

PART III  
TENDER BOARDS

Tender  
Boards

28.-(1) There shall be in each Ministry, Independent Department of Government, Region, District, Local Government Authority, and Parastatal Organisation, a tender board for procurement of goods, services and works.

(2) The composition of tender board, the method of appointment of members, and the procedures to be followed by such tender boards other than Local Government Authority Tender Board, shall be as prescribed in the Second Schedule to this Act.

(3) The composition of Local Government Authority tender board and the method of appointment of the members, and the procedures to be followed by such a tender board, shall be prescribed in Regulations made pursuant to the provisions of section 65 of the Local Government (Finances) Act, 1982.

(4) Members of the Tender Board shall be appointed with regard to their technical competence and skills required for the discharge of the functions of the Tender Board.

(5) A member of the Tender Board or a committee thereof who is a member of a company, firm or other body or is a partner or is in the employment of a person or a company or other body or is married to a person who has submitted an offer for the supply of goods or for the provision of services in connection therewith which is the subject of consideration by the Tender Board, shall disclose the fact and shall not take part in the consideration or discussion of or vote on any question relating to such offer.

Notification to the Authority of composition of Tender Board

29.-(1) The Accounting Officer or Chief Executive Officer shall inform the Authority of the composition of the Tender Board and the qualifications of its members not later than fourteen days from the date of its appointment.

(2) Where the organisational structure of a particular procuring Entity is too small to be able to constitute a tender board, the Authority shall prescribe the procedure to be followed.

Functions of Tender Boards

30. A Tender Board shall be responsible for

- (a) adjudication of recommendations from the Procurement Management Unit and award of contracts;
- (b) review all applications for variations, addenda or amendments to ongoing contracts;
- (c) approving tendering and contract documents;
- (d) approving procurement and disposal by tender procedures;
- (e) ensuring that best practices in relation to procurement and disposal by tender are strictly adhered by Procuring Entities;
- (f) ensure compliance with this Act; and
- (g) liaising directly with the Authority on matters within its jurisdiction.

Award of contracts

31.-(1 ) Notwithstanding any other enactment, no public body shall

- (a) advertise, invite, solicit or call for tenders or proposals in respect of a contract unless authorised by the appropriate tender board; and
- (b) award any contract unless the award has been approved by the appropriate tender board.

(2) No person or firm shall sign a contract with any public body unless the award has been approved by the appropriate tender board.

(3) For all procurements whose value exceed the limit set out in the Regulations made under this Act, procuring entities shall, within fourteen days, inform the Authority of commencement of the procurement process for such procurements.

(4) Where it comes to the knowledge of a tender board that a contract has been awarded or is about to be awarded in breach of this Act or Regulations made under the Act, appropriate tender board shall forthwith report the matter to the Authority, Controller and Audit General and to the Permanent Secretary to the Treasury, recommending such actions as it may deem appropriate.

(5) The acceptance of a tender shall be communicated in writing to the tenderer by the Procurement Entity.

Powers of  
tender  
board

32.-(1) In the exercise of their powers under this Act, tender boards may

- (a) call for such information and documents as they may require from any public body;
- (b) commission any studies relevant to the determination of award of contracts;
- (c) request any professional or technical assistance from any appropriate body or person in Tanzania or elsewhere, and
- (d) do all such acts and things as they may consider incidental or conducive to the attainment of their objects;

(2) Tender boards may

- (a) require the chairman, accounting officer or chief executive officer of a public body:
  - (i) to furnish any information or produce any records or other documents relating to a contract;
  - (ii) to answer all relevant questions;
- (b) examine such records or other documents and take copies or extracts therefrom.

Accounting  
Officer or  
Chief  
Executive

33. The Accounting Officer or Chief Executive of a procuring entity shall have the overall responsibility for the execution of the procurement process in the procuring entity, and in particular, shall be responsible for:

- (a) establishing a tender board in accordance with this Act;
- (b) appointing the members of the tender board specified in the second schedule;
- (c) causing to be established a Procurement Management Unit staffed to an appropriate level;
- (d) advertising tender opportunities;
- (e) appointing the evaluation committee;
- (f) communicating award decisions;
- (g) certifying the availability of funds to support the procurement activities;
- (h) signing contracts for the procurement activities on behalf of the procuring entity;
- (i) investigating complaints by suppliers, contractors or consultants;
- G) submitting a copy of complaints and reports of the finding to the Authority; and
- (k) ensuring that the implementation of the awarded contract is in accordance with the terms and conditions of the award.

Establish-  
ment and  
Composition  
of a  
Procurement  
Management  
Unit

34.-(1) In every procuring entity there shall be established a Procurement Management Unit staffed to an appropriate level.

(2) The Procurement Management Unit shall consist of procurement and other technical specialists together with the necessary supporting and administrative staff.

(3) Procuring entities shall identify all those engaged in procurement within their organizations and identify the skills need in each post and shall set out strategies to meet the needs of the Procurement Management Units.

(4) The Procurement Management Unit shall be headed by a person with sufficient academic qualifications and experience in procurement functions.

