties as directed by the MD and as provided under the Act, the Regulations and any other functions that might be stipulated by the NT or PPRA.

2.2 Head of Procurement

Alongside ensuring the above mentioned duties are executed, the HP shall be responsible to the MD for the following:-

- i. Overall supervision of the supply chain management department;
- ii. Coordinating, formulating and implementing supply chain management policies and strategies.
- iii. Providing professional opinion for all tenders to the MD for tender award.
- iv. Ensure line managers are provided with logistical advice to ensure effective and efficient procurement;
- v. Planning and managing all activities involved in sourcing suppliers, procurement, quality assurance, financial, logistics and delivery activities;
- vi. Ensuring preparation of monthly, quarterly, semi-annual and annual reports on procurement activities and as provided by law send to PPRA;
- vii. Ensuring that Best Practices are employed in the supply chain management;
- viii. Managing the performance of the procurement team and undertake appraisal of staff
- ix. Carrying out Training needs analysis for members of the department and recommending appropriate trainings for the same.
- x. Coordinate with Kenya Institute of Supplies Management (KISM), PPRA and NT on matters of trainings and capacity building.
- xi. Ensuring the department complies with other organizational policies and procedures.
- xii. Responsible for implementing the decisions of the MD
- xiii. Any other duty that may be assigned from time to time by the MD.

2.3 PROCUREMENT STRUCTURE



CHAPTER 3

PROCUREMENT PLANNING

PROCUREMENT PLANS

- a) All procurements shall be within the approved budget and shall be planned through an annual procurement plan. Procurement plans shall define what is to be procured, the estimated cost, when to procure and the method of procurement.
- b) RM/OIC/HoD shall submit an annual departmental procurement plan to the HP by end of March every year covering all items of procurement for consolidation.
- c) In making a proposal in a procurement plan, the RM/OIC/HOD shall constitute a committee having the relevant expertise and experience. The committee shall consider the following in their deliberations:
 - i. Overall institutional priorities in the light of resource allocation.
 - ii. PC Targets /Work plans.
 - iii. Estimated expenditure.
 - iv. Budgetary allocation.
 - v. Available options and alternatives.
 - vi. Opportunity costs.
 - vii. Value adding for other activities.
 - viii. Developments in the industry.
 - ix. Market trends.
 - x. Applicable/relevant legislation especially with regard to preference groups.
 - xi. Ongoing research and development.
- d) Where the recommendation of this committee is that procurement is necessary, then the item shall be incorporated into the plan.
- e) Officers shall not knowingly recommend to the MD excessive procurement of items beyond a reasonable consumption.
- f) In Preparing Procurement Plans:
 - a) RM/OIC/HOD shall prepare Departmental Procurement Plans aligned to departmental budgets prior to the commencement of the financial year. This shall be done in time for consolidation to the overall plan.
 - b) The procurement plan shall be prepared with an indication of the anticipated procurement method for each requirement, the Procurements reserved for the Youth, Women and Persons with Disabilities and the anticipated timeline for the complete procurement cycle.
 - c) Departmental procurement proposals shall be forwarded to the HP Function for consolidation.

- d) The consolidated procurement plan shall be forwarded to the MD for review and approval by the Board of Directors.
- e) The approved procurement plans shall be submitted to the respective regions/PIU's and departments.
- f) The approval by the Board is deemed to include the approval of all alternative procurement methods indicated in the approved Procurement Plan and no further authority to use the method is necessary unless on emergency cases.
- g) In case of urgent procurements which are not in the approved Procurement plans, RM/OIC/HoD will be required to seek written approval from the MD with proper justifications to procure the said goods or services only and only if they meet the threshold of Urgent need as provided for in this policy.

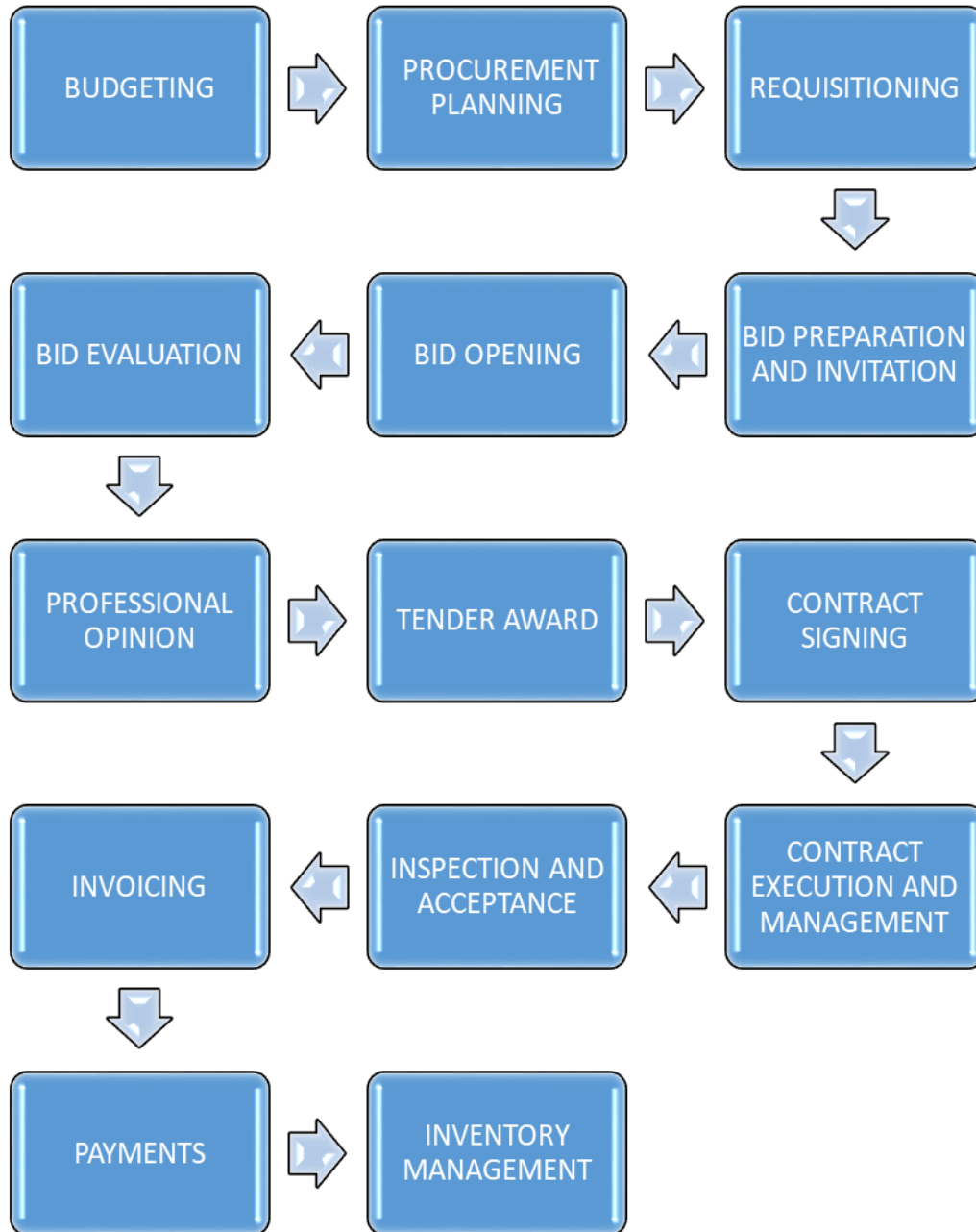
Monitoring and implementation of procurement plans.

The HP shall provide feedback to the MD through quarterly and annual reports showing the reconciliation between planned and actual procurement acquisitions. In his report, the HP shall be required to give reasons for any variance or vitiation where need be.

CHAPTER 4

4.0 THE PROCUREMENT PROCESS

Procurement Process flow Chart



4.1 INTRODUCTION

The procurement process begins with identification of needs by the user. All required items have to be budgeted for and their total value is what is referred to in the "annual procurement plan".

Therefore, any requirement that has not been planned and budgeted for will not be processed for procurement. The HP shall be responsible of ensuring this is adhered to.

4.2 Procurement Initiation

Head of user department shall initiate the procurement process after the need for an item, service or works has been identified as per the approved procurement plan. The following steps shall apply in procurement initiation:

- i User lists down requirements using a purchase requisition form accompanied by a detailed specification.
- ii User estimates the cost of the requirements by consulting with procurement and obtains the total cost;
- iii User compares the total cost against the budgetary allocation and procurement plan.
- iv The HP shall endorse the request to procure by confirming its conformity with the procurement plan and the budgeted requirements of the department/Region/PIU
- v The HF shall confirm availability of funds. Where there are no funds the HF shall indicate the same and communicate back to HP who shall in turn inform the user. Where funds are available the HF shall forward the requisition to the MD.
- vi No purchase requests shall be forwarded to the MD without confirmation of funds by head of finance.

4.3 Preparing Specifications

In preparing specifications referred to in 3.2(1) above:

- a) The head of user department shall have the responsibility of drawing up the correct specification of their procurement needs and forwarding them in writing to the Procurement function together with the purchase requisition. If need be, users may seek the assistance of technical experts in drawing up specifications.
- b) Items shall be described in sufficient detail in terms of performance without displaying biases towards particular brands. Technical specifications may be presented by one or a combination of the following among others:
 - Description
 - Sample
 - Drawings
 - Capacity
 - Usage
 - Standards
 - Quantity
 - Performance

- c) Use of brand names or models shall not be allowed when preparing specifications as it limits competition. However, where this is unavoidable the words "or equivalent" shall be used.
- d) Once specifications have been drawn up, they shall be signed by Head of User department and shall not be changed without the involvement of the same.
- e) The user shall not change the specifications once the procurement process is underway.
- f) The responsibility for preparing the specifications lies with the user, approved by the HOD and in liaison with the Procurement Function.

