



REPUBLIC OF KENYA



COUNCIL OF LEGAL EDUCATION

SUPPLY CHAIN MANAGEMENT POLICY & PROCEDURES MANUAL

2024



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FOREWORD



The Council of Legal Education (CLE) is a body corporate established under the Legal Education Act CAP 16B to promote legal education and training, maintain the highest possible standards in legal education, and provide a system to guarantee quality legal education in Kenya.

Article 227 of the Constitution of Kenya provides the foundation for conducting the supply chain management processes at CLE. This is further supported by the Public Procurement and Asset Disposal Act, 2015 and the Public Procurement and Asset Disposal Regulations, 2020. Arising from these legal provisions, CLE is bound to ensure that the procurement and asset disposal process is carried out in conformity to the Constitution of Kenya and other applicable laws. For this purpose, this Supply Chain Management Policy and Procedures Manual has been developed while considering the principles of fairness, equitability, transparency, competitiveness and cost-effectiveness.

Collective responsibility, enhancing transparency and accountability are some of the tenets that have been emphasized in this Policy & Procedure Manual. It is also important to note that due to the fiduciary duty that CLE holds while utilizing public funds, various processes within the supply chain management processes have been defined to ensure that no single person has absolute control over these processes.

The Council is committed to supporting the full implementation of this policy and procedure manual to ensure CLE benefits and the realization for the value of money. I call upon all the stakeholders to familiarize themselves with this Policy to ensure effective and smooth supply chain management processes at CLE.

Prof. Collins Odote Oloo
CHAIRPERSON
COUNCIL OF LEGAL EDUCATION

ACKNOWLEDGMENT



The Council of Legal Education allocates a substantial portion of its budget to the procurement of goods and services, which are managed through established Supply Chain Management processes. Recognizing this importance, we have developed this policy and procedure manual to guide these processes, ensuring operational effectiveness and the realization of value for money.

To achieve our objectives, all staff involved in supply chain management activities must strictly comply with the provisions outlined in this policy and the requirements specified in the manual.

I would like to express my gratitude to the Council Members, led by Prof. Collins Odote, for their strategic guidance that has directed the Council of Legal Education towards its goals. I also appreciate the efforts of the Committee responsible for developing this Supply Chain Management Policy and Procedures Manual, as well as the stakeholders and staff whose invaluable contributions and feedback have greatly enhanced this document.



Ms. Jennifer Gitiri, HSC
Ag. SECRETARY/CEO
COUNCIL OF LEGAL EDUCATION



POLICY APPROVAL

This Supply Chain Management Policy and Procedure Manual was duly adopted and approved by the Council in its meeting held

on the *14th* day of *October* 2024.

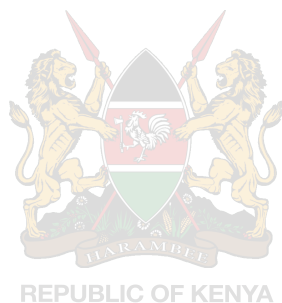
This Policy shall be reviewed as and when necessary. All amendments will be communicated in writing using the amendment sheet below. This will ensure that the Supply Chain Management Policy and Procedure Manual remains consistent with the CLE's Strategic direction and mandate.



Chairperson
COUNCIL OF LEGAL EDUCATION

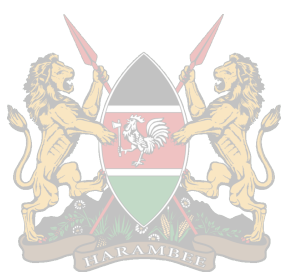


Ag. Secretary/Chief Executive Officer
COUNCIL OF LEGAL EDUCATION



AMENDMENT SHEET

Issue/Revision No	Subject of Amendments	Reviewed By (Signature)	Review Authorized by (Signature)	Date



REPUBLIC OF KENYA



LIST OF ABBREVIATIONS

Abbreviation	Description
AO	Accounting Officer
AIE	Authority to Incur Expenditure
EOI	Expression of Interest
ERP	Enterprise Resource Planning
GRN	Goods Received Note
HOD	Head of Directorate/Division
HSCM	Head of Supply Chain Management
LPO	Local Purchase Order
LSO	Local Service Order
CLE	Council of Legal Education
PPADA 2015	Public Procurement and Asset Disposal Act, 2015
PPIP	Public Procurement Information Portal
PPRA	Public Procurement Regulatory Authority
PPADR 2020	Public Procurement and Asset Disposal Regulations 2020
RFQ	Request for Quotation
RFP	Request for Proposals
SPMA	Supplies Practitioners Management Act, 2007
EC	Evaluation Committee
TOC	Tender Opening Committee

DEFINITION OF TERMS

Accounting office Secretary/Chief Executive Officer.

List of registered suppliers The list of all the suppliers that have been registered to supply goods, services, and works to CLE.

Asset Resource controlled by CLE and from which future economic benefits are expected to flow to the entity

Bid A written offer submitted in a prescribed or stipulated form, in response to an invitation by CLE for procurement or disposal, as part of the competitive process.

Bidder A person who has submitted a tender to CLE.

Common User Items Items regularly required by all Directorate/Divisions. These items include stationery, cleaning materials, furniture, printers, and computers, among other items.

Contract An agreement with specific terms between two or more parties or entities with a promise to do something in return for a valuable benefit. It also means an agreement in writing entered between CLE and a bidder pursuant to an award of tender.

Contractor A person who enters into a procurement contract/ Agreement with CLE.

Corruption It has the meaning assigned to it in the Anti-Corruption and Economic Crimes Act, 2003, and includes the offering, giving, receiving, or soliciting of anything of value to influence the action of a Public Officer in the procurement or disposal process or in contract execution.

Disposal The divestiture of public assets, including intellectual and proprietary rights, goodwill, and other rights of CLE by any means including sale, rental, franchise, auction or any combination however classified other than those regulated by any other written law.

Financial Year The period from 1st July of any year to 30th June of the following year.

Inventory The goods and materials that CLE holds for the purpose of consumption or repair.

Performance Security Any security provided by a supplier or contractor solely for the protection of CLE against non-performance for the supply of goods, works, and services.

Professional Opinion Means advice given by the Head of Supply Chain Management to the Accounting Officer in respect of a procurement matter.

Policy Principle or rule to guide decisions and achieve rational outcomes. A policy is a statement of intent and is implemented as a procedure or protocol.

DEFINITION OF TERMS

Procuring Entity A public entity undertaking procurement or asset disposal and for purposes of this policy, it refers to the Council of Legal Education.

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, or any combination and includes advisory, planning, and processing in the supply chain system.

Procurement professional It has the meaning assigned to in part 1 Section 2 of the PPADA, 2015 and it refers to a person who has professional qualifications in procurement or supply chain management from a recognized institution in Kenya and is a member of a relevant professional body recognized in Kenya and in good standing.

Supplier A person who enters into a procurement contract/ Agreement with CLE.

Supply Chain To the sequence of processes involved in producing and distributing a commodity.

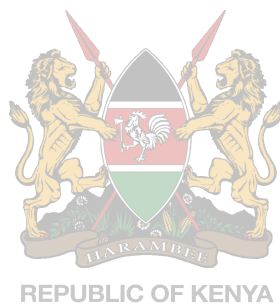
The Act Refers to the Public Procurement and Asset Disposal Act, 2015.

the Public Procurement and Asset Disposal Act, 2015. refers to the Public Procurement Regulatory Authority (PPRA).

The Regulations The Public Procurement and Asset Disposal Regulations, 2020.

Value for Money CLE's undertaking results in a benefit accruing to CLE, defined in terms of cost, price, quality, timeliness, and risk transfer.

Council Refers to the Governing Body of the Council of Legal Education.



1. INTRODUCTION

1.1 Background

Supply Chain Management is a key component necessary to enable CLE to deliver services to the public by facilitating the achievement of value for money in the procurement, storage, distribution of goods, works, and services; and asset disposal. This policy seeks to provide the overarching framework for purposes of ensuring corporate governance principles, fairness, equity, supplier diversity, transparency, accountability, segregation of duties, and adherence to the PPADA 2015 and the PPADR 2020 are achieved by CLE. It shall also provide guidance to all officers engaged in the supply chain management processes at CLE.

1.2 Vision, Mission and Core Values

Vision

Innovative legal professionals transforming society.

Mission

To ensure quality legal education through responsive regulation and administration of Bar examination.

Core Values

- a) Accountability
- b) Excellence
- c) Integrity
- d) Inclusiveness
- e) Innovation

Goal

Transformative legal education and training in Kenya.

1.3 Policy Statement

Council of Legal Education is committed to maintaining an efficient, effective, and ethical supply chain management system. We strive to align our supply chain operations with our organizational goals, ensure compliance with all relevant laws and regulations, and adhere to industry best practices. Our policy aims to optimize procurement processes, foster strong supplier relationships, manage inventory effectively, and mitigate supply chain risks while promoting sustainability and ethical practices throughout our operations.

1. INTRODUCTION

1.4 Policy Guidelines

To implement our SCM policy, all employees and stakeholders involved in supply chain activities must comply with all relevant regulations and stay updated on SCM best practices. These guidelines should be applied consistently across all supply chain operations to ensure efficiency, transparency, and alignment with our organizational objectives.

1.5 Guiding Principles

At the core of procurement and asset disposal at CLE, is the need to maintain professional, ethical, and transparent procurement and asset disposal processes in the utilization of public funds. CLE will be guided by the following;

Good Governance: Transparency, accountability and consistency shall be adhered to in all transactions in procurement and asset disposal. The decisions made with reference to procurement and asset disposal shall be made in a systematic and structured manner with the need to ensure that activities in the procurement and asset disposal processes are handled by different officers.

Integrity: Integrity shall be maintained by all officers while undertaking their responsibilities and obligations in the procurement and asset disposal processes.

Equality/Equity: Contractors/Suppliers shall participate in procurement proceedings without discrimination except where preferences and reservations apply. Under preferences and reservations, all contractors/suppliers shall be treated consistently to enable them access procurement and asset disposal processes.

Professionalism: Supply Chain Management professionals with recognized qualifications shall handle the procurement and asset disposal process and these officers shall carry out their duties bearing in mind the code of conduct for supply chain professionals.

Compliance with the PPADA 2015 and PPADR 2020: Procurement and asset disposal at CLE shall be guided by the PPADA, 2015, and PPADR, 2020 with the aim of ensuring that there are no lapses in the process. Corresponding sanctions shall apply where non-compliance is detected.

Maximization of Value for Money: In undertaking procurement and asset disposal, CLE shall make considerations with regard to cost, quality and timeliness in delivery of goods, works and services for purposes of achieving value for money.

1. INTRODUCTION

Sustainable procurement: CLE shall consider the environment and the Society in the procurement and asset disposal processes while still achieving value for money.

Segregation of Duties: There shall be segregation of duties between:

- (a) Initiation of the procurement process;
- (b) Processing of the sourcing activities;
- (c) Placing of orders with a particular contractor/supplier;
- (d) Inspection and acceptance of goods, works, or services;
- (e) Receiving of goods in the stores; and
- (f) Certifying payments for suppliers.

2. ROLES IN PUBLIC PROCUREMENT AND ASSET DISPOSAL

In the conduct of procurement and asset disposal processes, the various activities involved need to be carried out by different officers with the aim of putting in place checks and balances that ensure accountability and transparency in the process. Various actors have been identified to ensure an effective supply chain management system is operated by CLE. This policy has outlined the various roles at an individual and collective level as well as the units/stakeholders responsible in undertaking the supply chain process.

Figure 1: Minimum requirements for corporate decision-making in procurement and asset disposal



2. ROLES IN PUBLIC PROCUREMENT AND ASSET DISPOSAL

2.1 Role of the Accounting Officer

The Accounting Officer is principally responsible in ensuring that CLE complies with the PPADA, 2015 and the PPADR, 2020. The key roles of the Accounting Officer include the following;

- (a) Ensuring the procurement of goods, works and services is undertaken within the approved budget.
- (b) Ensuring that procurement plans are prepared and only goods, works and services that have been planned for are procured.
- (c) Constituting all the relevant procurement and asset disposal committees as outlined in the PPADR, 2020.
- (d) Approving and signing all procurement and asset disposal contracts entered into by CLE.
- (e) Establishing systems and procedures including appropriate delegation of authority to facilitate the carrying out of procurement and asset disposal processes in a structured manner.

This Supply Chain Management Policy and Procedures Manual shall provide further guidance on the role of the AO to ensure procurement and asset disposal is undertaken within a structured manner.

2.2 Role of the Supply Chain Management Division

The Supply Chain Management Division plays a key role in linking CLE with Contractors/Suppliers. The Head of Supply Chain Management shall take charge and provide sound procurement and asset disposal advice, while reporting functionally and administratively to the AO. The procurement professionals in the Supply Chain Management Division shall possess supply chain management qualifications and shall be members of a recognized supply chain management professional body.

2.3 Role of the User

The User Division shall exist as an internal customer of the Supply Chain Management Division and shall participate in the procurement and asset disposal process through the following key activities;

- (a) Preparing Directorate/Divisional procurement and asset disposal plans.
- (b) Initiating the procurement and asset disposal process.
- © Participating in the evaluation of procurement and asset disposal proceedings.

2. ROLES IN PUBLIC PROCUREMENT AND ASSET DISPOSAL

- (d) Carrying out contract administration and monitoring.
- (e) Participating in receiving, inspection and acceptance of goods.

2.4 Relevant Committees in the Procurement and Asset Disposal Process

To ensure that procurement and asset disposal processes are undertaken in a structured and systematic manner while noting the importance of segregation of duties in the handling of these activities, the following committees shall be established by the AO. In addition, Officers involved in supply chain activities shall refer to the internal Supply Chain Management User Guides.