Functions  
of a  
Procure-  
ment  
Manage-  
ment Unit

35. Procurement Management Unit shall

- (a) manage all procurement and disposal by tender activities of the procuring entity except adjudication and the award of contract;
- (b) support the functioning of the Tender Board;
- (c) implement the decisions of the Tender Board;
- (d) liaise directly with the Authority on matters within its jurisdiction;
- (e) act as a secretariat to the Tender Board;
- (f) plan the procurement and disposal by tender activities of the procuring entity;
- (g) recommend procurement and disposal by tender procedures;
- (h) check and prepare statements of requirements;
- (i) prepare tendering documents;
- (j) prepare advertisements of tender opportunities;
- (k) prepare contract documents;
- (l) issue approved contract documents;
- (m) maintain and archive records of the procurement and disposal process;

- (n) maintain a list or register of all contracts awarded;
- (o) prepare monthly reports for the Tender Board;
- (P) co-ordinate the procurement and disposal activities of all the departments of the procuring entity; and
- (q) prepare other reports as may be required from time to time.

User  
Depart-  
ment

36.-(1) The user department of a procuring entity shall perform the following functions:

- (a) liaise with and assist the Procurement Management Unit throughout the procurement or disposal by tender process to the point of contract placement;
- (b) initiate procurement and disposal by tender requirements and forward them to the Procurement Management Unit;
- (c) propose technical inputs to statements of requirements for procurement requirements to the Procurement Management Unit;
- (d) propose technical specifications to the Procurement Management Unit when necessary;
- (e) input with technical evaluation of tenders received as required by the Procurement Management Unit;
- (f) certify for payments to suppliers, contractors or consultants;
- (g) report any departure from the terms and conditions of an awarded contract to the Procurement Management Unit;
- (h) forward details of any required contract amendments to the Procurement Management Unit for action;
- (i) maintain and archive records of contracts management; and
- G) prepare any reports required for submission to the Procurement Management Unit, the Tender Board or the Accounting Officer.

(2) The user department shall prepare a work plan for procurement based on the approved budget, which shall be submitted to the Procurement Management Unit for implementation when required.

Evaluation  
Committee

37.-(1) All evaluations shall be conducted by an evaluation committee, which shall report to the Procurement Management Unit.

(2) The membership of the evaluation committee shall be recommended by the Procurement Management Unit, in accordance with Regulations made under this Act, and approved by the Accounting Officer or Chief Executive.

(3) The number of the members of the evaluation committee shall depend on the value and complexity of the procurement requirement, but shall in all cases be a minimum of three members.

(4) The members shall be of an appropriate level of seniority and experience, depending on the value and complexity of the procurement requirement.

(5) Members of the evaluation committee may be external to the procuring entity, where the required skills or experience are not available within the procuring entity or where members are indisposed or have a conflict of interest.

(6) All members of the evaluation committee shall sign the Code of Ethics provided under the Regulations made under the Act, declaring that they do not have a conflict of interest in the procurement requirement.

(7) The meetings of the evaluation committee, the conduct of the evaluation and the evaluation methodologies shall be executed in accordance with the regulations, guidelines and tendering documents made under this Act.

Indepen-  
dence of  
functions  
and powers

**38.** Subject to the provisions of this Act, the Accounting Officer or Chief Executive, the Tender Board, the Procurement Management Unit, the User Department and the Evaluation Committee shall act independently in relation to their respective functions and powers.

Delegation  
of powers by  
the  
Accounting  
Officer or  
Chief  
Executive

39.-(1) An Accounting Officer or Chief Executive may delegate the procurement function of the procuring entity to:

- (a) a sub-division of that entity; or
- (b) another procuring entity; or

(c) a third party procurement agency, in accordance with the terms and conditions specified in Regulations made under this Act.

(2) An Accounting Officer or Chief Executive may delegate to a Head of Department within the same procuring entity, his authority to procure up to a limit not exceeding that which is specified in the Regulations and such delegation shall be made in writing and for a period not exceeding the period, the Accounting Officer shall himself serve in that position.

Third party  
procurement

40.-(1) Where it is deemed that there is lack of technical capacity, and subject to guidelines of the Authority, a procuring entity may engage third party procurement services

(2) On deciding to invite third party procurement services, a procuring entity shall:

- (a) secure prior written assurance of the Accounting Officer that funds are available to pay in full and on time for those services;
- (b) follow the procedures laid down by the Authority in its Regulations.

Disagree-  
ments  
between  
Tender  
Boards,  
Procurement  
Manageme  
nt Unit and  
User Depart-  
ments

**41.** Disagreements between a Tender Board and a Procurement Management Unit, and between a Procurement Management Unit and a User Department concerning any decision pertaining to the recommendation for the award of contract, application or interpretation of any procurement method, process or practice, shall be resolved in accordance with the procedures set out in the Regulations made under this Act.



Confiden-  
tiality of  
documents

42.-(1) Every person having an official duty or being employed in the administration of this Act or engaged as a consultant to the procuring entity shall consider and deal with all documents and information relating to the functions of the procuring entity as confidential.

(2) Subject to Section 8 no person in possession of or control over any document or information relating to any business or transaction of the procuring entity shall communicate or attempt to communicate any information contained in such document or pass on such documents to any person other than the Accounting Officer or Chief Executive, a member of the Tender Board or the Procurement Management Unit.

Tender  
boards and  
procuring  
entities to  
strive to  
achieve  
standards of  
equity

43. In the execution of their duties, tender boards and procuring entities shall strive to achieve the highest standards of equity, taking into account:

- (a) equality of opportunity to all prospective suppliers, contractors or consultants;
- (b) fairness of treatment to all parties; and
- (c) the need to obtain the best value for money in terms of price, quality and delivery having regard to set specifications and criteria.