4.4. Procurement Approvals

- a) All approvals relating to any procedures in procurement shall be in writing and properly dated, documented and filed.
- b) No procurement approval shall be made to operate retrospectively to any date earlier than the date on which it is made except on procurements in response to an urgent need.
- c) In approving procurements relating to an urgent need, the MD shall be furnished with adequate evidence to verify the emergency.
- d) No procurement approval shall be made by a person exercising delegated authority as the MD or HP unless such delegation has been approved in writing by the MD or the HP, respectively.
- e) Responsibility for each approval made in the procurement procedure shall rest with the individual signatories and the MD whether he or she delegated the authority or not.

4.5 Invitation to tenders

The following guidelines shall apply when inviting tenders:

- a) Invitations for tender shall include open tenders, registration of suppliers, prequalification of tenderers, and invitation of request for expression of interest.
- b) All requirements for goods works and services whose annual aggregate value exceed KShs. three (3) million for goods and services and KShs. five (5) million for works shall be advertised.
- c) The Procurement Function shall ensure that advertisements for tender are accurate, complete and capable of attracting the widest competition possible. The department will therefore be expected to liaise closely with user departments and technical experts within and outside KEPHIS if need be to meet this requirement.
Use of brand names in advertisements shall be avoided, but bidders will be encouraged to indicate the brands they are offering and the countries of origin of such brands where need be.

4.6 Opening of tenders

The following shall apply in tender opening:

- a) The MD shall appoint an *ad hoc* tender-opening committee for each tender. The committee shall consist of at least three officers, one of whom shall be an officer not directly involved in the evaluation of tenders.
- b) The tender box shall have two locks and the keys shall be in custody of two different offices. (MD and Procurement offices)
- c) Tenderers or their representatives may attend the tender opening session.
- d) The chairperson of the tender opening committee shall announce the names of bidders, price quoted where applicable, bid bond amounts, and number of pages submitted for each bid and the same shall be recorded in the tender-opening register. KEPHIS will avail a copy of the register to bidders upon request.
- e) Where no bid bonds have been included, the same information shall be recorded.
- f) Tenderers will not be allowed to amend any of their submissions after tender opening.
- g) Each bid shall be assigned a serial number for identification.
- h) The tender opening committee shall produce minutes, which must be signed on each page by all the members, indicating their names and designation.
- i) No tenderer shall be disqualified during opening of tenders except for tenders submitted after closing time of the tender.
- j) The committee members shall sign each tender on one or more pages as determined by the tender opening committee; and initials, in each tender, against the quotation of the price and any modifications or discounts, where applicable.

4.7 Evaluation of submitted bids

In the interest of time and to ensure the evaluation commences immediately after opening of the tender:

- a) The HP shall recommend in writing, members of the evaluation committee to the MD for appointment.
- b) The MD shall designate one of the members of the evaluation committee as the chairperson.
- c) The committee shall consist of between three and five members appointed on rotational basis comprising of heads of user department and two other departments or their representatives and a professional or consultant where required.
- d) The HP shall act as the secretary to the committee.
- e) Prior to commencement of any evaluation process, members of the evaluation committee shall be required to sign the confidentiality form.
- f) The evaluation committee shall conduct evaluation within the stipulated time and submit the tender evaluation report to the HP.
- g) The evaluation committee shall evaluate and compare the responsive tenders in strict adherence to prescribed criteria. In this regard, members are prohibited from developing or revising the evaluation criteria.

- h) The members of the evaluation committee shall evaluate independently from the other members prior to sharing his or her analysis questions and evaluation including his or her rating with the other members of the evaluation committee.
- i) Upon sharing of individual evaluators ratings, the committee shall moderate the analysis to arrive at an average rating.
- j) The individual score sheets shall be kept as records of a procurement proceeding.
- k) The following requirements shall apply with respect to the procedures and criteria referred to above:
 - i the criteria shall, to the extent possible, be objective and quantifiable;
 - ii Each criterion shall be expressed so that it is applied, in accordance with the procedures, taking into consideration price, quality, time and service for the purpose of evaluation.
- l) The tender evaluation committee may, in writing, through the head of the procurement function seek clarification of a tender from tenderer to assist in the evaluation and comparison of tenders. The said clarification shall not change the terms of the tender.
- m) Members of the tender evaluation committee shall not enter into any direct communication with any of the tenderers participating in a tender or proposal that such evaluation committee is considering.
- n) No member shall be represented by another staff in the evaluation committee unless the said is documented in writing through the appointing authority and the replacement done accordingly.
- o) Where Tender evaluation Committee requires expert input which is not available within its membership then the committee shall seek to include qualified members to help reach an informed decision. This shall be done in writing to the HP and the HP shall recommend to the MD on the same for approval to use external support.
- p) The HP shall retain custody of all the evaluation documents throughout the entire period of the tender.
- q) Upon completion of the evaluation, the Evaluation Committee shall prepare an evaluation report. The report shall contain:
 - i A summary of all the tenders received from the head of the Procurement function;
 - ii The results of the preliminary evaluation;
 - iii The results of the technical evaluation;
 - iv Reasons why any tenders were rejected;
 - v Details of any minor deviations accepted and the way in which such deviations were quantified and taken into account in the evaluation and comparison of the tenders;
 - vi The evaluated price of each tender showing the price and any conversion to a common currency, if any;
 - vii The ranking of the tenders each according to its total evaluated price;
 - viii Recommendation to award the contract to the successful tenderer and

- ix Any dissenting opinion and the reasons thereof and such other recommendation as may be deemed necessary by the evaluation committee.

4.8 Professional Opinion and Tender Awarding

- a) Upon receiving the tender evaluation report, the HP shall review the report and prepare a professional opinion to the MD for signing within one day. The head of the procurement function may seek for clarification from the evaluation committee before making a professional opinion.
- b) In providing the said professional opinion, the HP shall take into account the guidelines listed below:
 - 1) The Professional Opinion shall include the following information:
 - i. A review of the procurement or asset disposal proceedings;
 - ii. Adherence to evaluation criteria stipulated in the bid documents;
 - iii. Legality of tender award recommendations;
 - iv. Whether the recommended price for standard goods, services and works are within the indicative market prices;
 - v. Availability of funds; and
 - vi. A recommendation for change of scope, where the bid document had provided for change of scope, if the successful bid is above the budget available, taking into account the effect of the scope of change to the entire evaluation of the tender.
 - 2) Besides the aforementioned, the officer shall ensure that the other relevant provisions of the Act, were fully complied with.
 - 3) The recommendation (opinion) to the MD shall indicate name of supplier and price of the supplier recommended for award.
- c) Upon receipt of the evaluation report and professional opinion, the MD shall take into account the contents of the professional opinion and shall within a day, in writing:
 - i Approve award to the successful tenderer;
 - ii Seek clarification from the HP or the evaluation committee prior to approving or rejecting the award; or
 - iii Reject the recommendations.
- d) Where the MD rejects the recommendations, He/ She shall give reasons and provide further directions to the HP, in writing.

4.9. Notification of Award

- a) Before the expiry of the period during which tenders must remain valid, the MD shall notify in writing the person submitting the successful tender that his tender has been accepted.
- b) The successful bidder shall signify in writing the acceptance of the award within the time frame specified in the notification of award.

- c) KEPHIS shall also notify in writing all other persons submitting tenders that their tenders were not successful, disclosing the successful tenderer as appropriate and reasons thereof.
- d) For greater certainty, a notification under (a) above does not form a contract nor reduce the validity period for a tender or tender security.
- e) The notification to the unsuccessful bidder, shall be in writing and shall be made at the same time the successful bidder is notified of intention to enter into a contract.
- f) For greater certainty, the reason to be disclosed to the unsuccessful bidder shall only relate to their respective bids.
- g) The notification shall include the name of the successful bidder, the tender price and the reason why the bid was successful in accordance with the Act

4.10. Extension of Tender Validity Period

- a) Before the expiry of the period during which tenders shall remain valid the MD may extend that period. The notice of an extension shall be issued in writing to each person who submitted a tender.
- b) The extension shall be restricted to not more than thirty days and may only be done once.
- c) For greater certainty, tender security shall be forfeited if a tender is withdrawn after a bidder has accepted the extension of bidding period.

4.11. Contract Award

- a) All contracts shall be approved and signed by the MD upon professional opinion by HP after the lapse of fourteen (14) days.
- b) The HP in consultation with Legal Department shall prepare a contract document based on the tender document issued which shall be signed by the supplier before further signing by the MD.

4.12. Purchase Order

- a) Upon approval of the opinion, the HP shall prepare an LPO to the successful bidder which shall be approved by the MD.
- b) Two original LPO's shall be generated where one shall be sent either electronically or physically to the vendor and one remains with Procurement Department for payment purposes. Procurement Department shall keep a copy in the respective file.
- c) For the purpose of certainty, the LPO shall be signed by the HP, HF and the MD.

4.13. Procurement Process at The Regions and PIU's

Procurement for goods, services and works at this level shall follow the same procedure in chapter 3 above and shall be processed by the procurement function at Headquarters.

4.14. Inspection and Acceptance

- a) Upon delivery of supplies, the supplies officer shall inform the chairperson of the inspection and acceptance committee to convene a meeting for inspection, verification, testing and acceptance of the supplies within five (5) working days.
- b) Where supplies are accepted an inspection and acceptance certificate in the prescribed format shall be issued to the supplier and two certified copies kept for records and for payment purposes.
- c) Where the committee rejects the supplies, the supplier shall be informed within one day in writing to collect or replace the supplies accordingly.