2.4.1 Ad-hoc Tender Opening Committee (TOC)

The Tender Opening Committee (TOC) shall be an Ad-hoc Committee responsible for opening of tenders as stipulated in the bid documents in either electronic or manual form. The TOC, shall be composed of at least three (3) members who shall be recommended for appointment by the HSCM to the AO and appointment shall be made by the AO in writing. Delegation in appointment of the TOC shall be made through the Delegation of Authority Matrix provided in the Manual of Authority. In addition, Officers involved in supply chain activities shall refer to the internal Supply Chain Management User Guides.

2.4.2 Ad-hoc Evaluation Committee

The AO shall establish an Ad-Hoc Evaluation Committee (EC) and composition of the EC shall comprise members of staff from CLE, with the relevant expertise. The EC shall be appointed by the AO and shall have between three (3) and five (5) members who shall be appointed on a rotational basis and drawn from heads of user Divisions and two other Divisions or their representatives. The HSCM shall recommend appointment of members to the EC to the AO and appointment shall be made by the AO in writing.

Procured consultants or professionals may be appointed in writing to be part of the Ad-Hoc Evaluation Committee. The HSCM shall be the secretary of the EC.

Delegation of Authority matrix shall be utilized as provided in the Manual of Authority for purposes of appointment of the EC at CLE. In addition, Officers involved in supply chain activities shall refer to the internal Supply Chain Management User Guides.

2. ROLES IN PUBLIC PROCUREMENT AND ASSET DISPOSAL

In carrying out its mandate, the EC shall;

- (a) Carry out technical and financial evaluation of the bids, proposals for pre-qualification, registration lists, expressions of interest at an individual level and committee level and also undertake subsequent negotiations where applicable.
- (b) Carry out due diligence where applicable.
- (c) Forward recommendations to the AO through the HSCM in form of a signed evaluation report.
- (d) Complete the procurement process for which it was appointed.

2.4.3 Ad-hoc Inspection and Acceptance Committee (IAC)

An Ad-Hoc Inspection and Acceptance Committee (IAC) shall be established by the AO and shall be composed of a chairperson and at least two (2) other members appointed by the AO on the recommendation of the HSCM. The representation of the IAC shall include the user Division, the technical Division, the HSCM and any other relevant person. The IAC shall;

- (a) Inspect and where applicable test the goods while ensuring that the goods, works or services comply with the terms and specifications of the contract.
- (b) Accept or reject the goods on behalf of CLE.
- (c) Issue interim or completion certificates and submit the same to the HSCM.

The Delegation of authority matrix provided in the Manual of Authority shall be utilized in appointment of the inspection and acceptance committee. In addition, Officers involved in supply chain activities shall refer to the internal Supply Chain Management User Guides.

2.4.4 Ad hoc Contract Implementation Team

For purposes of effective contract management, monitoring of performance, management of hand over or acceptance for complex and specialized procurement contracts, the AO shall appoint a Contract Implementation Team and this team shall include; the procurement function, requisitioner, relevant technical Division and a consultant where applicable.

2. ROLES IN PUBLIC PROCUREMENT AND ASSET DISPOSAL

The Delegation of Authority Matrix provided in the Manual of Authority shall be utilized in the appointment of the Contract Implementation Team at the headquarters. In addition, Officers involved in supply chain activities shall refer to the internal Supply Chain Management User Guides.

2.4.5 Disposal Committee

To ensure that unserviceable, obsolete or surplus assets are disposed of in a timely manner to avoid further deterioration, the AO shall appoint the Disposal Committee. The disposal Committee shall consist of the following;

- (a) Chairperson who shall be a Head of Directorate/Division.
- (b) The Head of Finance.
- (c) At least three (3) heads of user Directorate/Divisions.
- (d) The secretary shall be the HSCM.

This Policy & Procedures Manual shall provide further guidance on the role and responsibilities of the Disposal Committee. In addition, Officers involved in supply chain activities shall refer to the internal Supply Chain Management User Guides.

3. COMMONLY USED METHODS OF PROCUREMENT FOR GOODS, WORKS AND SERVICES

All procurement transactions shall be conducted in a manner to provide to the maximum extent practical, open and free competition; and CLE shall be alert to organizational conflicts of interest as well as non-competitive practices among contractors that may restrict or eliminate competition.

In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, and invitations for bids and/or requests for proposals shall be excluded from competing for such procurements. The threshold matrix provided in the Supply Chain Management procedures manual shall apply for all the methods of procurement. Furthermore, the SCM Division shall at all times utilize the customized standard tender documents prepared by PPRA.

3.1 Open Tender

Open tender shall be the preferred method of procurement while alternative methods may be utilized where the procedure is allowed and has met the requisite conditions for its use.

When using open tender method of procurement, the following shall apply;

- (a) The procurement opportunity shall be brought to the attention of the tenderers through an advertisement which shall be published on the Public Procurement Information Portal (PPIP). The advertisement may also be placed on CLE's website or through a notice in at least two (2) daily newspapers of nationwide circulation or a notice in at least two (2) free to air television stations and two (2) radio stations of national reach. Advertisements in the newspapers shall be placed with the Government Advertising Agency (GAA).
- (b) The respective tender document shall be provided to prospective tenderers in accordance with the invitation to tender, either in electronic or manual form.
- (c) Prospective tenderers shall be given a minimum period of seven (7) days to prepare the tenders.

This Policy & Procedures Manual shall provide further guidance in the application of open tender method of procurement.

3.2 Two stage tendering

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

This Policy & Procedures Manual shall provide further guidance in the application of two-stage tendering method.

3.3 Design Competition

The AO may use a design competition procedure for the purpose of determining the best architectural, physical planning and any other design scheme, engineering, graphic or any other design scheme for CLE's use.

This Policy & Procedures Manual shall provide further guidance in the application of design competition.

3.4 Restricted Tender

The restricted tender is an alternative method of procurement that requires prior approval by the AO before it is used. CLE shall utilize restricted tender method of procurement if the following conditions are satisfied

3.COMMONLY USED METHODS OF PROCUREMENT FOR GOODS, WORKS AND SERVICES

- (a) Competition for the contract due to the complexity or specialized nature of the goods, works or services is limited to prequalified contractors/suppliers.
- (b) 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.
- (c) There are only a few known suppliers of the goods, works or services as may be prescribed in the regulations.

This Policy & Procedures Manual shall provide further guidance in the application of restricted tender method.

3.5 Direct Procurement

The AO may approve the use of direct procurement. CLE shall not use direct procurement for purposes of avoiding competition or in a discriminatory manner. Direct procurement may be applied if the following conditions are satisfied;

- (a) There is only one(1) person who can supply the goods, works or services being procured and there is no reasonable alternative or substitute for the goods, works or services.
- (b) There is an urgent need for the goods, works or services being procured and engaging in any other method of procurement would be impractical.
- (c) In circumstances where a catastrophic event occurs making it impractical to use other methods of procurement due to the time factor.
- (d) The need to standardize additional items due to compatibility with what has been currently procured makes it necessary to make purchases from the initial supplier or contractor.
- (e) Acquiring goods, works or services that are provided by a public entity.

This Policy & Procedures Manual shall provide further guidance in the application of Direct Procurement method.

3.6 Request for Quotations

CLE may use the request for quotation method as provided in the threshold matrix of this Policy & Procedures Manual . The request for quotation method shall apply in the following circumstances;

- (a) Where the estimated value of goods, works or non-consultancy services is less than or equal to the threshold values in this Policy & Procedures Manual.

- (b) Where the goods, works or non-consultancy services are readily available in the market and there exists an established market.

This Policy & Procedures Manual shall provide further guidance in the application of the request for quotation method.

3.7 Low Value Procurement

CLE may use low-value procurement procedure if:

- (a) The items are of low value and not procured on a regular or frequent basis, nor are they covered by a framework agreement.
- (b) The threshold matrix in the Supply Chain Policy & Procedures Manual allows use of the method.
- (c) The estimated value of the goods, works or non-consultancy services being procured are less than or equal to the maximum value per financial year for that low-value procurement procedure as may be prescribed.

This Policy & Procedures Manual shall provide further guidance in the application of the low value procurement method.

3.8 Force Account

CLE may use force account by making recourse to the state or public officers and using public assets, equipment and labor which are competitive and where:

- i. Quantities of works involved are small and scattered or in remote locations for which qualified construction firms are unlikely to tender at reasonable prices and the quantities of works cannot be defined in advance.
- ii. Unforeseen and urgent work is required to be carried out without disrupting ongoing operations e.g., urgent legal service and construction needs etc.
- iii. CLE is to complete works delayed by a contractor after written warnings did not yield tangible results.
- iv. This method shall only be applied where the total cost of procuring the goods, works and non-consultancy service are, at most, set at the prevailing market rate.

This Policy & Procedures Manual shall provide further guidance in the application of force account method of procurement.

3.9 Electronic Reverse Auction

CLE may utilize appropriate software with electronic capabilities and functionalities approved by PPRA to undertake electronic reverse auction in exceptional circumstances.

This Policy & Procedures Manual shall provide further guidance in the application of electronic reverse auction as a method of procurement.

3.10 Framework Agreement

CLE may utilize framework agreements through open tender in the following circumstances;

- (a) The procurement value is within the thresholds prescribed under Regulations to the Act;
- (b) The required quantity of goods, works or non-consultancy services cannot be determined at the time of entering into the agreement; and
- (c) A minimum of seven (7) alternative vendors are included for each category.

The maximum term for the framework agreement shall be three (3) years and, for agreements exceeding one (1) year, CLE shall undertake a value for money assessment annually to determine whether the terms designated in the framework agreement remain competitive.

This Policy & Procedures Manual shall provide further guidance in the application of framework agreements.

3.11 Framework Contracts

CLE may utilize framework contracts by making awards of indefinite-delivery contracts and multiple awards of indefinite-quantity contracts for procurement. Framework contracts may be utilized where the AO determines that the need for the subject matter of procurement is expected to arise on a repeated basis during a given period of time.

This Policy & Procedures Manual shall provide further guidance in the application of framework contracts.

3.12 Specially Permitted Procurement Procedure

CLE may use a procurement procedure specially permitted by the National Treasury and the following are the circumstances under which the National Treasury may allow the use of a specially permitted procedure;

3.COMMONLY USED METHODS OF PROCUREMENT FOR GOODS, WORKS AND SERVICES

- (a) In exceptional circumstances that make it impossible, impracticable or uneconomical to comply with the PPADA, 2015 and PPADR, 2020.
- (b) Market conditions do not allow effective application of the PPADA, 2015 and PPADR, 2020.
- (c) Specialized or particular requirements regulated or governed by harmonized international standards or practices.
- (d) For strategic partnership sourcing.
- (e) In instances where credit financing procurement is applied.

This Policy & Procedures Manual shall provide further guidance in the application of specially permitted procedures.

3.13 Request for Proposal

CLE may use the Request for Proposal as a method of procurement where;

- (a) The procurement is of services or a combination of goods and services; and
- (b) The services to be procured are advisory or otherwise of a predominately intellectual nature.

This Policy & Procedures Manual shall provide further guidance in the application of the Request for Proposal method of procurement.

3.14 Competitive Negotiations

Competitive negotiations may be utilized by CLE in the following circumstances;

- (a) Where there is a tie in the lowest evaluated price by two (2) or more tenderers;
- (b) Where there is a tie in highest combined score points;
- (c) Where the lowest evaluated price is in excess of available budget; or
- (d) Where there is an urgent need that can be met by several known suppliers;

This Policy & Procedures Manual shall provide further guidance in the application of the Request for Proposal method of procurement.

4.ANNUAL PROCUREMENT PLAN

CLE shall prepare an Annual Procurement Plan (APP) for each financial year as part of the annual budget preparation process. The SCM Division shall ensure that the Consolidated Annual Procurement Plan is prepared and is part of the annual budgeting process. Each Divisional head shall submit their procurement plan in the agreed format in each financial year. The Heads of Divisions will be responsible for planning the Division's estimated procurement needs on an annual basis through the use of the Annual Procurement Plan (APP), which shall indicate the items to be bought in the various quarters of the year. The Procurement Officer will use the APP to plan for requisitions.

The Annual Procurement Plan shall be discussed by Management to rationalize and harmonize it with the budget after which it will be forwarded to the Finance, Human Resource and Administration Committee and the Council. The Management will ensure the Annual Procurement Plan is forwarded to the Accounting Officer for approval before commencement of each financial year. The approved Annual Procurement Plan shall be signed by the AO, thereafter it will be circulated to Heads of Directorates/Divisions for implementation.

5.PURCHASE REQUISITION AND STORES REQUISITION

Each specific procurement process shall be initiated using a Purchase Requisition and submitted to the HSCM.

The requisition shall give detailed specifications and requirements for the item, service or works being requested and budget confirmation. The requisition shall indicate that the item is budgeted and planned in the Annual Procurement Plan.

Stores requisitions shall be forwarded to the Officer in Charge of Stores who will confirm availability of such items. The requisition shall be forwarded to the Officer in Charge of Stores at least three (3) working days prior to the expected goods/service delivery date.

All Purchase Requisitions must be signed by the Head of Directorate/Division, Accounting Officer or designate, who shall ensure that the item(s) requested for are in the APP or should seek authority to procure as per Policy.

This Policy & Procedures Manual shall provide further guidance on the requisite reviews and approvals.

6.SUPPLIER SELECTION PROCESS

When selecting the Contractor/Supplier for pre-qualification or award of a contract for any goods, works or services; the selection shall be done in accordance with procedures and regulations to ensure CLE gets value for money which include obtaining competitively the best possible price, quality and delivery time available in the market.