4.15. Payment Processing

Procurement work remains incomplete until supplier's documents have been forwarded for payment to finance department and the said process closed. In order to ensure timely processing of payments for goods or services, the Procurement Department Shall designate an officer within the procurement function who shall be responsible for payment processing and shall verify and certify all payment documents to Finance department. Alongside the procurement approval documents, for goods, the following documents shall be issued to finance:

- i) Original approved copy of LPO
- ii) Original Delivery note
- iii) Invoice with ETR
- iv) Copy of GRN
- v) Copy of Inspection and acceptance certificate in the prescribed format

For Services, the following shall be issued to finance:

- i) Original approved copy of LPO
- ii) Job Card
- iii) Invoice with ETR
- iv) Copy of Inspection and Acceptance Certificate where applicable.

For periodic services i.e. monthly or quarterly maintenance or service each monthly/quarterly execution shall be accompanied by similar documents as stated above.

4.16 Registration of Suppliers

The HP shall maintain and continuously update lists of registered suppliers, contractors and consultants in various specific categories of goods, works or services according to the procurement needs:

- a) KEPHIS shall carry out registered suppliers after every two years leading to a fresh registration of suppliers. This shall be advertised through the open tendering method and fresh applicants evaluated.
- b) The suppliers register shall be updated at least every six months.
- c) When updating the list, KEPHIS shall notify the new vendors of their admission into the list.
- d) An application to be included in the list of registered suppliers can be made any time, at no cost and shall contain proof of:
 - Eligibility criteria set out in The Public Procurement and Asset Disposal Act, 2015
 - Capability criteria that defines necessary qualifications, experience, resources, equipment and facilities to provide what is being procured.

CHAPTER 5

PROCUREMENT METHODS

5.1 INTRODUCTION

This chapter outlines the various methods that KEPHIS will apply in procurement of goods, works and services. The Corporation will endeavor to give all potential suppliers equal opportunities to compete as well as reach out to as many suppliers as possible. The choice of procurement methods to be used shall be as per the procurement plan.

5.2 Open National Tender

Open tender shall be the preferred method of procurement of goods, works and non-consultancy services within KEPHIS. The procedure for open national tender method in procuring goods, works or non-consultancy services shall be as provided in chapter 4 of this policy.

1. KEPHIS shall advertise the tender in the dedicated Government tender portal and its own website. In addition, the advertisement may be placed in at least two daily newspapers of nationwide circulation or any other electronic advertisement as prescribed and post advertisement on its public notice board.
2. The minimum time allowed for prospective bidders to prepare tenders shall be seven (7) calendar days excluding the date of the notice.
3. The tender closing/opening day shall not be on weekends or gazetted public holidays or beyond official working hours.
4. KEPHIS may charge a fee of not more than KShs. 1,000 to access the tender documents or the same can be obtained for free from the KEPHIS Website or the Government dedicated tender portal.
5. KEPHIS shall use standard tender documents for open tenders for goods, works or non-consultancy services issued by PPRA.

5.3 Alternative Methods of Procurement

5.3.1. Restricted Tendering

In restricted tendering, a limited number of qualified suppliers shall be invited to tender and the process thereafter is the same as that applicable to open tendering. KEPHIS may use restricted tendering if the following conditions are satisfied:

- a) The procurement shall be within the applicable thresholds provided under the 2nd schedule of the Regulations.
- b) Competition for the contract, because of the complex or specialized nature of the goods, works or services is limited to prequalified contractors.
- c) The time and cost required to examine and evaluate a large number of vendors would be disproportionate to the value of the goods, works or services to be procured.
- d) If there is evidence to the effect that there are only a few known suppliers of the whole market of the goods, works or services

- e) An advertisement is placed, where applicable, on KEPHIS website regarding the intention to procure through limited tender.

5.3.2. Direct Procurement

- a) The following conditions shall apply in regard to direct procurement;
 - i) The goods, works or services are available only from a particular supplier or contractor, or a particular supplier or contractor has exclusive rights in respect of goods, works or services and no reasonable alternative or substitute exists.
 - ii) Due to war, invasion, disorder, natural disaster or there is an urgent need for the goods, works or services, and engaging in tendering process proceedings or any other method of procurement would therefore be impractical, provided that the circumstances giving rise to the urgency were neither foreseeable by KEPHIS nor the result of dilatory conduct on its part.
 - iii) Owing to a catastrophic event, there is an urgent need for the goods, works or Services, making it impractical to use other methods of procurement because of the time involved in using those methods
 - iv) KEPHIS , having procured the goods, equipment, technology or services from a contractor, determines that additional supplies shall be procured from that supplier or contractor for reasons of standardization or because of the need for compatibility with existing goods, equipment, technology or services, taking into account the effectiveness of the original procurement in meeting the needs of the procuring entity, the limited size of the proposed procurement in relation to the original procurement, the reasonableness of the price and unsuitability of alternatives to the goods or services in question.
 - v) For the acquiring of goods, works or services provided by a public entity provided that the acquisition price is fair and reasonable and compares well with known prices of goods, works or services in the circumstances.
- b) In using Direct Procurement the following procedure shall apply;
 - i) KEPHIS shall issue a tender document which shall be the basis of tender preparation by tenderer and subsequent negotiations with a person for the supply of goods, works or services being procured.
 - ii) Appoint an *ad hoc* evaluation committee to negotiate with a person for the supply of goods, works or non – consultancy services being provided.
 - iii) Ensure appropriate approval under the Act have been granted.
 - iv) Ensure the resulting contract is in writing and signed by both parties.
- c) All direct procurement exceeding KShs. 500, 000/- shall be reported to the PPRA within fourteen (14) days after notification of the contract award.
- d) In executing this method, the MD shall have discretion to grant approval for direct procurement upon request in writing by the HP with reasons why the same is to be used.

5.3.4. Request for Proposals

- a) The request for proposals method may be used for consultancy services/ professional services or any work whose nature and scope is not clearly understood. Proposals will be sought from not less than five candidates conversant with the work so as to shed more light on it.
- b) KEPHIS may use request for proposals for procurement if:
 - a) The procurement is of services or a combination of goods and services.
 - b) The services to be procured are advisory or otherwise of a predominantly intellectual nature.
- c) The conditions governing request for proposals shall be as follows:
 - 1) The initiation of request for proposals is subject to terms and conditions for invitation to tender
 - 2) it shall include in the terms of reference the expected milestones or performance benchmarks to be realized throughout the consultancy period and related timelines
 - 3) KEPHIS may source relevant suppliers either through advertisement, or from the list maintained
 - 4) KEPHIS shall give each person who it determines qualified to be invited, based on the shortlist from the expression of interest in accordance with the notice inviting expressions of interest to submit a proposal and a copy of the terms of reference.
 - 5) The request for proposals shall set out the following:
 - a) The name and address of the KEPHIS
 - b) The general and specific conditions to which the contract will be subject
 - c) Instructions for the preparation and submission of proposals which shall require that a proposal include a technical and a financial proposal.
 - d) An explanation of where and when proposals must be submitted.
 - e) The procedures and criteria to be used to evaluate and compare the proposals including:
 - i The procedures and criteria for evaluating the technical proposals which shall include a determination of whether the proposal is responsive.
 - ii The procedures and criteria for evaluating the financial proposals.
 - iii Any other additional method of evaluation, which may include interviews or presentations, and the procedures and criteria for that additional method.
 - f) A statement giving notice of the restriction on entering into other contracts.
 - g) Any other relevant information

d) In the application of the request for proposals procedure, KEPHIS shall require that:

- a) At least five candidates are invited to submit proposals. The most favorable proposal is selected based on the criteria set out in the Act and the Regulations.
- b) The notice of intention to enter into a contract shall as applicable be publicized on the KEPHIS website and notice boards that do not attract a cost
- c) KEPHIS may enter into negotiations with the successful bidder and may request and permit changes subject to provisions under the Act.
- d) Due to the possibility of conflict of interest, candidates shall be excluded from the work that ensues out of their services.
- e) Alternatively, candidates who submit proposals that are considered satisfactory after evaluation may be asked to give their quotations. These quotations will be evaluated by a technical committee, which shall submit its report to the MD.

5.3.5 Request for Quotations

The following guidelines will be used for quotations method of procurement:

- a) The procurement process may only be initiated after the respective officers have obtained authorization and confirmation of availability of funds through completion of Purchase Requisition Forms.
- b) Quotations will be used for individual items whose total budget expenditure does not exceed KShs. 3, 000,000 for goods and services and KShs. 5,000,000, for works.
- c) User departments may give input that will assist the procurement process to realize value for money for KEPHIS.
- d) Heads of department shall consult with Procurement Function to enable them fill provisional estimates in the Purchase Requisition form.
- e) Only the KEPHIS official request for quotation forms shall be used for this purpose.
- f) The request shall be given to as many persons as necessary to ensure effective competition and shall be given to at least three persons.
- g) Quotations shall be invited and submitted in sealed envelopes
- h) At least three persons shall submit their quotations prior to evaluation
 - i) Opened RFQs shall be evaluated by committees appointed by the MD and will be required to sign on each quotation and then make a recommendation on the most favorable quote.
- j) Contract award for a request for quotation is the responsibility of the MD upon professional advice given by the HP.
- k) The MD or a person acting in that capacity may;
 - i) Approve submission.
 - ii) Reject submission with a reason or
 - iii) Approve a submission subject to minor clarifications where need be.

5.3.6. Low Value Procurement

- a) KEPHIS shall use low value procurement method when:

- a) Procuring low value items which are not procured on regular basis and are not covered in framework agreement
- b) The estimated value of the goods, works or non – consultancy services being procured are less than or equal to the maximum value per financial year for that low value procurement procedure where:
 - i The estimated cost of the goods, works or services being procured per item per financial year is as per the threshold matrix in the Regulations.
 - ii No benefit would accrue to KEPHIS in terms of time or cost implications if requests for quotations or any other procurement method was used;
 - iii The procedure is not being used for the purpose of avoiding competition; or
 - iv The procedure has been recommended by the HP function or an officer acting in that capacity after conducting a market survey and approved by the MD or such person delegated in writing by him.
- b) Where the MD or an officer acting in that capacity finds it necessary to use low value procurement method,
 - i The MD may only delegate that function to the HP function or his designated representative to procure the goods, works or services from a reputable outlet or provider through direct shopping or using credit cards or direct funds transfer to that outlet. Non-procurement staff shall not be permitted to use the above method.
 - ii Such procurement under paragraph (i) above shall be supported by the original Kenya Revenue Authority Electronic Tax Receipt (KRA ETR Receipt) duly signed by the procurement staff undertaking the low value procurement of goods, works or services.
 - iii The goods procured shall be taken on charge by the officer responsible for the stores after the user department has confirmed the quantity and quality of the goods, works or services, before they are issued to the respective user department and a GRN raised.

5.3.7. Force Account

- a) KEPHIS may use Force Account by making recourse to the state or public officers and using public assets, equipment and labor where:
 - a) Quantities of work involved are small and scattered or in remote locations for which qualified firms are unlikely to tender at reasonable price and the quantities of works cannot be defined in advance.
 - b) Unforeseen and urgent work is required to be carried out without disrupting ongoing operations
 - c) There is need to complete works delayed by the contractor after written warnings did not yield any results.
- b) This method shall only be applied where there was prior approval by the MD and determined by the funds allocated in the budget for the particular procurement.

5.3.8. Electronic Reverse Auction

The electronic reverse auction method shall apply to goods, works and services which have standard and comprehensive specifications.

This shall be used with approval from PPRA.

5.3.9. Framework Agreement

A framework agreement is a pact between a procuring entity and a selected supplier (or suppliers) or contractor (or contractors) identified for a definite term to supply goods works or service whose quantities and delivery schedules are not definable or determinable at the beginning.

1. KEPHIS may enter into a framework agreement through open tender if:
 - a) The Procurement value is within the threshold of the Regulations under the Act.
 - b) The required quantity of goods, works or non- consultancy services cannot be determined at the time of entering into the agreement
 - c) A minimum of seven alternative vendors are included for each category.
2. The maximum term for the framework contract shall be three (3) years, and for agreements exceeding one (1) year. A value for money assessment undertaken annually to determine whether the terms designated in the framework agreement remain competitive
3. Framework agreements may be subjected to the preferences and preservations provided for under the Act.
4. In implementing the framework procedure, the following may be done:
 - a. Through call off order when necessary
 - b. Invite mini- competition among persons that have entered into the framework agreement into the respective category.
5. Evaluation of bids under category specified in (4) (b) above shall be undertaken by an Evaluation Committee as provided for under the Act.
6. Procurement function shall prepare and submit to the MD with a copy to the internal auditor quarterly reports detailing an analysis of items procured through framework agreements and these reports shall include, an analysis of pattern of usage, procurement costs in relation to the prevailing market rates and any Recommendations.
7. Where the MD finds it necessary to enter into a framework agreement, the same shall be done through open tendering method of procurement.
 - a) The invitation to tender shall specify:-
 - i) That the procuring entity intends to establish a framework agreement

- ii) The number of suppliers or contractors which shall not be less than seven alternative vendors
- iii) The duration of the framework agreement which shall not exceed three years
- iv) The evaluation criteria;
- v) An estimate of the total volume or scope of work or quantity of purchases expected to be made for the duration of the framework agreement, as appropriate; and
- vi) Any other information as may be deemed relevant.

- b) Where applicable, a procuring entity shall specify in the tender document the relative weighting that it gives to each of the criteria.
- c) The weighting referred to in (b) above may be expressed by providing a range within an appropriate maximum spread.
- d) An ad hoc evaluation committee shall be appointed by the MD in accordance with the Act.
- e) The bids submitted shall be evaluated in accordance with the provisions of the Act and the Regulations.
- f) The evaluation committee shall apply the evaluation criteria set out in the bid documents when evaluating the bids and the evaluation report shall be submitted to the HP.
- g) The HP shall prepare a professional opinion and submit it to the MD for consideration prior to the approval and award of the framework agreement.
- h) The MD shall award a contract under the framework agreement in accordance with the Act.

8) For Contracts under the framework agreement, the following procedures shall guide:

- a) Parties to a framework agreement entered into under 4.3.9 above shall not make substantial amendments to the terms specified in that framework agreement when entering into a contract under it.
- b) The MD may award a contract under a framework agreement either through:-
 - i. call-off orders where the price has been determined in the contract by applying the terms specified without reopening competition; or
 - ii. inviting mini-competition amongst the suppliers under the framework agreement
- c) KEPHIS may from time to time, make a call-off order for goods, works or services based on the organizational needs.
- d) Where the MD awards a contract under framework agreement through the provisions of this policy, the following procedures shall be followed.
 - i. for each contract to be awarded, the procuring entity shall invite in writing the suppliers or contractors that have entered into the framework agreement to participate in the mini-competition
 - ii. KEPHIS shall give a minimum of three days for bidders to submit their financial bids;
 - iii. suppliers or contractors shall submit their financial bids in writing

- iv. the procuring entity shall keep the content of the financial bids confidential until the deadline for receiving tenders has expired;
 - v. KEPHIS shall award the contract to the tenderer that has submitted the lowest evaluated price on the basis of the award criteria set out in the framework agreement.
- e) The thresholds for framework agreements shall be as specified in the Second Schedule of the Regulations.
- f) For goods or services whose prices are volatile, framework agreements may include an indexing mechanism to adjust prices based on prevailing Central Bank's monthly rate of inflation or the consumer price index of the Kenya National Bureau of Statistics.
- g) KEPHIS shall not advertise or invite quotations from persons not shortlisted under the framework agreement where a framework agreement has been entered into by KEPHIS.
- h) Individual orders shall include all the details required to establish the full cost or price for the delivery of goods, works or services
- i) Call-off orders shall be within the specific requirements issued within the period of performance in a format provided by PPRA.
- j) Orders may be placed by using electronic means or as specified in the framework agreement.
- k) KEPHIS shall ensure the price or quantities for all the orders does not exceed any ceiling amount stated in the contract.
- l) Orders placed on the basis of a contract under the framework agreements shall contain the following information:-
 - i. Date of order
 - ii. Agreement number and order number;
 - iii. For goods and services, contract item number and description, quantity, and unit price.
 - iv. Delivery or performance schedule
 - v. place of delivery or performance (including the details of the consignee, where applicable);
 - vi. any packaging, packing, and shipping instructions
 - vii. method of payment; and
 - viii. any other information as may be deemed necessary from time to time.
- m) The requirement of the performance security shall be included in the bid documents and determined by KEPHIS in accordance with value of the orders made.

5.3.10. Two Stage Tendering

KEPHIS may use Two Stage Tendering when, due to complexity and inadequate technology on its part or advancement in technology, it is not feasible to formulate detailed specifications for the goods or works or non- consultancy services in order to obtain the most satisfactory solution to its procurement needs. The guidelines in the regulations shall be used where need be to use this method.

5.3.11 Design Competition

KEPHIS will use Design competition procedure for the purpose of determining the best architectural, physical planning and any other design scheme, engineering, graphic or any other design scheme for its use. In design competition, KEPHIS shall:

- a) Invite design proposals through a public advertisement
- b) Ensure the preparation of the invitation sets out the following –
 - i. The name and address of KEPHIS
 - ii. The tender number.
 - iii. Description of technical and functional needs
 - iv. An explanation of where and when tenderers or their representatives may attend the opening of the design proposals
 - v. A statement that a copyright or other intellectual property of the top three shall vest in the state.

In participating in design competitions, all bidders shall undertake to transfer all copyrights, intellectual property rights and patents relating to their designs to KEPHIS.

5.3.12. Community Participation as a Method.

KEPHIS may involve a beneficiary community to participate in the delivery of services if it is established that it shall contribute to:-

- a) The economy;
- b) Value for money;
- c) Project sustainability; and
- d) Socio-economic objectives such as creation of employment.

The following two approaches may be used in carrying out this namely:-

- a) Direct community participation; or
- b) Organized community participation through the appointment of community based service providers.

Where the MD finds it necessary to use this method, the following conditions must be ensured:-

- a) The project is aligned to the KEPHIS's mandate and strategic plan
- b) The project has positive socio-economic outcomes with the community as its main beneficiary
- c) The project requires community involvement in part or in whole for its success and its continued implementation.
- d) The project is included in the annual procurement plan for that procuring entity;
- e) The project proposal prepared is in line with its strategic plan and which shall include:-
 - i) Setting out the key result areas and the specific roles of the target community; and
 - ii) The objectives, estimated budget and the target community beneficiaries

The following Procedure shall be used in executing community participation method.