This selection process shall be through open tenders or by pre-qualification or registration of Contractor/Supplier or any other approved method of procurement provided in the PPADA 2015.

6.1 Preference and Reservation in Public Procurement

CLE shall apply preferences and reservations through its Annual Procurement Plan by ensuring that at least thirty (30%) percent of the procurement budget in every financial year is allocated to the youth, women and persons with disability.

In the procurement opportunities under preferences and reservations, potential tenderers shall participate without discrimination.

This Policy & Procedures Manual shall provide further guidance in the application of preferences and reservations in public procurement.

6.2 Payments made to firms owned by Youth, Women and Persons with Disability

Subject to availability of funds and upon inspection and acceptance of goods, works or services, CLE shall ensure that prompt payments are made for all performed contracts including those owned by Youth, Women or Persons with disability and payment shall be made within sixty (60) days from the date of receipt of the invoice.

6.3 Supplier Selection Criteria

At a minimum, the following set of criteria is essential for deciding on choice of vendors:

- (i) Price.
- (ii) Quality of goods/services.
- (iii) Availability of goods/services within the required delivery time.
- (iv) After sales services, including availability of parts/supplies.
- (v) Bidder's previous records of performance and service.

6.SUPPLIER SELECTION PROCESS

- (vi) Availability of bidder to render satisfactory service.
- (vii) Financial stability of the Contractors/supplier.
- (viii) Availability of bidder's representatives to call upon and consult.
- (ix) Payment terms.
- (x) Warranty offered if any.
- (xi) Ability to provide samples if any.
- (xii) Government directive on reservation policy or any other relevant matter regarding public procurement.

This Policy & Procedures Manual shall provide further guidance in the selection of suppliers.

7.INVENTORY CONTROL, STORES MANAGEMENT AND DISTRIBUTION

The objective of inventory management is to ensure that economic quantities of inventory are secured, maintained and safeguarded to meet the needs of CLE.

7.1 General principles in Inventory Control, Stores Management and Distribution

- (a) CLE shall only receive goods, works and services that have been certified.
- (b) The HSCM through the delegation of authority matrix shall prevent wastage and loss of existing inventory and provide for continuing utilization of supplies with the assistance of the Officer in Charge of Stores.
- (c) SCMO shall record goods, works and services received in CLE's Master Inventory Record or as appropriate. The Store Officers shall manage inventory, assets and stores for the purpose of preventing wastage and loss, and continuing utilization of supplies.
- (d) Stocks shall be kept to the minimum as necessary to avoid unprofitable lock-up of funds.
- (e) To ensure proper inventory control, CLE shall employ inventory management and control software to assist in ensuring sound supply chain management.
- (f) No stores, inventory and assets that are procured shall be allowed to suffer deterioration from any preventable cause and overstocking of any particular item shall be avoided.

7. INVENTORY CONTROL, STORES MANAGEMENT AND DISTRIBUTION

- (g) All procured items assigned for use by an employee shall be requisitioned from the ERP System and issued by the Officer in Charge of Stores who shall sign together with the person receiving the items as proof of issuing.

7.2 Supply Chain Management Stores

The Stores Unit in the Supply Chain Management Division shall store stock items for use in the offices. All the stock items records shall be maintained in the ERP system or ledger cards where necessary.

The officer in charge of stores shall be responsible for ensuring that the records of all stock items are maintained.

Where electronic ledger cards cannot be maintained, a file showing receipts and issue notes shall be kept for ease of reference.

The Procedures Manual shall provide further guidance on the management of inventory.

Goods and services will only be procured within the approved budgets except in cases of urgent needs, which have to be approved by the AO. Each requisition should have the budget balance for the Division. Any variation of budget shall be communicated in writing to HSCM for recording.

The HSCM and Head of Finance & Accounts shall conduct periodic checks on purchasing activities to ensure they conform to the budget and APP and CLE's policies and procedures where applicable.

It shall be the responsibility of the person receiving goods or services to countercheck with the Purchase Order or contract and ensure:

- a) That the correct quantity has been received and signed.
- b) That the quantity and price of goods conforms to the purchase order/contract.
- c) That all goods delivered are secure and an inventory record appropriately updated.
- d) That the delivery note is checked, signed and forwarded as prescribed together with the invoice and GRN for processing of payments.
- e) That the GRN is prepared on the day of delivery of goods, works and services.

8.CONTROLS IN PROCUREMENT

To facilitate decision making by the AO or those designated, all approval requests shall be accompanied by recommendations to award in writing. The AO or their designate shall either approve or reject with reasons.

The LPO/LSO shall be a contract with Contractors/Suppliers which shall include all the information regarding the goods and services being purchased as well as standard terms of delivery. The LPO/LSO shall be signed by; the Head of Supply Chain Management, the Head of Finance & Accounts and the AO.

Upon selection of the service provider/supplier, a legally binding contract or LPO/LSO shall be drawn up for goods and services in question and signed by both parties. It shall contain detailed specifications, unit prices, delivery deadlines, location for delivery and any other pertinent details.

Any purchases not undertaken through the SCM Division shall be rendered irregular unless prior written approvals giving reasons have been provided. Such purchases will however be required to comply with the PPADA 2015 and PPADR 2020.

9.THE PURCHASING PROCESS REPORT

The HSCM shall also ensure that quarterly reports required by the PPRA are submitted according to the requirements of the PPADA 2015 and PPADR 2020. These reports will include those on preferences and reservations of procurement opportunities for Youth, Women and Persons with Disability. SCM Division shall also submit quarterly reports on Framework Contracts to the AO.

The HSCM will ensure that procurement status reports are sent quarterly to all Heads of Directorate/Division that have submitted approved Procurement Requisitions. The quarterly procurement status report will be in a simple-to-understand format that contains details such as the Procurement Requisition reference number, the date it was received by SCM Division, the status of the procurement process, the expected date of delivery and a comments section where the SCM Division will highlight any key feedback such as any delays and/or challenges that have been brought to the attention of SCM Division by the supplier/contractor.

10. PAYMENTS TO CONTRACTORS/ SUPPLIERS

The SCM Division shall forward invoices and relevant supportive purchasing documents to designated persons in the Finance & Accounts Division for payment.

The purchasing documents shall consist of: approved purchase requisition, professional opinion, contract/Local Purchase Order, invoice with an ETR, and/or delivery note, inspection certificate and GRN.

In those exceptional cases where advance payment will be required, a pro forma invoice shall be availed accompanied by an advance payment security equivalent to the advance payment issued by a reputable bank or any authorized financial institution. In case the tenderer is a foreigner, the advance payment shall be issued by a corresponding bank in Kenya recognized by the Central Bank of Kenya.

The User requesting for the services or goods shall certify the invoice and sign the GRN delivery notes or job cards as proof of acceptance and delivery. The Officer in Charge of Stores shall endorse the GRN and together with the signed inspection Committee certificate, forward the verified payment documents to the Finance Division for further checking, verification and approval to pay.

Goods or services upon receipt or inspection shall be entered into the ERP system on the same day and invoices forwarded to finance within five (5) working days.

All payments shall be made in accordance to the contractual terms between CLE and the Contractor / supplier and with reference to the financial policy and procedures.

To achieve competitive advantage and cost-effectiveness, the procurement function shall develop an effective system for supplier evaluation. Such a system shall have clear measurable and easily understandable criteria and shall be developed before commencement of any procurement.

Supplier performance appraisal refers to the determination of the suppliers' capability to meet CLE's demands for quality, quantity and timeliness of orders. The emphasis is on preventing receipt of defective materials rather than detecting defects at a later stage. It assists in the prior assessment of supplier capacity and competence.

Supplier performance appraisal 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 registration of suppliers and carrying out a market survey.

The following factors shall be considered during supplier performance appraisal:

- a) Whether the supplier has been debarred from participation in public procurement.

11.SUPPLIER PERFORMANCE APPRAISAL

- b) Quality control systems in place e.g., ISO Certifications.
- c) Financial capability and years of experience.
- d) Timeliness in delivery.
- e) Urgency of required goods, works or services.
- f) Licenses; manufacturer's representative.
- g) Terms of Payment/Credit terms.
- h) Reputation and litigation history.
- i) Written references of suppliers' performance from other organizations.
- j) Management and relevant qualifications of employees where applicable.
- k) Location/ proximity/branches.
- l) Rejects for quality deficiency.
- m) Equipment warranty/after-sale services.
- n) Compatibility with existing equipment.
- o) Consistency in the quality of items, reliability/dependability record on making full delivery.
- p) Resolution record of complaints, returned/rejected supplies, and defect management of works.

CLE shall draw the attention of all Contractors/Suppliers to the fact that their continued business relationship with the organization shall depend on past performance and timeliness in fulfilling contractual obligations.

Reference should be made to this Policy & Procedures Manual for more details.

12.MARKET SURVEY

The Supply Chain Management Division shall have a section dedicated for carrying out market surveys. The function shall conduct continuous market surveys and develop an internal data base.

The HSCM will ensure that an appropriate survey tool is developed for each category of goods, works and services used by the CLE.

12.MARKET SURVEY

The market surveys will be benchmarked against other institutions using similar goods, works or services, where applicable.

This data base together with the one provided by PPRA shall be used by CLE for price comparisons and establishment of market trends.

The data base shall be referenced when preparing the Professional Opinion by the HSCM.

No contract for standard goods and services that are readily available in the market will be entered into before carrying out a market survey.

13.CONTRACT MANAGEMENT

13.1 Contract Preparation

Contract preparation and management shall be undertaken by the HSCM while utilizing the prescribed standard contract forms in the respective tender documents. The Legal Division shall assist the HSCM in reviewing supplier contracts.

Contracts will be prepared after debrief letters have been dispatched to all bidders who participated in the tendering process and a contract shall not be signed until after fourteen (14) calendar days from the date of notification of award except for direct procurement method, request for quotation method and where there is only a response from one bidder when using open tender method of procurement.

Contracts signed shall be publicized on the PPIP within fourteen (14) days after the end of each month and also on the CLE website for openness and accountability. Reports shall also be submitted to PPRA in the format provided for all contracts, terminated contracts and awards made to the disadvantaged groups.

13.2 Contract Variation

All requests for variations shall be approved by the AO subject to the following:

- a. If the request has been made by the Contractor and approved by the contract implementation team.
- b. If the request is accompanied with a renewed performance bond or insurance policy as appropriate.
- c. The variation shall be evaluated by the appointed EC and a new professional opinion developed to inform the award or rejection by the AO.

13.CONTRACT MANAGEMENT

- d. Contract prices cannot be varied upwards where twelve months have not lapsed since the date of contract signing.
- e. Cumulatively, all contract variations for goods and professional services shall not exceed 25% of the original contract price.
- 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.

It should be noted that:

- a) The best practice in supply chain management is to discourage variation of contracts during the life of the contract.
- b) Price or quantity variations shall be undertaken as provided in the supply chain management procedures manual.
- c) Provisional sums and contingency in construction contracts cannot be used without the AO's approval and shall be submitted with a professional opinion to justify their use.

13.3 Performance Security

The performance security shall be set at not more than 10% of the estimated contract price and shall apply for all procurement transactions above Kenya shillings five million relating to goods, works and non-consultancy services.

Performance security shall be in the form of a bank guarantee, issued by an authorized financial institution or an irrevocable letter of credit. The performance security will be returned immediately and within thirty (30) days once contract completion is certified.

For consultancy services, where the consultant has availed a professional indemnity cover, performance security shall not be required.

13.4 Advance Payment

No advance payment shall be made if it was not in the tender document at the point of tendering.

If any advance payment is to be made, then it shall not exceed 20% of the contract price and must be secured by a bank guarantee of the same amount from a reputable

13.CONTRACT MANAGEMENT

bank. The payment shall be for financing tender activities only. Where the supplier defaults, CLE will recover the loss from the security guarantee.

13.5 Contract Monitoring

The HSCM shall prepare monthly progress reports of all procurement contracts of CLE and submit them to the AO.

13.6 Termination of Contract

The AO shall be the authorized person to terminate contracts upon receiving a report on a breach of obligation by a contractor as spelt out in the contract agreement and upon the request of the Supply Chain Accounting Officer. The termination of contracts shall only be done after consulting the Attorney-General-circular.

13.7 Contract Close-out

Upon completion of a contract, the AO shall be responsible for closing out contracts. The close out shall involve:

- (i) Issuance of certificates of completion to the contractor confirming delivery and acceptance of goods, works and services where the contract is not complex and specialized.
- (ii) Issuance of certificate of completion by the contract implementation team confirming delivery, acceptance of goods, works and service in case of complex and specialized contracts.

13.8 Certificate of Final Acceptance

The ad hoc Inspection and Acceptance Committee shall issue interim or completion certificates or GRNs as appropriate and in accordance with the contract.

The Inspection and Acceptance Committee shall issue the appropriate documents subject to:

- (i) Certificate of confirmation by Technical Division or contract implementation team or project manager and/or consultant for complex procurement.
- (ii) Goods Received Note (GRN).

14.RECORDS MANAGEMENT

A qualified archivist shall facilitate the proper retrieval and archiving of procurement files and tender documents.

Procurement documents shall be maintained in accordance with the CLE records and archives management policy.

Procurement files shall contain all relevant documents from initiation of the procurement process to copies of the payment vouchers and contract close out certificate.

It is imperative that all procurement documents are kept safe. No officer shall tamper with tender documents or cause disappearance of tender documents in any way. Supply Chain Management Officers shall be responsible for files/tender documents under their custody during and after evaluation.

Files submitted for annual audit shall be under the care of the Finance Division during the audit period and shall be returned to records management after audit. A clear record signed at time of collection and return will be kept.