- a) KEPHIS organize a meeting of the beneficiary community, whereby
 - i) the community shall be informed of the activity, the scope of their participation and the benefit to the community in return;
 - ii) through its representatives, KEPHIS shall explain to the community the document containing obligations of both sides, the appropriate payment, the period after which participants shall be paid, payment modalities and any other details related to goods, works or non-consultancy services execution; and
 - iii) KEPHIS shall establish a list of community members committed to participate in the procurement proceedings and those members shall affix their signatures or fingerprints as evidence for their commitment;
- b) Require the community to elect or nominate their representative in all communication and transaction processes and that procuring entity shall identify a contact person and where there is a change to the representatives each party shall communicate the change to the other;
- c) Avail technical equipment needed for the execution and shall inform the community of any equipment they shall bring for the execution of the community project, where applicable.
- d) Use its public officers or hire a consultant to technically assist the community for the supervision of works execution, if needed;
- e) With the help of supervisors, assist every participant to sign on daily basis in the register or on a card prepared for that purpose, as appropriate
- f) Before execution of the community project, require every participant to provide his or her full identification, and if necessary, her or his bank account where the payment may be deposited;
- g) Where a procuring entity is unable to organize the community participation, delegate to another public entity capable of managing that activity; and
- h) ensure that a project management committee composed of at least five volunteer members is elected or nominated by the beneficiary community who shall:-
 - i) Participate in the preparation, management and implementation of the project;
 - ii) Monitor the implementation of the project; and
 - iii) Report to the MD KEPHIS

For the purposes of this method, the MD shall ensure that a person is appointed as project supervisor, who may be the head of the user department, or a consultant where we don't have the internal capacity to supervise the project.

Use of Direct Community participation Approach.

Where KEPHIS intends to use direct community participation approach that procuring entity shall transfer the project funds in tranches to the community project management and implementation committee.

The community project management and implementation committee shall:-

- i) Procure goods, works or non-consultancy services at the prevailing market prices.
- ii) Negotiate for goods, works or non-consultancy services to get value for money.

The community project management and implementation committee may also procure goods, works or non-consultancy services through a competitive process within market prices.

KEPHIS shall be represented in the community project management and implementation committee by the head of the user department or his or her representative appointed in writing, who shall also be the secretary of the committee.

The project funds shall be transferred to a bank account opened in the name of the community project and which shall be operated by the following three signatories, with the secretary being a mandatory signatory alongside the following:-

- i) Chairperson;
- ii) Treasurer; and
- iii) Secretary, who shall be the representative of the MD.

The community project management and implementation committee shall prepare monthly reports during project implementation and a final report after the completion of the project to KEPHIS.

Use of Community based service provider approach.

Where KEPHIS intends to use the services of community based service providers, the MD shall ensure that all the conditions under Regulations 108 and 110 have been complied with before award of the tender.

The head of the procurement function shall prepare a request for quotation or proposal or tender to source and identify the service provider competitively.

A notice shall be posted on the procuring entity's website in at least two conspicuous public places and on the notice board of KEPHIS within the community project implementation area.

The Notice shall include:

- i) A brief description of goods, works or non-consultancy services;
- ii) The technical specifications;
- iii) Scope of work;
- iv) Deadline for submission of bids;
- v) The terms and conditions of the contract; and
- vi) Any other necessary information that may be deemed necessary.

KEPHIS may use a predetermined rates approach in which the community service providers shall ballot for the goods, works or non-consultancy services to determine the successful bidder where the goods, works or non-consultancy services are not of a complex or specialized nature. A community based service provider shall be:-

- i) Registered in Kenya;
- ii) Have an office or members who are residents within the
- iii) Community where the community project is being
- iv) Implemented;
- v) Have a bank account opened in their name; and
- vi) Have a physical address

The community based service provider shall prepare a monthly report during project implementation and a final report after the completion of the project to KEPHIS.

For purposes of greater certainty “a community based service provider” shall be composed of organized community members intending to act as a service provider or contractor for a project or its components which includes community service organizations, community based organizations or registered organized community groups.

5.3.13. Specifically Permitted Procurement

KEPHIS shall seek approval from NT to use the above method where such procedure is in the public interest or interest of national security.

In applying the Specially Permitted Procurement Procedure, the MD shall:-

- i) Approve and issue written justification for use of the procedure upon considering its uniqueness from the other methods of procurement set forth in the Act.
- ii) Plan the subject procurement and set it forth in its approved annual procurement plan, where applicable.
- iii) Prepare tender documents for the subject procurement which shall at least include a specifications, conditions of tendering and contracting; and
- iv) Submit the tender documents and the proposed procedure to NT for approval detailing the justification for the use of the method.
- v) The NT shall maintain a register of all Specially Permitted Procedures allowed and notify the PPRA for monitoring purposes.

5.3.14 International Open Tender

KEPHIS shall use International Open Tender method where there will be no effective competition for a procurement unless foreign tenderers participate. The following procedures shall apply for use of international open tender method in procuring goods, works or non-consultancy services:

1. The invitation to tender and the tender documents shall be in English language;

2. The invitation to tender shall be published in Kenya's dedicated tenders portal, one or more English-language newspapers or other publications that, together, have sufficient circulation outside Kenya to allow effective competition for the procurement;
3. The period of time between the advertisement and the deadline for submitting tenders shall be as prescribed in the regulations.
4. The technical requirements shall, to the extent compatible with requirements under Kenyan law, be based on international standards or standards widely used in international trade;
5. A tenderer submitting a tender may, in quoting prices or providing security, use a currency that is widely used in international trade and that the tender documents specifically allow to be used.
6. Where local or citizen contractors participate they shall be entitled to preferences and reservations.

CHAPTER 6

PROCUREMENT OF CONSULTANCY SERVICES

6.0. Introduction

Consultancy services refers to services that are intellectual or advisory in nature. KEPHIS may procure consultancy services by directly advertising for a Request for Proposal (RFP) or may start the process with an invitation for Expression of Interest.

6.1 Expression of Interest (EOI)

The procedure for conducting Expression of Interest shall be as follows:

1. Expression of Interest shall only be conducted for consultancy services where KEPHIS is not certain about the market or cannot prepare detailed specifications and/or terms of reference for the services.
2. KEPHIS shall openly publish an invitation notice for EOI so that candidates can submit proposals allowing the potential candidates seven (7) calendar days to prepare and submit proposals.
3. The invitation notice shall include amongst others: outline of the procurement requirement including the objective of the assignment; scope, nature and indicative quantity of services and the location and timetable for delivery or performance of contract; statement of key requirements and criteria for evaluation or any conditions that shall facilitate candidates to express interest.
4. Upon invitation of EOI, KEPHIS shall promptly issue EOI documents to all candidates who request them and shall maintain a record of all candidates to whom documents are issued. The document shall contain all the information specified in the invitation notice.
5. The applications shall be opened and evaluated as outlined in **4.3.4** of this policy.
6. The Evaluators shall in writing record the results of its evaluation of the applications using the evaluation criteria in the EOI documents and shall state which candidates were found to be qualified and the reasons why any candidates were not qualified.
7. The record of results of evaluation of the applications together with the recommendations shall be submitted to the HP Unit who shall prepare a Professional Opinion on the EOI and submit to the MD for approval.
8. KEPHIS shall simultaneously notify in writing every tenderer of the results of EOI.
9. KEPHIS shall then invite Request for Proposals from only those firms that were qualified in the EOI.

6.2 Request for Proposal (RFP)

The procedures for RFP shall be as follows:

1. Where procurement of consultancy services did not begin with an EOI, the MD shall advertise or invite for RFP for consultancy services through Open Tender method, restricted tender method, Request for Quotation method or Framework Contract method as long as the threshold amounts for the methods and their conditions are observed.
2. A standard Request for Proposal document approved by the PPRA for either individuals or firms shall be used.

3. The User Department shall prepare detailed specifications and/or terms of reference for the consultancy services that shall include an Introduction on the Assignment; the Objectives both General and Specific of the Assignment; Scope of the Work expected from the Consultant; Expected Deliverables or Outputs; Expected Timelines for the Assignment; including any other information that shall facilitate the consultant in preparing the RFP.
4. The HP Function shall then prepare the RFP document by incorporating the specifications and/or Terms of Reference from the User Department.
5. The RFP document shall contain instructions for the preparation and submission of proposals.
6. The RFP document shall include the procedures and criteria to be used to evaluate and compare the proposals including the technical and financial proposals and any other additional method of evaluation.

6.3 Selection Procedures

There are various selection procedures for RFP. These include:-

6.3.1 Quality and Cost Based Selection (QCBS)

Quality and Cost Based Selection method is a method that uses a competitive process that takes into account the quality of the proposal and the cost of the services in the selection of the successful firm.

- a) The following procedure shall apply:
 - i) Both the quality and the cost of bids shall be taken into account in a process under which technical bids are evaluated without accessing the financial bids; and
 - ii) The relative weight to be given to the quality and cost components of the evaluation shall depend on the nature of the assignment and shall be stated in the request for proposals.
- b) A bid submitted under the QCBS method shall be submitted under the two envelopes submission method and evaluated to determine the:-
 - i) Quality, with regard to a technical bid, in accordance with :-
 - An evaluation against set criteria on a merit point system to determine the total technical score for the technical bid received; and
 - The total scores determined compared to the minimum technical score
 - ii) Only bids which have attained the minimum technical score shall proceed to the opening of the financial bid which shall be conducted as follows:-
 - The bidders who shall have attained the minimum technical score shall be invited to attend the opening of the financial bids;
 - During the opening of the financial bids, the procuring entity shall read out the technical score to all bidders who attained the minimum technical scores;
 - an evaluation shall be done against a set criteria on a merit point system to determine the total financial score for the financial bid; and
 - the total scores determined compared to the minimum financial score

- iii) Total weighted cost score, with regard to a financial bid, where the bidder attained the minimum technical score; and
 - iv) Bidder obtaining the highest combined score based on the formula provided in the request for proposal document, shall be recommended for the award of contract.
- c) Pursuant to section 124(4) of the Act, the evaluation criteria provided in the request for proposal tender document shall take into account the following, among others:-
 - i) Specific experience;
 - ii) Methodology proposed including key deliverables;
 - iii) Key personnel;
 - iv) Transfer of knowledge; and
 - v) Participation of nationals.

6.3.2 Quality Based Selection (QBS)

"Quality Based Selection" means an evaluation method that uses quality as the primary factor in a process under which technical bids are evaluated without accessing the financial bids and a financial evaluation is undertaken only for the best technical bid.

- a) Quality Based Selection method shall be appropriate for:-
 - i. Complex or highly specialized assignments for which it is difficult to define precise terms of reference and the required input from the consultants;
 - ii. Assignments that have a high downstream impact and in which the objective is to have the best experts;
 - iii. Assignments that can be carried out in substantially different ways;
 - iv. Assignments and professional services which are regulated by Acts of Parliament which stipulate fees and charges applicable for such assignments.
- b) QBS method shall be conducted as follows:-
 - i. A technical evaluation shall be conducted against the set criteria on a merit point system to determine the best technical bid without accessing the financial bids;
 - ii. The quality of a bid shall be the primary factor to be considered; and
 - iii. The bid with the highest technical score shall take priority in the first instance.
- c) The procedure for the QBS method of a technical bid shall be conducted in three stages.
- d) The preliminary examination shall be done following the opening of a technical bid to determine whether a bidder has qualified on the basis of having passed or failed the selection for the bid and the responsiveness of bids to the terms of the bidding document.
- e) A bid that fails to qualify or that is found to be nonresponsive to the terms of the bidding document shall be eliminated from further evaluation
- f) The technical evaluation criteria shall be used to:-
 - i. Evaluate each technical bid against the technical evaluation criteria; and
 - ii. The same method of technical evaluation as that utilized for the QCBS method under Regulation 122.

- g) The evaluation committee shall prepare a technical evaluation report of the technical bids received which shall:-
 - i. Substantiate the results of the evaluation;
 - ii. Describe the relative strengths and weaknesses of the bids; and
 - iii. Indicate which bid is recommended to proceed to the financial evaluation.
- h) A financial evaluation shall be conducted of the bidder:-
 - i. Who submitted the best evaluated technical bid being invited to submit a financial bid where only technical bids were submitted; or
 - ii. Of the financial bid of the bidder who submitted the best evaluated technical bid where both technical and financial bids were submitted under the dual envelope method.
- i) The financial bid shall be negotiated by KEPHIS in accordance with the provisions of the Regulations
- j) Award of contract shall be made to the firm or individual who scored the highest technical score.

6.3.3 Least Cost Selection (LCS)

KEPHIS may also use Least Cost Selection (LCS) method which is appropriate for assignments that are of a standard or routine in nature where well established practices and standards exist. Award shall be made to the lowest bidder who met the minimum technical scores.

6.3.4 Fixed Budget Selection (FBS)

Fixed Budget Selection is appropriate when the assignment is simple and can be precisely defined by KEPHIS within a certain budget.

KEPHIS shall indicate the available budget and request the consultants to provide their best technical and financial proposals in separate envelopes within the budget.

Proposals that exceed the indicated budget shall be rejected while the consultant who has submitted the highest ranked technical proposal within the budget shall be selected and invited to negotiate the contract.

6.3.5 Individual Consultant Selection (ICS)

- a) KEPHIS may use the above method where the following conditions are met.
 - i. A team of experts is not required;
 - ii. No additional outside professional support is required;
 - iii. The experience and qualifications of the individual are the predominant considerations; or
 - iv. Coordination, administration or collective responsibility between individuals is required.
- b) The individual consultant may be procured using any one of the following approaches:-
 - i. open advertisement by request for expression of interest; or
 - ii. request for applications from the list of registered consultants in the relevant category within ceilings specified in the Second Schedule of the threshold matrix

- c) KEPHIS shall:-
- i. Prepare terms of reference setting out the objectives, scope of work, level of effort, evaluation criteria, scoring points and minimum technical score required to pass; and
 - ii. Estimate the cost of the consultancy based on the terms of reference and market rates.
- d) Where open advertisement is used, individual consultants shall be required to submit their applications with curriculum vitae, and other relevant testimonials, including professional and academic certificates.
- e) Where a register of consultants is used, an invitation shall be issued to at least five consultants
- f) All submitted applications shall be opened in the presence of applicants or their representatives who choose to attend.
- g) The evaluation committee shall use the specified evaluation criteria in the bid document or invitation notice and terms of reference to evaluate and score each of the applications and rank each application according to technical scores.
- h) The consultants that fail to attain the minimum technical score or have conflict of interest regarding the subject consultancy and other related assignments shall be disqualified from further consideration.
- i) The evaluation committee shall prepare an evaluation report and submit it to the HP for the professional opinion before submission to the MD
- j) The first ranked individual consultant with the highest technical score shall be recommended for award of contract.
- k) The HP function shall prepare a draft contract setting out the proposed fees, terms and conditions of contract using the standard template issued by the PPRA
- l) After approval of the recommendation for award by the MD, the first ranked individual consultant shall be invited to negotiate the fees, reimbursable expenses and contract terms with the evaluation committee and where negotiation fail, the second ranked individual shall be invited to negotiate the contract
- m) The negotiations shall be carried out in accordance with regulation 130 of the Regulations.
- n) KEPHIS shall issue the successful consultant with the notification of award and at the same time notify the unsuccessful applicant of their results.
- o) KEPHIS may enter into contract with the successful consultant after fourteen days from notification of award.

6.3.6 Single Source Selection (SSS)

- a) KEPHIS may use Single Source Selection (SSS) method in the following cases, and only if it presents a clear advantage over competition-
 - (a) Where it can be evidenced that goods, works or services are available only from a particular supplier, or a particular supplier has exclusive rights in respect of the consultancy services, and no reasonable alternative or substitute exists; or
 - (b) For tasks that represent a natural continuation of previous work carried out by the individual or firm;
 - (c) **In exceptional cases, such as, but not limited to, in response to natural disasters and for a declared national emergency situation.**
- b) The HP shall issue a written justification for single-source selection to the MD for approval in the context of the overall interests of KEPHIS and submit the same to the PPRA for approval.
- c) Single Source Selection shall require a placement of advertisement in Government tenders' portal and/or in own website of the intention to single source and invite anyone who wishes to bid and in the event that there is a response to the advert then all interested suppliers shall be invited to submit proposals.
- d) Opening and evaluation of RFPs shall be conducted as prescribed in section in this policy.

The evaluation committee may negotiate with the recommended consultant as provided in the request for proposal document and they shall prepare and submit the negotiation report to the HP.

- e) Upon completion of the evaluation exercise, the HP shall prepare a Professional Opinion which he/she shall submit to the MD or an officer he/she delegated to for award of the consultancy.
- f) All candidates shall be notified of the award of the consultancy.

6.3.7 Competitive Negotiations

- a) KEPHIS may conduct competitive negotiations where:
 - i. There is a tie in the lowest evaluated price by two or more tenderers;
 - ii. There is a tie in highest combined score points;
 - iii. The lowest evaluated price is in excess of available budget; or
 - iv. There is an urgent need that can be met by several known suppliers.
- b) In implementing this procedure the MD shall:-
 - i. Identify the tenderers affected by tie;
 - ii. Identify the tenderers that quoted prices above available budget; or
 - iii. Identify the known suppliers as prescribed
- c) In the case of tenderers that quoted above the available budget, and the MD shall:-

- i. Reveal its available budget to tenderers; and
 - ii. Limit its invitation to tenderers whose evaluated prices are not more
 - iii. Than twenty five percent above the available budget
- d) The MD shall request the identified tenderers to revise their tenders by submitting their best and final offer within a period not exceeding seven days.
- e) The revised prices shall not compromise the quality specifications of the original tender.
- f) Tenders shall be evaluated by the evaluation committee appointed in the initial process
- g) The successful best and final offer shall be the best rated tender using evaluation criteria set forth in the tender documents.

CHAPTER 7

COMPOSITION AND ROLES OF KEPHIS PROCUREMENT COMMITTEES

7.1 Tender Opening Committee

The MD shall appoint a tender opening committee specifically for a particular procurement. The Committee shall:

- a) Have at least three (3) members
- b) At least one of the members shall not be directly involved in the processing or evaluation of the tenders
- c) Open the tenders immediately after the deadline for submitting tenders
- d) The tender opening committee shall produce minutes, which must be signed on each page by all the members, indicating their names and designation
- e) Ensure safe handling of the tender documents
- f) Ensures safe handling of tender opening proceeding documents.

7.2. Evaluation Committee

The MD shall establish *ad hoc* evaluation committee which shall:

- a) Consist of between three and five members appointed on a rotational basis comprising heads of user department and two other departments or their representatives and where necessary, procured consultants or professionals, who shall advise on the evaluation of the tender documents and give a recommendation to the committee within a reasonable time
- b) The MD shall designate one of the members of the evaluation committee as the chairperson.
- c) The HP shall act as the secretary to the committee
- d) Have as its secretary, the person in charge of the procurement function
- e) The quorum for the evaluation committee shall be three members including the chairperson and excluding the secretary.
- f) Carry out evaluations of the tender in strict adherence to the criteria set out in the tender document within the stipulated timelines.
- g) Carry out negotiations and due diligence with respect to the tender.
- h) Complete the procurement process and submit and evaluation report to the HP function.

7.3. Inspection and Acceptance Committee

The MD upon the recommendation of the HP shall establish an *ad hoc* Inspection and Acceptance Committee composed of Chairperson and at least two other members.