No procurement file or tender document shall be issued to any officer without prior written approval of the HSCM.

The records for procurement shall include:

- a. A brief description of the goods, works or services being procured;
- b. Approved documentation with clear reasons if a procedure other than open tendering was used;
- c. If, as part of the procurement procedure, anything was advertised on the website, in a newspaper or other publication, a copy of that advertisement as it appeared in that newspaper or publication.

For each tender, proposal or quotation that was submitted, the following shall form the records:

- i. The name and address of the person making the submission;
- ii. The price, or basis of determining the price, and a summary of the other principal terms and conditions of the tender, proposal or quotation;
- iii. A summary of the proceedings of the opening of tenders, evaluation and

14.RECORDS MANAGEMENT

comparison of the tenders, proposals or quotations, including the evaluation criteria used as prescribed;

- iv. The signed Evaluation Report and Professional Opinion;
- v. If the procurement proceedings were terminated without resulting in a contract, an explanation on why they were terminated;
- vi. A copy of every payment voucher showing payment was made to the supplier awarded the tender;

Any other relevant information or documents e.g., appointment or delegation of authority to non-SCM person(s) who participated in the procurement processes.

15.DISPOSAL PROCESS

The AO shall prepare an Annual Disposal Plan for purposes of disposing unserviceable, surplus or obsolete items. The disposal plan shall be flexible for purposes of accommodating emerging issues in the disposal process. For purposes of disposal, the user Division shall identify the items and prepare the annual Divisional disposal plan which shall be submitted to the HSCM thirty days before the close of the financial year to facilitate consolidation. The HSCM shall submit the consolidated annual disposal plan to the Council's Finance, Human Resource, and Administration Committee prior to the AO's approval. Upon approval, the HSCM shall forward the disposal plan to the Disposal Committee for purposes of undertaking the disposal process.

The supply chain management procedures manual shall provide further guidance on the disposal process.

16. ETHICS IN PUBLIC PROCUREMENT

The guiding ethical principles shall include but not be limited to the following:

- a. Staff involved in the procurement process shall avoid engaging in practices or transactions that create conflict of interest.
- b. All members of staff involved in the procurement process shall ensure that CLE obtains the best value for money through the procured materials, services, works, and equipment.

16. ETHICS IN PUBLIC PROCUREMENT

- c. CLE employees shall be required to avoid arrangements that might in the long term prevent the effective operation of fair competition in the supply chain management process.
- d. Employees shall not accept or receive gifts from current or potential suppliers unless such gifts are of very small intrinsic value.
- e. Employees shall refrain from any business hospitality that might be viewed by others as likely to influence supply chain management decisions by CLE.
- f. Care should be taken to avoid splitting of tenders for specific works, services or materials by ensuring that the approval is within the prescribed authority ceilings.
- g. Care should be taken before requesting for variations to ensure that such a request is compliant with the PPADA, 2015 and the PPADR 2020.
- h. Staff should not obstruct the supply chain management process or collude with contractors or employees to defraud CLE.

17. EFFECTIVE DATE

This policy shall be effective from the date of approval by the Council of CLE.

18. REVIEW AND AMENDMENT

This policy shall be reviewed periodically to conform to changes in public procurement and asset disposal in Kenya.



SUPPLY CHAIN MANAGEMENT PROCEDURES MANUAL

ABBREVIATIONS

Abbreviation	Description
AIE	Authority to Incur Expenditure
AO	Accounting Officer which also refers to the Accounting Officer
BCM	Business Continuity Management
CIT	Contract Implementation Team
EOI	Expression of Interest
ERP	Enterprise Resource Planning
GRN	Goods Received Note
HOD	Head of Division
IAC	Inspection & Acceptance Committee
LPO	Local Purchase Order
LSO	Local Service Order
HSCM	Head of Supply Chain Management
PPADA	Public Procurement and Asset Disposal Act 2015
PPADR	Public Procurement and Asset Disposal Regulations 2020
PPIP	Public Procurement Information Portal
PPRA	Public Procurement Regulatory Authority
SCM	Supply Chain Management
CLE	Council of Legal Education
RFP	Request for Proposals
RFQ	Request for Quotation
SD1	Self-Declaration 1
SD2	Self-Declaration 2
SPMA	Supplies Practitioners Management Act, 2007
STDTDS	Standard Tender DocumentTender Data Sheet

DEFINITION OF TERMS

Accounting Officer refers to the Accounting Officer.

Approved List of Registered Suppliers means the list of all the suppliers that have been registered to supply goods, works and services to Council of Legal Education (CLE)

Asset refers to a resource controlled by CLE and from which future economic benefits are expected to flow to the entity.

Bid means a written offer submitted in a prescribed or stipulated form, in response to an invitation by CLE for procurement or disposal, as part of the competitive process.

Bidder means a person who has submitted a bid to CLE

Common User Items means items which are common and frequently required by all Divisions

Contractor refers to a person who enters into a procurement contract with CLE

Corruption has the meaning assigned to it in the Anti-Corruption and Economic Crimes Act, 2003 and includes the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement or disposal process or in contract execution

Direct Procurement refers to direct contracting without subjecting the process to competition

Disposal this is the divesture of public assets, including intellectual and proprietary rights, goodwill and other rights of CLE by any means including sale, rental, franchise, auction or any combination however classified other than those regulated by any other written law.

Downstream Impact refers to a procurement contract whose effects are felt in later years after completion of the contract

Financial Year means the period commencing from 1st July of any year to 30th June of the following year

Head of Supply Chain Management refers to the Deputy Director Supply Chain Management

Inventory used to describe the goods and materials that a business holds for the purpose of consumption/use

Invitation to Treat refers to an invitation to negotiate but is not, itself, an offer as there is no immediate intention to be legally bound

DEFINITION OF TERMS

Manual refers to the Supply Chain Management Procedures Manual

Performance Security refers to any security provided by a supplier or contractor solely for the protection of CLE against non-performance during the supply of goods, works and services

Professional Opinion refers to the advice given by the Head of Supply Chain Management to the Accounting Officer of CLE with respect to a procurement process

Procuring Entity means a public entity making procurement or asset disposal and for purposes of this manual, it refers to Council of Legal Education

Procurement procurement means 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 Contract means an agreement in writing entered into between CLE and a bidder pursuant to an award of tender in accordance with the PPADA 2015 and PPADR 2020

Procurement professional means a person who has professional qualifications in procurement or supply chain management from a recognized institution and is a member of the Kenya Institute of Supplies Management or any other procurement or supply chain professional body recognized in Kenya

Purchase Requisition refers to a request for goods, works or services that is placed by a User Division

Shall as used in this manual, it refers to a mandatory requirement

Supplier means a person who enters into a procurement contract/ Agreement with CLE.

Supply chain refers to the sequence of processes involved in the procurement, production and distribution of a commodity

The Act refers to the Public Procurement and Asset Disposal Act, 2015

The Regulations refers to the Public Procurement and Asset Disposal Regulations 2020

Value for Money refers to the undertaking by CLE that results in a benefit accruing to CLE defined in terms of cost, price, quality, quality, timeliness and risk transfer.

1.0 OBJECTIVES

This manual outlines the procedures, processes and structural set ups for carrying out procurement, inventory management and asset disposal. In this regard, it enumerates the roles and responsibilities of all individuals and relevant committees that are involved or engaged in these functions and the structural set up within which decisions and approvals shall be made. This manual shall be a necessary tool of instruction for both existing and new members of staff to familiarize themselves with the supply chain management and disposal processes.

The objective of this manual is to serve as an operational guide for Council of Legal Education.

The specific objectives are to:

- i) Provide an operational framework for procurement, inventory and disposal processes.
- ii) Ensure the highest quality of desired goods, works and services are delivered.
- iii) Achieve value for money.
- iv) Streamline the process of procurement and maintaining adequate controls.
- v) Ensure adherence to the laid down procurement laws, rules and regulations.

The supply chain management procedures outlined in this manual shall apply to all staff involved in the supply chain activities and to all types of procurement.

1.1. Applicable Legislation

Procurement, disposal of assets and inventory management are legislated functions within procuring entities. For this reason, this manual has been prepared while taking into consideration the following requirements.

- Constitution of Kenya (Article 227)
- The Supplies Practitioners Management Act, 2007.
- Supplies Practitioners Management Regulations, 2015.
- The Public Finance Management Act, 2012.
- The Public Finance Management Regulations, 2015.
- Public Private Partnership Act, 2021.
- The Leadership and Integrity Act, 2012.
- Records Disposal Act, CAP 14
- Data Protection Act, 2019
- Public Archives and Documentation Service Act, CAP 19
- Anti-Corruption and Economic Crimes Act
- Penal Code

The procedures set out in this manual shall apply to all the Divisions. The HSCM shall be responsible for the implementation of the procurement, inventory and asset disposal procedures in all the Divisions.

The manual shall apply to the following procurement processes;

- a) Procurement Planning
- b) Procurement processing
- c) Inventory and asset management
- d) Disposal of assets
- e) Contract management
- f) Records management

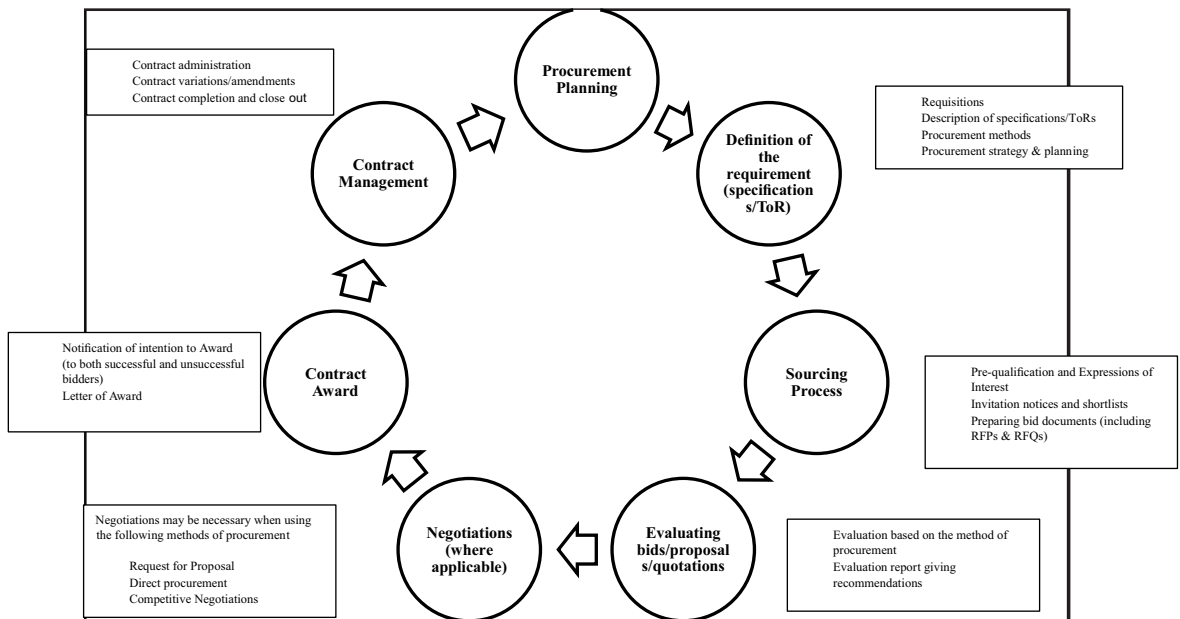


2.0. PROCUREMENT PROCESSES

2.1. Procurement Cycle

The procurement cycle refers to the series of events involved in the selection of suppliers, sourcing of goods, works or services and managing the vendors ongoing performance. The procurement processes for goods, works and services shall be conducted within a procurement cycle. The general flow of the procurement process is depicted in the figure below:

Figure2: Procurement Cycle



2.1. Consolidated Annual Procurement Plan

A procurement plan shall be prepared for each financial year as part of the annual budgeting preparation process. The SCM Division shall ensure that a Consolidated Annual Procurement Plan is prepared and forms part of the annual budgeting process. Each Divisional head shall submit their procurement plan in the agreed format at least one (1) month prior to the commencement of the financial year. The Heads of Divisions will be responsible for planning the Division's estimated procurement needs on an annual basis through the use of the Annual Procurement Plan (APP), which shall indicate the items to be bought in the various quarters of the year.

2.0. PROCUREMENT PROCESSES

2.1.1. Guidelines for Preparing the Consolidated Annual Procurement Plan

- a) Procurement planning shall be integrated into the annual budgetary expenditure framework.
- b) An allocation of at least thirty percent (30%) shall be reserved for purposes of procuring goods, works and services from micro and small enterprises owned by youth, women and persons with disability where applicable.
- c) It shall be the duty of the SCM Division to ensure that Divisional procurement plans and the consolidated annual procurement plan are prepared and integrated into the annual budgetary expenditure framework.
- d) Consolidated Annual Procurement Plans shall be broken down into quarterly, annual or where applicable multiyear plans.
- e) The Consolidated Annual Procurement Plan shall be reviewed by the Council, which shall be deemed to include the review of all alternative procurement methods.
- f) The AO shall give final approval of the Consolidated Annual Procurement Plan before commencement of each Financial Year.
- g) It shall be the duty of the HSCM to ensure that only procurements that are budgeted and contained in the approved Consolidated Annual Procurement Plan are processed.
- h) A quarterly report on the implementation of the annual procurement plan shall be prepared by the HSCM and submitted to the Accounting Officer for review prior to submission to the Council.
- i) A quarterly report on the implementation of the Buy Kenya Build Kenya initiative shall be prepared and submitted to the relevant government agencies.
- j) The Consolidated Annual Procurement Plan shall be prepared in accordance with the format provided in Appendix IV.
- k) Where a change in the method of procurement stated in the procurement plan is required, the HSCM shall prepare a justification on the same for submission to the AO who shall approve the change to the method of procurement for the specific item prior to implementation.
- l) The Consolidated Annual Procurement Plan shall be amended where there is a change in the annual budget.