The committee shall within five (5) days after the delivery of the goods, works or services –

- a) Inspect and where necessary, test the goods received
- b) Inspect and review the goods, works or services in order to ensure compliance with the terms and specifications of the contract
- c) Accept or reject, on behalf of KEPHIS, the delivered goods, works or services
- d) Ensure that the correct quantity of the goods is received
- e) Ensure that the goods, works or services meet the technical standards defined in the contract
- f) Ensure that the goods, works or services have been delivered or completed on time, or that any delay has been noted.
- g) Ensure that all required manuals or documentation has been received.
- h) Issue interim or completion certificates or goods received notes, as appropriate and in accordance with the contract.

7.4. Disposal Committee

- a) The MD shall appoint a disposal committee comprising of:
 - i A chairperson, who shall be a head of a department,
 - ii Head of finance function and:
 - iii At least three heads of user departments, of whom one shall be the head of the user department disposing off the stores or equipment;
- b) The HP shall act as secretary or his or her designate.
- c) Where necessary, the disposal committee may co-opt a relevant technical expert in the process of carrying out its functions.
- d) The quorum for the disposal committee shall be three members including the chairperson.
- e) This will be for the purpose of disposal of unserviceable, obsolete, obsolescent or surplus stores, equipment or assets.
- f) The disposal committee shall be responsible for verification and processing of all disposal recommendation in liaison with the HP.

7.5. Functions of the User Department

- a) Initiating procurement and asset disposal requirements and forward them to the HP function;
- b) Participating in the evaluation of tenders, proposals and quotations;
- c) Managing, monitoring and reporting any departure from the terms and conditions of the contract to the HP;
- d) Forwarding details of any required amendments or variations to contracts including extensions to the HP for consideration and action;

- e) Maintaining and archiving copies of records of contract management;
- f) Preparing any reports required to the HP for submission to the MD;
- g) Undertaking conformity assessments of supplied goods, works and services with the specifications of the contract documents;
- h) Preparing and submitting technical specifications for goods, works and services to the procurement function;
- i) Preparing departmental procurement and asset disposal plans and submit to the procurement function;
- j) Making clarifications on tenders, requests for quotations and any other matter through the HP function may be required; and
- k) Carrying out any other functions and duties as provided for under the Act or the Regulations.

CHAPTER 8

RECEIVING AND INSPECTION OF GOODS

8.1. Introduction

The receiving and inspection of goods is an important aspect of the procurement process as it ensures compliance with the requirements and conditions of the tender awards.

8.2. Receiving Goods

Goods or materials must be received into the Central Stores from external suppliers. These Goods/materials must be accompanied by the relevant documents relating to the particular Procurement. In particular, the delivery note should indicate the order number, quantity of goods delivered, item description, point of delivery, and any other instructions.

8.3. Inspection of Goods

- a) Before materials are accepted into the store they must be inspected for quality and quantity against the order specifications and, where relevant, the sample. The Inspection and Acceptance Committee established in accordance with this policy shall be required to carry out an inspection before goods are received. In case of defects or quality shortfalls the items shall be rejected and the supplier informed to take back or replace the same.
- b) An inventory shall be kept and managed for purposes of continuing utilization of supplies, preventing wastage and loss.
- c) No goods will be received in the organization after 4 p.m. or during weekends and public holidays.
- d) Goods Received Note (GRN) is necessary for taking into stock the receipts and confirming to relevant departments that the goods were indeed received. The GRN is an accounting document that is serially numbered. It should have the following information:
 - a) Date of receipt - as in the receipt register;
 - b) Consignor;
 - c) Consignor's delivery note number;
 - d) Order/contract number;
 - e) Item(s) code/description;
 - f) Quantity received;
 - g) Any excess or shortfall in delivery;
 - h) Name/signature of receiving storekeeper;
 - i) User/verifier's name/signature applicable
- e) The GRN shall be distributed as follows:
 - a) Original will be attached to the original delivery note and original invoice and sent to the Finance Department for payment.
 - b) Duplicate will be sent to the procurement section to confirm delivery of the order.
 - c) Triplicate will remain in stores for updating of stock control ledgers and bin cards.

CHAPTER 9

STOCK CONTROL PROCEDURES

9.1. Introduction

The MD shall set up an inventory management system which shall be managed by the head of the procurement function, for the purpose of control and managing its inventory, stores and assets. For the purposes of stores management:-

- a) The Procurement Function shall be responsible for the proper accounting of stock and stores.
- b) The Stores officer shall maintain adequate records for stock control such as stock control ledgers or bin cards.
- c) All receipts and issues of stores must be recorded in the store ledger/ bin cards immediately after each transaction.
- d) The HP shall arrange for occasional visits of inspection to the stores, at least quarterly in each calendar year, and conduct quarterly and annual inventory and stock taking in order to ensure compliance with all respective governing laws and submit the report to the MD.
- e) Any discrepancies between the physical stock and bin cards shall be investigated and appropriate action taken.
- f) There shall also be an annual stocktaking activity at the end of every financial year, the results of which shall be incorporated in the annual accounts.
- g) In case of stock outs, the stores officer shall inform the HP in writing indicating quantities for procurement initiation.

9.2. Stock Taking

The annual stocktaking activity shall be carried out by the Procurement Function.

The essence of stock taking will be to ascertain whether:

- a) The storekeeping function of the Supply Chain Department is effectively carried out;
- b) Proper documentation of stocks and stores is maintained;
- c) All stocks and stores are adequately accounted for;
- d) There are adequate procedures for identifying and separately accounting for slow moving, damaged or otherwise defective stocks and stores;
- e) The amounts attributable to stocks in the final accounts are valid.
- f) Determine quantity of goods in stock at the closing of the year to avoid overstocking

9.3. Responsibilities of HP in Stores Management.

- a) Ensure that a qualified officer in supply chain management is designated to be in charge of stores;
- b) Ensure that all stores purchased are received and taken on charge, and shall arrange for occasional visits of inspection to the stores, at least twice in each calendar year, by himself or herself or by a representative in order to ensure that storekeepers carry out their duties as provided by the Act;
- c) Ensure that stores are not allowed to suffer deterioration from any preventable cause;

- d) Conduct quarterly and annual stock taking pursuant to the Act;
- e) Certify the invoices and payment vouchers to suppliers;
- f) Verify that the available stock levels warrant initiating a procurement process
- g) Ensure that all stores requisitions and issues are approved by the HP pursuant to the Act;
- h) Ensure that adequate safety and fire-fighting appliances as approved by the relevant authorities are installed in the store premises, are maintained in good working order and are readily available for emergencies; and
- i) Ensure that security personnel and staff are trained in the use of the safety and fire-fighting appliances (h) above

9.4 Responsibilities of officer in charge of stores.

- a) Ensure that the store-rooms are kept clean, properly ventilated and in good condition and that the stores are well arranged and easy to access;
- b) Inspect the store-rooms regularly and report to the head of the procurement function in case of any loss, leakage, damage or deterioration;
- c) Report half-yearly in writing to the head of the procurement function of any obsolete or unserviceable stores
- d) Examine frequently the locks of doors and fastenings of windows and ensure that the store-rooms do not remain unattended when open for any purpose and shall be solely responsible for the keys of all store-rooms and buildings and shall not delegate the duty of locking up the rooms to any unauthorized person;
- e) Ensure the stocks are properly stored, frequently examined and adequately protected and in particular, clothing and other stores subjected to deterioration by dampness or insects are frequently examined and not be placed on the floor and fluids contained in tins or drums, whenever possible, are stored off the ground to enable leakage to be readily detected;
- f) Apply good storage and preservation practices for all store items;
- g) Ensure damaged and expired stores for condemnation are kept separately from undamaged and unexpired stores;
- h) Ensure all stores of a highly inflammable or explosive nature are kept in a separate store-room;
- i) Ensure issues are made on first in first out basis;
- j) Ensure that stores are not allowed to expire through a lapse of the shelf life;
- k) Ensure bin cards are properly kept for each item of stores and placed on or near the respective item;
- l) Ensure notices prohibiting smoking are prominently exhibited within the store premises;
- m) Ensure access to the stores is restricted; and
- n) Be responsible for the safe custody of all empty cases, drums, tins and packing materials that may be of any value and quantity records in respect of such items are kept.
- o)

- 9.4.1 Procurement and Maintenance of Motor vehicles, plant Equipment and Machinery.**
- a) The transport officer shall prepare a detailed schedule of requirements and specifications of motor vehicles, plant and equipment for use by KEPHIS. This shall be done at initiation of the procurement with a copy to PPRA for publication.
 - b) Motor vehicles, plant, equipment and related spare parts to be procured shall be new and meet the minimum standards set by the relevant agency responsible for quality control and standardization.
 - c) All motor vehicles, plant, equipment and related spare parts shall be procured competitively from manufacturers, authorized local or international dealers or reputable local suppliers or dealers in accordance with the Act and the Regulations.
- 9.4.2 Procurement and Maintenance of Motor vehicles, plant Equipment and Machinery.**
- a) KEPHIS shall utilize its own workshop or garage to repair and maintain motor vehicles, plant or equipment.
 - b) Where the procuring entity lacks the capacity to carry out the repairs or maintenance, KEPHIS shall competitively procure such services from a pre-qualified list of service providers licensed to undertake such services in accordance with the Act, the Regulations and any other relevant laws.
 - c) The transport officer shall prepare a record of maintenance, repairs and replacement in respect of each motor vehicle, plant and equipment which shall be submitted to the MD in a format to be provided by the PPRA for approval.
 - d) The record referred to in (3) above shall form part of the procurement records and the said shall be kept in a procurement file.
- 9.4.3 Procurement and Maintenance of ICT equipment and related accessories.**
- a) The Head of ICT shall prepare a detailed schedule of requirements and specifications of Information Communication Technology (ICT) equipment and related accessories for use by procuring entities prior to initiating the procurement with a copy to PPRA for publication.
 - b) The information communication technology equipment and related accessories referred to in paragraph (1) shall be environmentally-friendly and the cost of servicing, maintenance and disposal of each of the item shall be specified.
 - c) Subject to the provisions of the Act and the Regulations, information communication technology equipment and related accessories shall be procured competitively from suppliers and dealers, shall be new and shall meet the standard specifications referred to in (a) above.