2.1.2. Timelines for Procurement Planning

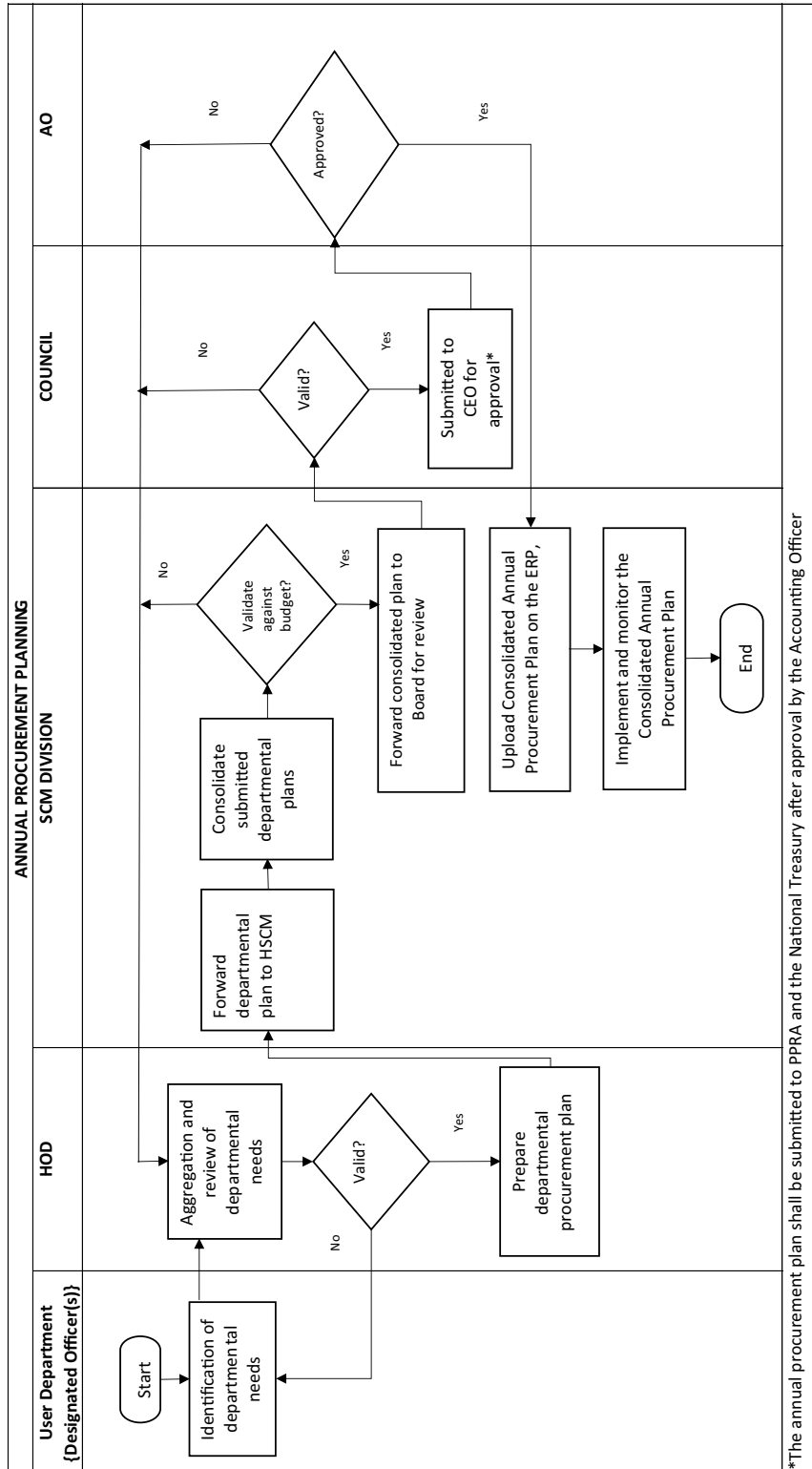
- a) At least two (2) months prior to the start of new financial year, the AO shall issue an Internal Memo requesting all Heads of Divisions to prepare procurement plan(s) using indicative or approved budgetary estimates.

2.0. PROCUREMENT PROCESSES

- b) The procurement plans shall be anchored to the strategic plan and the annual budget and work plans.
- c) The budgetary estimates for common user items that are required by all Divisions shall be consolidated and based on realistic information from the inventory management system in terms of the prices and specifications of those items. During the preparation of the Divisional procurement plans, the User Divisions shall be required to identify the quantities required and cost estimates of the items. The User Divisions shall prepare their Divisional procurement plans using the template provided in *Appendix XIII*.
- d) Upon receiving the Divisional plans, the SCM Division shall consolidate the procurement plan using the standard template and will liaise with user Divisions on the timelines when the Divisional procurement requirements should be processed and delivered.
- e) SCM Division shall submit/present the Consolidated Annual Procurement Plan to the AO for review and thereafter to the Council for approval.
- f) The approved procurement plan shall be signed by the AO and HSCM and approved copies shall be issued to all Heads of Divisions.
 - § The approval of the Procurement Plan also means approval of the procurement methods selected therein and therefore the AO and Council may request for justification for the selected methods of procurement from the HSCM.
 - § The Consolidated Annual Procurement Plan may be amended or adjusted as circumstances necessitate. However, any amendments or adjustments shall be approved by the AO prior to implementation.
- g) Within sixty (60) days after the commencement of the financial year, the part in the procurement plan demonstrating application of preferences and reservation schemes in relation to the procurement budget shall be submitted to PPRA and The National Treasury.
- h) The HSCM shall publish and publicize the approved procurement plan as an invitation to treat on the CLE website within Sixty (60) days after approval by the Council.
- i) Within sixty (60) days after the commencement of the financial year, the HSCM shall upload the Consolidated Annual Procurement Plan on the ERP system and publish the same on PPIP.

2.0.PROCUREMENT PROCESSES

Figure 3: Procedure for Annual Procurement Planning



2.0. PROCUREMENT PROCESSES

Table 1: Responsibility Table for Procurement Planning

Activities	1	2	3	4	5	Documented information to be maintained
Identification of Divisional needs	X					Needs report
Aggregation of Divisional needs and Divisional procurement plan		X				Proposed Divisional procurement plan
Consolidated procurement plan			X			Proposed Divisional procurement plan
Consolidated procurement plan submitted for 1 st level approval				X		Proposed Divisional procurement plan
Approved consolidated procurement plan submitted for 2 nd level approval					X	Approved consolidated procurement plan
Implementation of the Consolidated Procurement Plan			X			Approved consolidated procurement plan

Key

1. User Division
2. HODs
3. Supply Chain Management Division
4. AO
5. Council

2.3. Procurement Requisitions

E-Procurement System (Microsoft Navision)

Requisitions will be made through the system by designated personnel within the user Division with rights to access the e-procurement system. Only goods, works and services provided in the approved procurement plan can be requisitioned. Approval will be done in the system by the authorized officers in the respective user Divisions.

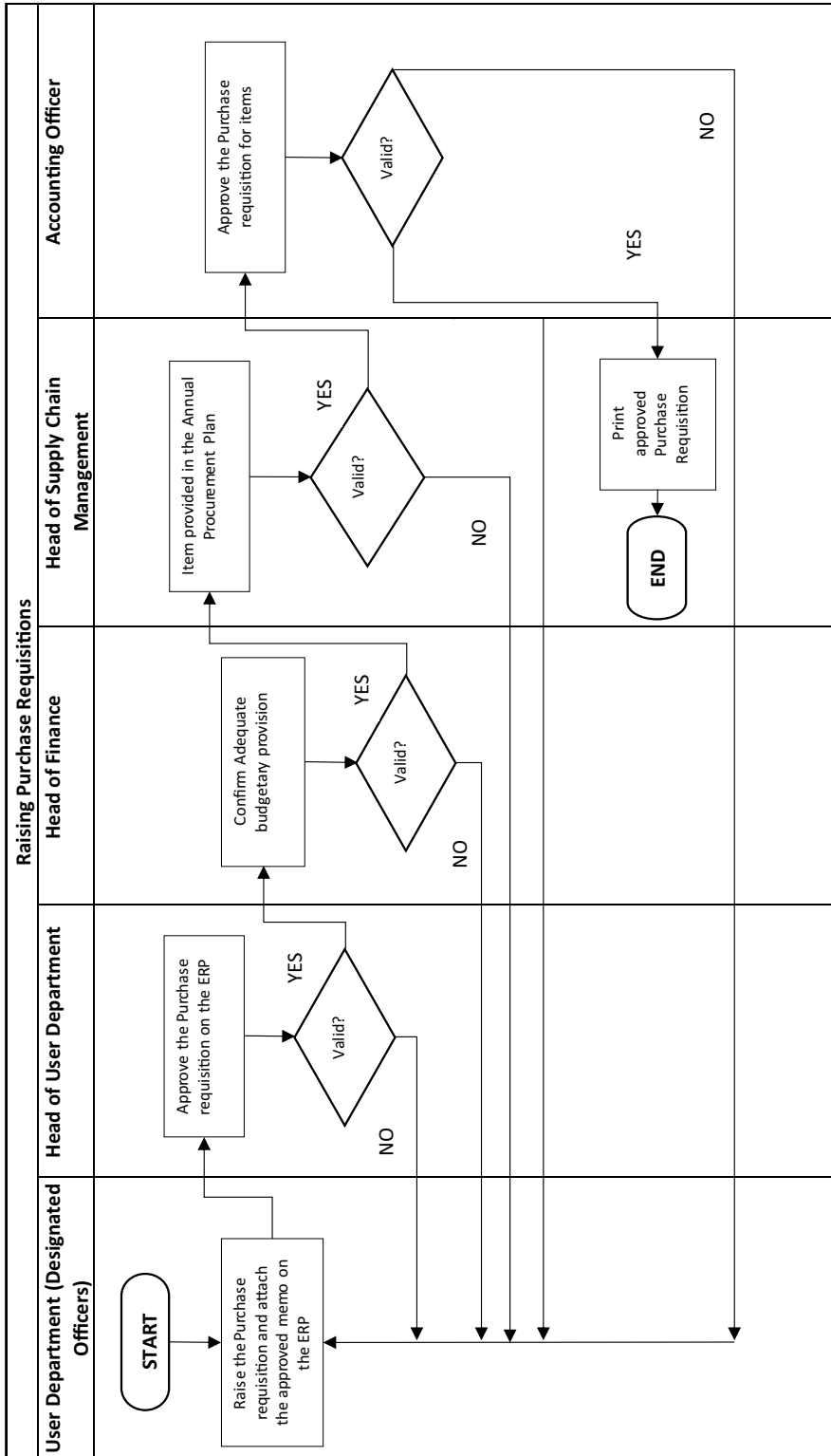
2.0. PROCUREMENT PROCESSES

Process of raising requisitions

- a) Each specific procurement process shall be initiated through a Purchase Requisition and forwarded to the HSCM by the user Division.
- b) The Procurement Requisition shall give detailed specifications and requirements for the item, service or works being requested and budget confirmation. The requisition shall indicate that the item has an allocated budget.
- c) All Procurement Requisitions must be approved by the Head of Division or designate, who shall ensure that the item(s) requested for are contained in the APP. Below is the detailed procedure that shall be applied:
 - i) In accordance with the timelines indicated in the procurement plan, the respective Head of Division/Designated personnel within the user Division with rights to the e-procurement system shall raise and sign/approve a Purchase Requisition to initiate the procurement process.
 - ii) The purchase requisition shall be supported by an approved memo from the AO to commence the procurement.
 - iii) The User Division with the support of HSCM shall at the same time prepare specifications for the items to be procured. The User Division (in writing) may request the AO to allow for outsourcing of experts in development of the specifications or establishment of an internal committee to prepare the specifications.
 - iv) The Head of Finance shall confirm availability of budget before the requisition is forwarded to the AO for approval.
 - v) The approved purchase requisition shall be forwarded to the HSCM.
 - vi) Any other relevant approval shall be obtained from the AO in order to proceed with the procurement.
- d) When the ERP system is unavailable, raising and approval of purchase requisitions may be done manually and entered into the system within a period of 72 hours once the ERP system is functional.
- e) In instances where the ERP system is down, the approval of the AO shall be required prior to resorting to the use of manual purchase requisitions.
- f) Upon approval of the Purchase Requisition by the HOD, the Requisition shall be submitted to the HSCM to commence the procurement process.

2.0. PROCUREMENT PROCESSES

Figure 4: Process for raising purchase requisitions (ERP Approvals)



2.0. PROCUREMENT PROCESSES

Table 2: Approval Matrix for Procurement Requisitions

#	Threshold (KES)	Description	Role
1.	All amounts	Requisitioner in the User Division	Raise purchase requisition
2.	0 and above	Head of Directorate/Division	1 st approver
		Head of Finance	2 nd approver
		Deputy Director, Supply Chain Management	Reviewer
		Accounting Officer	Final approver

2.4. Preparation of Tender Documents & Invitation to Bid

- i) The HSCM shall:
 - a) Prepare the bid document(s) for the respective approved procurement taking into cognizance the standard bid documents prescribed by PPRA. The bid documents shall contain sufficient information to allow fair competition among those who may wish to submit tenders.
 - b) Submit the bid document to the respective User Division for review prior to advertisement/inviting bids.
- ii) The guiding principles for selecting firm(s) when using the request for quotation method should be based on rotation, fairness, registered suppliers and ability/capability of firm(s) in case of RFQs.
- iii) The invitation notice or letter must state where the bid documents shall be issued, where they should be deposited, how they should be addressed, how many copies are required and the time when bids shall be opened and any other pertinent information.
- iv) Bidders may be requested to submit with their bid a tender/bid security of an absolute amount but not exceeding two per cent (2%) of the estimated total cost of the tender. Tender Securing Declaration Form shall be requested in lieu of tender security for procurements reserved for small and micro-enterprises or enterprises owned by youth, women or persons with disabilities and other

2.0. PROCUREMENT PROCESSES

disadvantaged groups participating in procurement proceedings in accordance with section 61(5) of the Act and this shall be in the format provided in the fourth schedule of the PPADR 2020.

- v) The invitation notices for each respective procurement method shall be carried out as prescribed in the PPADA 2015 and communication with the potential bidders shall be in writing and/or email.
- vi) All Bidders in the subject procurement must be recorded in the tender register or quotation register including tender documents uploaded from the system with evidence that they collected/downloaded bid documents.
- vii) Bids shall be submitted as explained in the invitation to tender notice or letter. For those bids which cannot fit into the Tender/Quotation Box, they shall be received and stored in the Records Office. Supply Chain Management Division shall acknowledge receipt of the same through a register where the bidder shall indicate the date and time when the document(s) was received.
- viii) For manual tender opening, the Tender and/or Quotation Box shall have two padlocks where one set of the keys shall be kept in the office of the HSCM while the second set shall be kept in the Office of the Chief Executive Officer.
- ix) The HSCM at this point in time shall open the procurement file for the subject procurement which shall contain an excerpt of the approved procurement plan where the subject procurement appears, the purchase requisition, copy of the invitation notice and a blank bidding document.

2.5. Procedure for Opening of Bids

- a) Submission of tender documents shall be in either electronic or manual form. Manual submissions shall be in writing, signed, and submitted in a sealed envelope. Electronic submissions shall be in writing, digitally signed or include a scanned copy of the signed document, and submitted via email with password protection. Passwords for protected documents must be submitted separately. All submissions, regardless of form, must be received by the specified deadline outlined in the tender documents
- b) On the same day of invitation to bid, the HSCM shall liaise (in writing) with Heads of User Divisions and nominate at least three (3) persons to be members of the Tender Opening Committee (including Request for Quotations). The User Division where the subject procurement belongs must be included. The quorum for the Tender Opening Committee shall be at least three (3)

2.0. PROCUREMENT PROCESSES

members. At least one (1) of the members shall not be involved in the processing or evaluation of tenders. The Secretary of the Committee shall be the HSCM or an officer delegated by the HSCM.

- c) The HSCM shall then submit the names to the AO or an Officer he/she delegates for appointment with or without corrections as shall be decided by the AO or delegated officer.
- d) Upon appointment of the committee, the HSCM shall issue via a register or scanning, a copy of the appointment memo to each person who is appointed.
- e) The Secretary to the Tender Opening Committee shall immediately book the venue where the opening shall be done after receiving the appointment letter.
- f) A few minutes before the time of bid opening (using the corporate clock), the Secretary shall notify the Chairperson and the members to assemble at the opening point in readiness for the opening exercise.
- g) At the exact time of bid opening, the Chairperson shall announce to the representatives of the bidders present that the tender has closed and no more bids shall be accepted.
- h) The tender box (electronic or manual) shall then be opened and the documents for the subject tender counted and their number shall be announced aloud by the Chairperson before everyone is guided where the actual opening of the bids shall be done.
- i) Opening of the bids (electronic or manual), shall involve numbering every bid document that was removed from the tender box/quotation box using numerals, reading out the name of the bidder as each document is opened, reading aloud the bid security if any, (i.e., the issuing Bank/Insurance as well as the total amount), the total price of the bidder as stated in the Form of Tender and the number of pages received. If the items in the price schedule are numerous (i.e. more than five items), prices of the individual items may not be read out loud.
- j) The Tender Opening Committee shall read out any other information that they may deem necessary.
- k) The Tender Opening Committee shall assign an identification number to each tender.
- l) As each tender is opened, the following shall be read out loud and recorded in

2.0. PROCUREMENT PROCESSES

a document to be called the Tender Opening Register:-

- i) The name of the person submitting the tender.
 - ii) The total price of the tender including any modifications or discounts received before the deadline for submitting tenders.
 - iii) If applicable, the tender security (including the form of tender security, amount and validity)
 - iv) Where applicable, the total price of the tender may not be read out where a tender consists of numerous items quoted for separately.
 - v) The total price shall not be read out where a tender is preceded by a technical evaluation and such tender is not technically responsive.
- m) Where questions are asked by the Bidders during Tender Opening.
- i) Information given should be restricted to that which is included in the bidding document and in relation to the tender opening process only and in the case of a financial opening, the technical scores which have been read out. The Tender Opening Committee should seek to refer bidders back to the bidding documents, rather than risk giving contradictory responses.
 - ii) The Tender Opening Committee must take care not to answer questions regarding the acceptance or rejection of any bid or price. A standard response of "the role of the tender opening committee is to open tenders" may be given to such questions.
- n) The members of the Tender Opening Committee shall then append their signatures on the first page of each bid document, form of tender, tender security, price schedule and any other page that the Tender Opening Committee may deem necessary.
- o) The Secretary shall prepare minutes of the tender opening process immediately after opening of the tenders explaining how the opening was carried out and all the members of the Tender Opening Committee shall append their signatures.
- p) The original bid documents and tender opening minutes shall be received and kept in the office of the HSCM or any other office identified by the AO for safe custody of the documents immediately.
- q) If a two-envelope system was used, the unopened but numbered financial

2.0. PROCUREMENT PROCESSES

proposals shall be returned to the tender box and shall be opened at the appropriate time as shall be communicated to the bidders.

- r) The procedures above shall apply to both manual and electronic tender opening.

2.6. Examination & Evaluation of Bids

The evaluation committee appointed by the AO shall evaluate and compare the responsive tenders other than tenders rejected. The following procedure shall be followed;

- a) On the same day of invitation to bid, the HSCM, shall liaise with Heads of User Divisions and nominate between three and five officers from those Divisions to be members of the Evaluation Committee. The User Division where the subject procurement belongs must be represented in line with the threshold matrix on levels of staff who should handle the various categories of goods, works and services.
- b) The HSCM shall submit an internal memo with the names of the nominated persons to the AO or delegated officer for appointment. The AO or the delegated officer may change the names of the nominated persons proposed by the HSCM.
- c) Upon appointment, the HSCM shall give each and every officer appointed a hard copy or electronic copy of the appointment letter. This responsibility cannot be delegated further and each officer appointed shall carry out the tasks outlined in their appointment letters.
- d) The Evaluation Committee shall commence the evaluation exercise upon receipt of the duly signed tender opening minutes by the Tender Opening Committee, submitted tenders and requisite documentation concerning the tender including addendum/addenda.
- e) The Evaluation Committee shall evaluate the bids within a maximum of thirty (30) days for bids for Goods, Works and Non-Consultancy Services and twenty-one (21) days for Request for Proposals while strictly adhering to the evaluation criteria specified in the bid documents.
- f) For Request for Proposals, the AO may require the evaluation to be completed within a shorter period of 14 days after considering the following circumstances;

2.0. PROCUREMENT PROCESSES

- i. Where the scope of the assignment is not complex.
 - ii. Where the assignment can be done by individual consultants.
 - iii. Where the budget is fixed.
 - iv. Where the selection is done through single sourcing.
- g) The Secretary of the Evaluation Committee shall be the HSCM or an Officer delegated in writing by the HSCM.
- h) The Supply Chain Division shall provide secretariat services to the Evaluation Committee.
- i) The Secretary of the Evaluation Committee shall prepare the evaluation score sheets in accordance with the evaluation criteria prescribed in the bid document. The score sheet shall include preliminary, technical and financial evaluation criteria as prescribed in the bid document.
- j) The Evaluation Committee shall assemble at the appropriate place as instructed by the Secretary to the Evaluation Committee.
- k) Each Evaluator shall first counter-check that the score sheet provided is consistent with the evaluation criteria stipulated in the bid document. Evaluation shall be carried out in accordance with the criteria prescribed in the bid document without referring to any other extrinsic criteria.
- l) The Evaluation Committee shall also be provided with the Tender Opening minutes to pick out any information relating to the evaluation of the subject tender.
- m) Each evaluator shall rate independently before sharing his/her results with any other member. The evaluators shall not introduce any other criteria or any other issue not related to the evaluation exercise or criteria.
- n) Once each evaluator has completed rating the bids, the Secretary shall then provide a blank score sheet either in hard copy or soft copy where the evaluators will rate the bids jointly through consensus and moderate the analysis to arrive at an average rating.
- o) The evaluators shall make a recommendation for award to the successful bidder with reason(s).
- p) The Evaluation Committee shall then prepare an evaluation report, based on the joint ratings and the recommendation for award by the evaluators and

2.0. PROCUREMENT PROCESSES

each member of the committee shall append his/her signature on each page of the evaluation report. The evaluators shall also sign the final individual score sheets which shall be handed over to the Secretary.

- q) The Secretary to the Evaluation Committee shall assist in preparation of the evaluation report.
- r) The original evaluation report and bid documents shall be submitted to the HSCM by the Evaluation Committee.
- b) The AO may appoint external technical experts who are not employees of CLE to assist in matters that need specific technical expertise.
- c) The quorum for the conduct of business of the evaluation committee shall be at least three (3) persons including the chairperson. This shall also apply to the conduct of negotiations and due diligence where applicable.
- d) The Evaluation Committee shall sign the integrity pact provided in *Appendix XVI*.

2.7. Professional Opinion

The HSCM shall, alongside the report to the Evaluation Committee as secretariat comments, review the tender evaluation report and provide a signed professional opinion to the AO in the format provided in *Appendix III* on the procurement or asset disposal proceedings as follows:

- a) Within one (1) day upon submission of the evaluation report, the HSCM shall submit his/her professional opinion to the AO or delegated officer on the conduct of the procurement process.
- b) The professional opinion shall contain information with regard to procurement planning, requisitioning by user Division, specifications and bid document preparation, opening of the subject tender, evaluation as it relates to the spelt-out criteria clearly citing any anomalies or irregularities if any in all the stages of the tendering processes.
- c) The professional opinion shall state whether procurement law and practice were applied in the proceeding leading to the recommendation of the evaluation committee and whether or not the AO or delegated officer may consider approval/rejection of the recommendations of the evaluation committee.

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- d) The Supply Chain Management Division shall not accept a bid for goods, services or works which is above the prevailing market price.
- e) Before any decision to award a procurement under a request for quotation, the HSCM shall by way of a professional opinion which includes a market survey make a recommendation to the AO for approval.
- f) The professional opinion shall be in the format provided in *Appendix II* of this manual.
- g) The relevant excerpts of the original documents with regard to the tendering processes, i.e., the procurement plan, tender opening minutes and the evaluation report shall be annexed to the opinion and shall be submitted to the AO or delegated officer.
- h) The HSCM shall maintain a copy of the approved professional opinion received from the AO's office in a separate folder in either electronic or manual form.

2.8. Contracts Award

- a) Upon receipt of the professional opinion from the HSCM, the original tender evaluation report, the original tender opening minutes and the original bid documents, the AO or delegated officer shall in writing and within one (1) day of receipt of the professional opinion approve or reject the professional opinion.
- b) Upon receipt of the approved professional opinion, the HSCM shall prepare a notification of intention to award and a subsequent letter of award shall be prepared after expiry of the standstill period.
- c) If the AO is not satisfied with the procurement process and proceeds to reject the professional opinion, he/she shall remark on the evaluation report and/or professional opinion on what needs to be done or considered by either the evaluators and/or the HSCM.
- d) Where the professional opinion is rejected, the evaluation report and the professional opinion shall be resubmitted back to the AO or delegated officer after incorporating the comments.
- e) If none of the bidders was responsive to the conditions of the tender, the procurement and asset disposal proceedings shall be cancelled/terminated.
- f) All the documents shall be handed back to the HSCM for necessary action and safe custody.

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2.9. Notification of Intention to Award

Before the expiry of the period during which tenders must remain valid, the AO shall notify in writing the firm submitting the successful tender that the tender has been accepted.

- a) If the AO approves the award of the tender, the HSCM or delegated officer shall expeditiously prepare letters of notification of intention to award to both the successful and unsuccessful bidders with reasons why each unsuccessful bidder failed and submit to the AO or the officer he/she has delegated in writing for the signing of the letters of notification to enter into contract. The unsuccessful bidders shall also be informed of the name of the successful tenderer and the price quoted by the successful tenderer. The format for preparation of the notification of intention to award shall be as provided in the respective standard tender document used.
- b) Once the letters of notification of intention to award are signed, the HSCM shall ensure that all the letters are mailed to each tenderer the same day within the mailing procedures either through email or post office. The HSCM shall maintain evidence of having sent out the notifications of intention to award to all the bidders who participated in the tendering process.
- c) The HSCM shall maintain a copy of each letter of notification.
- d) After expiry of the standstill period, the letter of award shall be prepared in favour of the successful bidder. The letter of award shall request the successful bidder to accept the award within the duration specified in the letter of award and the letter of award shall include any demands for submission of performance bond(s) where applicable.

2.10. Acceptance of Award

- a) The successful bidder shall accept in writing the award of the tender within the period specified in the letter of award failure to which the award shall be considered as rejected.
- b) If the awarded bidder accepts award, he/she shall also submit a performance bond if requested in the letter of award.
- c) Notification of intention to award to both successful and unsuccessful bidders shall be issued when using the RFQ method. An LPO/LSO in the format provided in *Appendix XIX*, as appropriate, shall be issued thereafter without

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referring to the standstill period as stated in the standard tender document for request for quotations.