CHAPTER 10

10.0 DISPOSAL OF STORES AND EQUIPMENT

10.1. INTRODUCTION

The MD shall establish a disposal committee for the purpose of disposal of unserviceable, obsolete, obsolescent, or surplus stores, equipment or assets. The committee shall be responsible for verification and processing of all disposal recommendations in liaison with the HP.

10.2. Procedure for Disposal of Assets

- a) The Head of user department shall be responsible for identification of items due for disposal, capture them in the annual departmental disposal plan and submit the plan to the HP thirty (30) days after the close of the financial year for consolidation.
- b) The HP shall submit the consolidated annual disposal plan to the MD for approval.
- c) Once the consolidated disposal plan has been approved the head of the procurement function shall process the disposal through the disposal committee.
- d) The disposal committee shall consider the proposed items and recommend the reserve price where technical advice is not required and recommend the appropriate disposal method to the MD.
- e) The MD shall consider and take into account the recommendations of the disposal committee and approve or reject it within fourteen (14) days after receiving the recommendation of the disposal committee. If the MD approves the recommendations of the disposal committee, the HP function shall initiate the disposal process.
- f) If the MD rejects the recommendations of the disposal committee, he or she shall return the report to the disposal committee with his or her recommendations for further consideration.
- g) For the disposal of a building or land, a procuring entity shall obtain the approval of the NT.
- h) In case KEPHIS disposes off a building or land, the MD shall submit a disposal report to the NT.
- i) The MD shall prepare a quarterly report on the implementation of the annual asset disposal plan and submit it to NT.

CHAPTER 11

SUPPLIER EVALUATION

11.1. Introduction

In order to achieve competitive advantage and a cost effective procurement function, KEPHIS requires a well-developed and effective system of supplier evaluation and market survey.

11.2. Supplier Evaluation and Appraisal

- a) Supplier evaluation refers to determination of the supplier's capability to meet the institutional demands of quality, quantity and timeliness of orders. The emphasis is on preventing receipt of defective materials rather than detecting defects at a later stage. Supplier evaluation shall therefore assist in prior assessment of supplier capacity and competence. The aim is to obtain goods of the required quality and reliability at the most favorable price, i.e. the best value for money.
- b) Supplier evaluation shall be objective, logical, consistent, and fair. The resulting ratings or rankings shall be used to develop and update a supplier database for use in pre-qualifying suppliers and carrying out a market survey.

The following factors shall be considered during supplier evaluation:

- i) Quality control records;
- ii) Timeliness in delivery;
- iii) Shortages;
- iv) License;
- v) Credit terms;
- vi) Reputation;
- vii) Management;
- viii) Location/proximity;
- ix) Early or late consignments
- x) Rejects for quality deficiency;
- xi) After-sales service;
- xii) Green issues
- xiii) Corporate Social Responsibility
- xiv) Customer relationship Management
- xv) Human Resource capabilities
- xvi) Working conditions/ environmental issues
- xvii) Compatibility with existing equipment;
- xviii) Ease of communication;
- xix) Consistency in the quality of items;
- xx) Variations in the prices tendered/outdated within a given period.

- c) KEPHIS shall draw the attention of all suppliers to the fact that their continued business relationship with the institution will depend on past performance and timeliness in fulfilling tender obligations.

CHAPTER 12

12.1 Contract Management and Administration

1. The HP in consultation with the legal department shall be responsible for preparation of contracts in line with the award decision and submitting to the MD for signing.
 - a) The contract shall be entered into based on the tender documents and any clarifications that emanate from the Procurement proceedings.
 - b) The written contract shall be entered into within the period of notification but not before fourteen days has elapsed after notification, and within the tender validity period.
 - c) The existence of a contract shall be confirmed through the signature of contract document incorporating all agreements between the parties and such contract shall be signed by the MD or an officer authorized in writing by the MD and the successful bidder.
 - d) No contract is formed between the person submitting the successful tender and KEPHIS until the written contract is signed by the parties.
 - e) The MD shall not enter into a contract with any person or firm unless an award has been made. Where a contract has been signed without the authority of the MD, such a contract shall be invalid.
2. The Tender documents which form the basis of all procurement contracts shall, constitute at a minimum:
 - i) Contract agreement form
 - ii) Tender form
 - iii) Price schedule or bills of quantities submitted by the tenderer
 - iv) Schedule of requirements
 - v) Technical specifications
 - vi) General conditions of contract
 - vii) Special conditions of contract
 - viii) Notification of Award
2. If the person submitting the tender decline to enter into a written contract as required, he or she shall forfeit his or her tender security and the procurement process shall proceed to the next lowest evaluated bidder as long as this is done within the tender validity period.
3. The MD shall cause all contract awards to be published and publicized on KEPHIS notice boards at conspicuous places and websites within fourteen (14) days after signing of the contract.
4. The MD shall report all signed contracts to PPRA within fourteen (14) days after the end of every month in the format provided by PPRA.
5. Amendments or variations to a contract will only be effective if approved by the MD in writing upon recommendation by the HP for goods, works and services provided the contract is not varied upwards within twelve months from the date of the signing of the contract.

6. The MD shall approve requests for extension of Contract period, use of prime costs, use of contingencies, reimbursement costs and use of provisional sums upon recommendation of an evaluation committee and a written request from the tenderer justifying the same.
7. Any amendments or variations to a contract will be governed by Section 139 of Act. In this regard ,variation of a contract shall only be considered after twelve (12) months from the date of signing the contract and shall only be considered if the following are satisfied—
 - i The price variation is based on the prevailing consumer price index obtained from Kenya National Bureau of Statistics or the monthly inflation rate issued by the Central Bank of Kenya;
 - ii The quantity variation for goods and services does not exceed fifteen per cent of the original contract quantity;
 - iii The quantity variation of works does not exceed twenty per cent of the original contract quantity;
 - iv The price or quantity variation is to be executed within the period of the contract; and the cumulative value of all contract variations do not result in an increment of the total contract price by more than twenty five per cent of the original contract price.
8. The MD shall submit a quarterly report of their varied or amended procurement contracts to PPRA.
9. Where variations result in an increment of the contract price by more than twenty-five percent, such variations shall be tendered for separately

12.2 Contract Administration

The HP Function shall be responsible for contract management and shall issue a certificate of acceptance except where the goods are of a technical nature in which case the technical department will issue the certificate. He/ she shall also prepare monthly progress reports of all procurement contracts and submit them to the MD.

For every complex and specialized procurement contract, the MD shall appoint a contract implementation team which shall include members of the Procurement Function, the user, the technical department and consultant where applicable. The Contract Implementation Team appointed above shall:

- Monitor the performance of the contractor
- Ensure that the contractor submits all required documentation specified in the tender document, the contract and as required by law.
- Ensure that KEPHIS meets all its payment and the obligations on time and in accordance with the contract.
- Ensure that there is adequate cost, right quality and within the time frame, where required.
- Review any contract variations or change orders and obtaining all required approvals before they are issued, make recommendations for considerations for variation approval based on supporting evidence.

- Manage handover or acceptance procedures.
- Make recommendations for contract termination where appropriate obtaining all required approvals and managing the termination process.
- Ensure that the contract is complete, prior to closing the file including all handover procedures, transfer of title if need be and that final retention payment has been made.
- Ensure that all contract administration records are complete, up to date, filed and archived as required
- Ensure that the contractor and KEPHIS act in accordance with the terms and conditions of the contract.
- Ensure discharge of performance guarantee where required.

APPENDIX 11 TEMPLATES

i. PROFESSIONAL OPINION

PART A – BASIC INFORMATION
1. Name of Procuring Entity:
2. Item Description:.....
3. Tender No.:
4. Date Tenders Invited:.....
5. Date Tenders Opened:.....
6. Members of Tender Opening Committee and Bidders Present (Annex list, if many)
7. No. of Tenderers Issued with Tenders Documents (where applicable).....
8. No. of Bids received:.....
9. Method of Procurement Applied/used (specify provision of the law):.....
10. Names of Appointed Evaluation Committee Members (specify names, designation, section/org, memo/Letter reference number and date)-annex appointment letter
PART B – LEGAL & PRACTICAL ASPECTS OF THE TENDER
1. A brief background statement of the procurement/asset disposal proceeding from planning to tender evaluation.
2. State whether due diligence was conducted on the successful bidder (if applicable) and give brief statement of the outcome thereof.
3. State whether the award is appropriate for the method of procurement/asset disposal applied citing specific provision of law and tender document.
4. State whether the recommended price for standard goods, services and works are within the indicative market prices;
5. State how evaluation criteria set forth in tender document was applied and whether or not the Tender Evaluation Committee members adhered to the law in bid evaluation
6. Confirm if adequate funds are set aside (budgeted) for the procurement/asset disposal
PART C – RECOMMENDATION TO ACCOUNTING OFFICER FOR APPROVAL/ REJECTION
1. Give opinion whether procurement law and practice was applied in the proceeding leading to the recommendation of the evaluation committee and whether or not Accounting Officer may consider approval/rejection of the recommendations of the evaluation report.

2.Where the recommended bid price is in excess of available budget state:-

- (a) where applicable, if change of scope would/would not materially alter the substance of the tender and would be consistent with the provisions of the tender documents;
- (b) whether there is need to result to use competitive negotiations

3.Any other relevant information.

Name of Procurement Professional	Designation	Signature	Date
.....			