- d) The LPO/LSO shall have the standard contract terms and conditions contained in the standard request for quotation document.
- e) If the successful bidder, fails to accept the award within the duration stated or fails to provide performance security, the tender shall be awarded to the bidder who would have been successful had the lowest evaluated bidder not been successful provided that the tender is still valid, other lowest evaluated bidders are available and prices are within market rates. The awarded bidder shall forfeit the tender security for failure to accept the award.
- f) If there is no other responsive bidder to be awarded after the lowest bidder has rejected the award, the tender shall be terminated/cancelled.
- g) After the awarded bidder has signed the contract and furnished the performance security where required, all bid securities shall be released, if any, to all the tenderers.
- h) Where the successful supplier refuses to enter into a written contract, the suppliers may be recommended for debarment.

2.11. Contract/LPO/LSO Preparation

- a) The contract documents for procurements made through RFQ shall be prepared using the standard form of contract contained in the standard tender document for RFQ. An LPO/LSO shall be issued immediately after the AO has awarded the tender.
- b) The contract agreements for all procurements shall be prepared by the HSCM and where necessary shall be submitted to the legal Division for quality assurance. The Head of User Division, where necessary, shall give their input prior to the Accounting Officer signing the contract.
- c) A blank tender document, the professional opinion and the successful bidders' tender document shall be the key documents for drafting contract agreements.
- d) After quality checks and reviews are made by the legal Division, the contract agreement(s) shall be shared with the successful bidder for signing and thereafter forwarded to the AO or delegated officer for his/her signature. The contract agreement shall be witnessed by the Head of Legal Services or delegated officer.

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- e) The original contract shall only be shared with the successful bidder only after the bidder has submitted a performance security where requested as per the letter of notification of award and after ascertaining any other issue as may be necessary.
- f) A copy of the signed LPO/LSO or contract agreement shall be issued to the user Division where the subject procurement belongs for purposes of contract management.
- g) The HSCM and user Divisions shall follow up with the awarded bidder(s) to ensure that the LPO/LSO or contract agreements are performed as signed in terms of time schedules for delivery. For complex and specialized contracts, the mandate shall rest with the CIT.
- h) The Head of the User Division shall be responsible for reporting (in writing) any deviations in the contract to the AO and the HSCM.
- i) The HSCM shall keep a record of all LPO/LSOs or contract agreements under performance including timelines for performance and delivery.
- j) Where necessary, contract variations and amendments may be undertaken at any time within the life of the contract except for varying of contract prices upwards within a period of 12 months from the date of signing.
- k) The contract execution form provided in *Appendix XVII* shall be utilized to facilitate the contract execution process.

Table 3: Approval matrix for Purchase Orders

#	Threshold (KES)	Description	Role
1.	All amounts	Supply Chain Management Officer	Raise purchase order
2.	All amounts	Head of Supply Chain Management	1 st approver
		Head of Finance	Reviewer
		Accounting Officer	Final approver

2.0. PROCUREMENT PROCESSES

2.12. Inspection and Acceptance

The AO may establish an ad hoc committee known as the inspection and acceptance committee. The inspection and acceptance committee shall be composed of a chairperson and at least two other members appointed by the AO on the recommendation of HSCM and shall at a minimum have the following representatives; the User Division, the Technical Division and an Officer from the SCM Division. The inspection and acceptance committee shall utilize the inspection and acceptance certificate provided in *Appendix X*.

The HSCM or delegated officer shall be the secretary to the committee.

2.12.1. Inspection and Acceptance of Services

- i) The HSCM shall delegate the responsibility for preparing schedule(s) on delivery of services for purposes of ensuring the efficient working of the ad hoc Inspection and Acceptance Committee(s) to an officer within the supply chain management Division.
- ii) Before the inspection of delivered services, the officer-in-charge of the specific deliveries shall liaise with Heads of User Divisions and recommend three (3) nominees to the HSCM to be appointed by the AO or delegated officers as members of the Inspection and Acceptance Committee for the subject procurement(s). Several committees may be nominated to inspect and accept different services.
- iii) For non-technical common user items, any item below Kshs 200,000 shall be inspected and accepted by the user Division and SCM Division.
- iv) The user Division where the subject services belong must be a member of the committee and the committee shall have the necessary technical competence for the subject services being inspected.
- v) The necessary documents that shall form the basis for inspection of the services shall be the contract or LPO/LSO, the original bid document of the supplier, service levels agreed, suppliers' delivery note(s), and suppliers' invoice(s), if any. The Inspection and Acceptance Committee should not introduce new requirements which are not reflected in the contract.
- vi) Inspection of the services delivered entails examining the delivered services against the deliverables required in the contract/LPO/LSO and bid document.

Due to the nature of services that distinguishes them from goods and works, the following shall apply with respect to inspection and acceptance of services;

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Table 4: Inspection and acceptance of services

#	Nature of Services	Required documentation	Person(s) Responsible for Inspection and Acceptance
1.	Conference facilities	Attendance sheet	User
2.	Legal services	Judgment of the case or milestone made by the legal firm or relevant report to warrant payment	User
3.	Cleaning services	Job cards	User
4.	Catering services	Job cards	User
5.	Security services	Attendance sheets	User
6.	Repair and Maintenance Services	Job cards	User
7.	Air travel services	Booking ticket reservation	User
8.	Consultancy services	Milestone reports	User
9.	Other services	The HSCM shall provide guidance on required documents or inspection and acceptance shall be based on the requirements that were placed in the tender documents	User

2.12.2. Inspection and Acceptance of Goods

- a) The HSCM or delegated officer shall liaise with suppliers and agree on schedule(s) of how contracted goods shall be delivered for purposes of ensuring smooth working of the ad hoc Inspection and Acceptance Committee(s).
- b) Before the inspection of the delivered goods, the HSCM or delegated officer shall liaise with Heads of User Divisions and recommend three nominees to be appointed by the AO as members of the Inspection and Acceptance Committee for the subject procurement(s). Several committees may be nominated to inspect and accept different deliveries.

2.0. PROCUREMENT PROCESSES

- c) The user Division where the subject items belong and where applicable, the technical Division, must be a member of the committee and the committee shall have the necessary technical competence for the subject goods being delivered.
- d) The necessary documents for inspection of the goods delivered shall be the contract or LPO/LSO, the original bid document of the supplier, specifications, suppliers' delivery note and suppliers' invoice, if any. The Inspection and Acceptance Committee should not introduce new requirements which are not reflected in the contract.
- e) Inspection of the goods delivered entails examining the delivered goods against the quantities and quality (specifications) demanded as reflected in the contract/ LPO/LSO and bid document.
- f) If the Inspection and Acceptance Committee is satisfied that the delivered goods are of the right quantity(s) and quality as prescribed in the contract and bid document, the goods shall be accepted and all members of the inspection committee shall sign the Inspection and Acceptance certificate. Thereafter, the HSCM or delegated Officer in Charge of Stores shall take the goods on-charge and will be given a copy of the Inspection and Acceptance Certificate which he/she shall use to post the receipt in the store's ledger.
- g) The HSCM or delegated Officer in Charge of Stores shall keep the original Inspection and Acceptance Certificate which he/she shall use to post in the store's ledger before raising the GRN to facilitate payment.
- h) If the Inspection and Acceptance Committee is not satisfied, the supplier shall be issued with a rejection note by the Officer in Charge of Stores through the HSCM with reasons why the goods were rejected by the Inspection and Acceptance Committee and the supplier shall collect his/her goods.
- i) If the goods are complex or specialized, the Inspection and Acceptance of the items shall be done by the Contract Implementation Team appointed by the AO upon recommendation by the HSCM. The CIT shall be responsible for issuing the Inspection and Acceptance Certificate.
- j) The Inspection and Acceptance Committee shall then prepare an Inspection and Acceptance Certificate for the goods and submit the certificate with the original Inspection Certificate to the HSCM.

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- k) The Inspection and Acceptance Certificate shall provide explanations regarding the quantity and quality (specifications) of the goods received against the requirements prescribed in the contract and bid document.
- l) The Inspection and Acceptance Certificate shall be referenced with the specific contract number/ LPO/LSO number that forms the basis of inspection.
- m) For non-technical common user items, any item below KES 200,000 shall be inspected and accepted by the user Division/technical Division and procurement.
- n) Technical items and in particular equipment, shall be inspected by the Inspection and Acceptance Committee regardless of value.

2.12.3. Inspection and Acceptance of Works

- a) The HSCM or delegated officer shall liaise with contractors and agree on schedule(s) on how inspection of works shall be conducted for purposes of ensuring smooth working of the ad hoc Inspection and Acceptance Committee(s).
- b) Before the inspection of the works, the HSCM shall liaise with Heads of User Divisions and recommend three (3) nominees to be appointed by the AO or his/her nominee as members of the Inspection and Acceptance Committee for the subject procurement(s). Several committees may be nominated to inspect and accept different works.
- c) The user Division where the subject works belong must be a member of the committee and the committee shall have necessary technical competence for the subject works being inspected.
- d) The necessary documents that form the basis for inspection of the works performed shall be the contract or LPO/LSO, the original Bills of Quantities of the contractor, specifications, contractor's payment certificate and contractor's invoice, if any. The Inspection and Acceptance Committee should not introduce new requirements which are not reflected in the contract.
- e) Inspection of the works done entails examining the executed works against the quantities and quality (specifications) demanded in the contract, LPO/LSO and BQ.
- f) If the Inspection Committee is satisfied that the works have been executed as prescribed in the contract and BQ, the works shall be accepted and all

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members of the inspection committee shall sign the Inspection and Acceptance certificate or the payment certificate.

- g) If the Inspection and Acceptance Committee is not satisfied, the contractor is issued with a rejection note with reasons why the works were rejected by the Inspection Committee and the contractor shall take necessary corrective action.
- h) If the works are complex or specialized, the Inspection and Acceptance of the works shall be done by the project manager or CIT which shall comprise experts in the nature of works appointed by the AO. The CIT shall also issue the Inspection and Acceptance Certificate.
- i) The Inspection and Acceptance Committee shall then prepare an Inspection and Acceptance Certificate of the works and shall submit the certificate with the original Inspection and Acceptance to the HSCM for onward transmittal to the AO or delegated officer in writing for approval.
- j) The Inspection and Acceptance Certificate provides explanations regarding the quantity and quality (specifications) of the works performed against the demands in the contract and BQ.
- k) All Inspection and Acceptance Certificates shall be serialized.

2.13. Termination of Tenders

The AO may at any time prior to notification of tender award, terminate or cancel procurement or asset disposal proceedings without entering into a contract upon the advice of HSCM where any of the following applies: -

- a) The subject procurement has been overtaken by:
 - i. Operation of law; or
 - ii. Substantial technological change;
- b) Inadequate budgetary provision;
- c) No tender was received;
- d) There is evidence that prices of the bids are above market prices;
- e) Material governance issues have been detected;
- f) All evaluated tenders are non-responsive;
- g) Force majeure;

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- h) Civil commotion, hostilities or an act of war; or
- i) Upon receiving subsequent evidence of engagement in fraudulent or corrupt practices by the tenderer.

Upon termination of a tendering process, the HSCM shall prepare a report on the termination proceedings and the AO shall approve it prior to submission to PPRA.

All persons who submitted tenders shall be notified of the termination, with reasons, within fourteen days of the termination.

2.14. E-Procurement

Dynamics 365 Business Central is currently being used to manage the communication within the supply chain processes. The e-Procurement system is currently being used to manage the whole supply management process.

The e-procurement process has the following benefits:

- a) Enhancing the communication during the procurement process with the stakeholders involved internally and externally.
- b) Providing inbuilt approvals at various levels of the procurement process hence promoting transparency and accountability.
- c) Increase in visibility of all the financial activities related to procurement of goods, works and services. This will promote accurate financial statements and ease of compliance to audit requirements.
- d) Curtailing the risk of fraud and other errors such as double payment normally associated with a manual procurement environment.
- e) Allowing for statistical data on funds spend.
- f) Significantly reducing paperwork and reduced loss of documents and inconveniences to suppliers who seek assistance.
- g) Reducing processing time and costs.
- h) Automated notification of suppliers on the status of award (LPO/LSOs and Contracts)
- i) Online submission of quotations/bids by suppliers.

3.0.METHODS OF PROCUREMENT

3.1. Introduction

The following are the applicable methods of procurement at CLE;

- a) National/International Open Tender;
- b) Restricted Tender;
- c) Two stage tendering;
- d) Request for Proposal;
- e) Design Competition;
- f) Direct Procurement;
- g) Request for Quotations;
- h) Framework Agreements;
- i) Force Account;
- j) Competitive negotiations
- k) Specially Permitted Procurement;
- l) Community participation
- m) Low Value Procurement;
- n) Electronic Reverse Auction;

Open tender method of procurement shall be the preferred procurement method for procurement of goods, works and non-consultancy services. Alternative procurement methods may be used if that procedure is allowed and satisfies the conditions for use of that method.

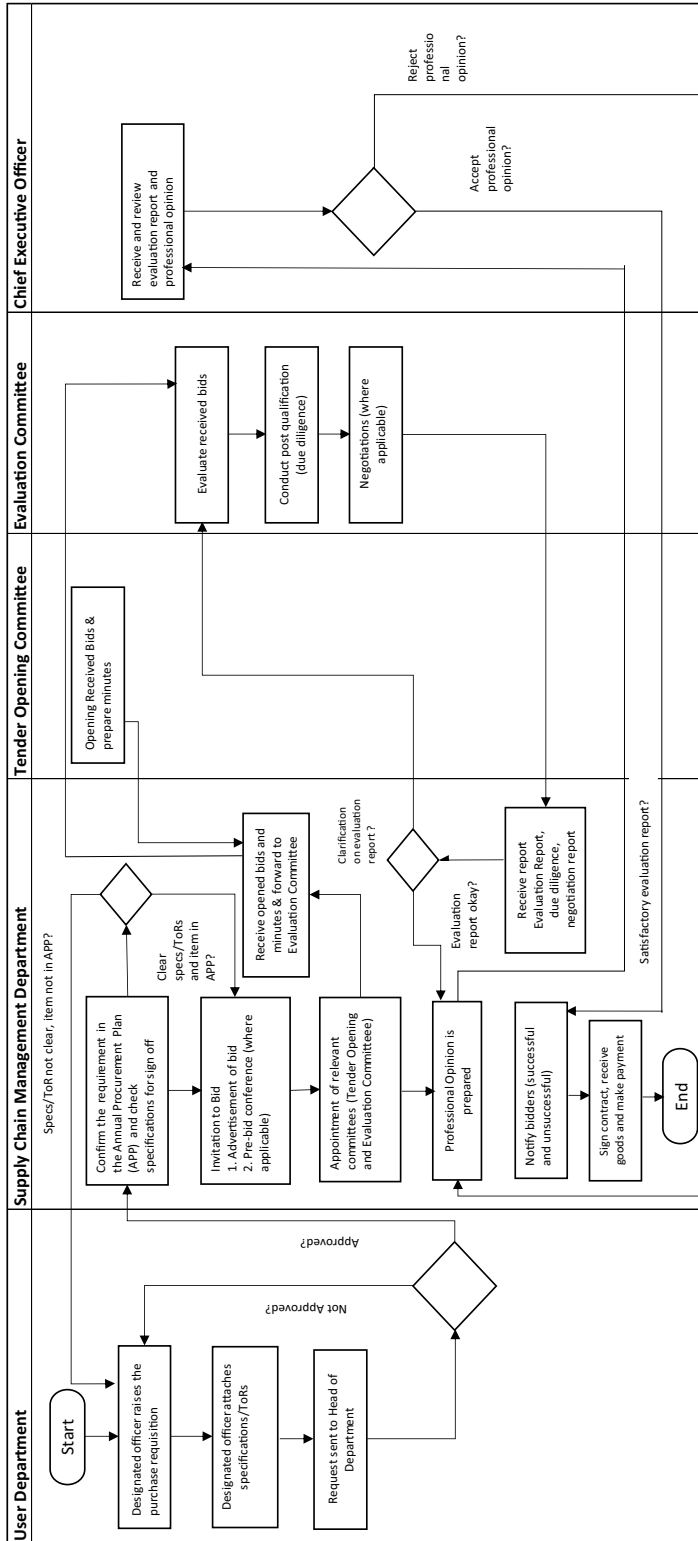
Tenders/contracts shall not be split with the aim of avoiding the application of requisite procurement methods. This includes amongst others; splitting orders to reduce monetary thresholds or contract duration periods. However, when applying preference and reservation schemes for the purpose of ensuring maximum participation of citizen contractors, disadvantaged groups, small, micro and medium enterprises in public procurement, CLE shall unbundle a category of goods, works and services in practicable quantities.

3.1.1. Procurement Process/Cycle

The procurement cycle refers to the series of events that are followed in the procurement of goods. To enable efficiency of the procurement process, it is necessary to describe standard steps that need to be taken to acquire the goods, works or services. The procurement process is semi-automated. the checklist for the procurement process provided in *Appendix VIII* shall be utilized while initiating a procurement requirement. The following flow chart depicts the procurement process.

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Figure 5: Procurement Process at CLE



Note: each HOD shall designate the officer who shall raise the purchase requisition

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3.1.2. Open National Tender

3.1.2.1. Introduction

This method is used for the selection of suppliers and contractors for supply of goods, works and services that meet the set standards and at competitive prices. All eligible suppliers are invited to bid for the supply of goods, works and services through advertisement in widely circulated media sources.

The tendering process shall be carried out with the aim of maximizing on the economy and efficiency, promoting competition and fairness, enhancing transparency and accountability and thereby increasing public confidence in the process through a predetermined and disciplined procedure.

All requirements for goods, works and services that are within the procurement threshold set out in *Appendix II* shall be procured using open tender.

3.1.2.2. Guidelines

a) Initiation of Tendering Proceedings

- i) The user Division shall raise a purchase requisition, attach detailed specifications and forward it to the relevant officer for approval as stipulated in the Threshold Matrix *vide Appendix II*.
- ii) Once approved, the user Division shall forward the same to the HSCM for initiation of procurement proceedings.
- iii) The tendering process shall be initiated upon receiving an approved purchased requisition and confirmation of existence of the subject procurement in the approved procurement plan.
- iv) Upon receiving of the approved procurement requisition, the Procurement and Supply Chain Management Division shall apply the work plans provided in the annual procurement plan.

b) Preparation of Tender Document

- i) The user Division shall prepare detailed technical specifications together with any relevant tender conditions and submit them to the SCM Division for preparation of the tender documents.
- ii) In consultation with the user Division, SCM Division shall ensure that all the required information is availed.

3.0.METHODS OF PROCUREMENT

- iii) The SCM Division shall select the appropriate standard tender document as provided by the Public Procurement Regulatory Authority.
- c) The invitation to tender shall be in English language;

The SCM Division shall in consultation with the user Division customize the standard tender document to include;

- a) Tender reference number and title of the procurement
- b) Invitation to tender (including requirement for serialization of the tender document by bidders)
- c) Tender Data Sheet
- d) Qualification and Evaluation Criteria
- e) Technical specifications
- f) Price schedule
- g) General Conditions of Contract
- h) Special Conditions of Contract
- i) Standard Forms/Forms of tender

c) Specific requirements

- i) The specific requirements shall include all the technical requirements with respect to the goods, works or services.
- ii) The technical requirements shall, where appropriate;
 - Relate to performance rather than design or descriptive characteristics
 - Be based on national or international standards whichever is superior
 - The technical requirements shall not refer to a particular trademark, name, patent, design, type, producer or service provider or to a specific origin unless:
 - There is no other sufficiently precise or intelligible way of describing the requirements
 - The requirements allow equivalents to the specific requirements
- iii) To ensure that the specific requirements result in the desired goods, works or services, the following procedure shall be applied:
 - a) Upon receiving the specific requirements from user Divisions, the HSCM shall review the specifications to confirm that they meet the minimum requirements set in c) ii) above.

3.0.METHODS OF PROCUREMENT

- b) The HSCM shall ensure that the specific requirements are not skewed/tailor made for specific suppliers.
- c) The User Division shall sign off on the agreed specification.
- d) Thereafter, the HSCM shall issue the same specific requirements to all potential bidders through the particular STD.

d) Publishing of tender

The SCM Division shall advertise the tender notice for not less than seven (7) days excluding the date when the tender first appears. Advertisements shall be placed on:

- The Government's dedicated procurement advertising portal, PPIP (www.tenders.go.ke) or
- In at least two (2) daily newspaper of nationwide circulation or CLE's website; or
- A notice in at least two (2) free to air television stations and two (2) radio stations of national reach.

e) Issuing tender documents and responding to clarifications from interested bidders.

The HSCM shall maintain a record of issued tender documents both in electronic and manual form and shall respond in writing to any clarifications sought by tenderers within the stipulated durations in the tender documents and at the same time issue a copy of clarifications to all tenderers already issued with documents.

f) The Tender Box

For a manual tendering process, all bids shall be placed in the designated tender box.

- a. The tender box shall clearly be inscribed "tender box" and shall be placed in an open and accessible place or site.
- b. The tender box shall remain locked until the time for tender opening.

The keys for each lock shall be kept by different officers from designated Divisions, i.e. one key shall be maintained by Supply Chain Division while the other key shall be maintained by the Office of the Chief Executive Officer.

3.0.METHODS OF PROCUREMENT

3.1.3. International Open Tender

3.1.3.1. Introduction

International Open Tender follows the same procurement process as national open tender only that International Open tenders are floated in the international market. International open tender is appropriate where the supply of goods and services by their nature or scope, is unlikely to attract adequate local competition.

3.1.3.2. Guidelines

International Open Tender may be used with the following guidance:

- i) The invitation to tender shall be in English language;
- ii) The tender shall be advertised in Kenya's dedicated tenders' portal or one or more English-language newspapers or other publications that, together, have sufficient circulation outside Kenya to allow effective competition for the procurement;
- iii) The period of time between the advertisement under item (ii) above and the deadline for submitting tenders shall be a minimum of seven (7) days excluding the date of advertisement. However, depending on the complexity of the requirement, the AO can increase the minimum period for submission of the tenders.
- iv) The technical requirements shall, to the extent be compatible with requirements under Kenyan law, be based on international standards or standards widely used in international trade;
- v) 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. The currency to be used shall be specified in the tender document and the exchange rate for converting all tenders to the same currency shall be the selling exchange rate provided by the Central Bank of Kenya prevailing at the tender opening date.
- vi) Where local or citizen contractors participate they shall be entitled to preferences and reservations.
- vii) For purposes of requiring successful bidders participating in international open tenders to cause technological transfer or create employment opportunities, the AO shall ensure that the tender documents contain a mandatory requirement as preliminary evaluation criteria specifying that the successful bidder shall:-

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- a) Transfer technology, skills and knowledge through training mentoring and participation of Kenyan citizens including specifying as a mandatory requirement that all tenderers include in their tenders a local content plan for the transfer of technology; and
 - b) Reserve at least seventy-five percent (75%) employment opportunities for Kenyan citizens for works, consultancy services and non-consultancy services, of which not less than twenty percent (20%) shall be reserved for Kenyan professionals at management level.
- viii) Foreign Tenderers shall be required to provide a local content plan on sourcing of at least forty (40) percent of the supplies from the Republic of Kenya. Where this is not possible, a waiver shall be sought from the National Treasury prior to advertising.
- ix) The invitation to tender will indicate brief particulars of the product, with the quantity, eligibility for participation by bidders, destination where the goods are to be delivered, the name and address of the office where bid documents can be obtained (if applicable), closing date for receipt of tenders and specified place for submission of tenders.
- x) The bid document containing detailed specifications, bid conditions, instructions to bidders, proposal and contract forms, bid and performance security formats will be made available to the prospective bidders either on payment of a fee not exceeding Kenya Shillings One Thousand or free of charge, as the case may be to enable as many suppliers, contractors, service providers, or consultants who are interested to participate in submitting bids.

3.1.4. Restricted Tendering

3.1.4.1. Introduction

Restricted Tendering involves an invitation to bid from a shortlist of prequalified or registered or known suppliers/contractors/service providers.

All requirements for goods, works and services that are within the procurement threshold set out in *Appendix II* shall be procured using restricted tendering as long as the following conditions are satisfied;

- (a) Competition for contract, because of the complex or specialized nature of the goods, works or services is limited to prequalified contractors.

3.0.METHODS OF PROCUREMENT

(b) The time and cost required to examine and evaluate a large number of tenders would be disproportionate to the value of the goods, works and services to be procured.

© There is evidence that there are only a few known suppliers of the whole market of goods, works or services.

3.1.4.2. Guidelines

- (a) Standard tender documents shall be utilized.
- (b) The procedure to be followed shall be similar to Open Tendering.
- (c) For procurement requirements satisfying conditions in 3.1.4.1. (a) above, selection of suppliers shall be through a prequalification procedure.
- (d) For procurement requirements satisfying conditions in 3.1.4.1. (b) above, at least ten (10) persons selected from the approved list of registered suppliers shall be invited. The selection process shall take into consideration the complexity and value of the items.
- (e) For procurement requirements satisfying conditions in 3.1.4.1. (c) above, all known suppliers of the goods, works or services shall be invited.
- (f) For any procurement satisfying conditions in 3.1.4.1. (c) above, an advertisement shall be placed on CLE's website or on the state portal regarding the intention to procure through restricted tender for at least three (3) days before inviting tenders and where any bidder outside the known suppliers emerge, he or she shall be invited to bid.
- (g) The minimum time allowed for bidders to prepare and submit the bids in a restricted tender process shall be seven (7) days exclusive of the date of advertisement.
- (h) The use of restricted tendering method shall be included in the annual procurement plan. Prior to inviting tenders through restricted tendering using restricted tendering, the AO's approval or delegated officer shall be required.
- (i) Every prequalified contractor/supplier in the approved list shall be given an equal chance to participate in the bidding process through fair rotation.

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3.1.5. Request for Proposal

3.1.5.1. Introduction

The request for proposal method is used for the procurement of professional services where the procurement is of services or a combination of goods and services and the services to be procured are advisory or otherwise of a predominately intellectual nature.

The Request for Proposal may be brought to the attention of Bidders through the following means:

- a) Request for proposal through advertisement;
- b) Invite expression of interests; or
- c) Utilize the list of registered consultants.

The Request for Proposal method may be utilized in combination with other methods of procurement.

- d) Request for Proposal (RFP) shall be used in procurement of services with a view of maximizing on the economy and efficiency, promoting competition and fairness, enhancing transparency and accountability and thereby increasing public confidence in the process through a predetermined and disciplined procedure.
- e) For this type of procurement, standard tender documents for RFP shall be used.
- f) All requirements for consultancy services that are within the procurement threshold set out in *Appendix II* shall be procured using RFP as long as the conditions have been met.

3.1.5.2. Guidelines

- a) The initiation and processing of the procurement needs shall be as described in the procedure for open tendering.
- b) The HSCM shall either Request for Proposal through advertisement or prepare a notice inviting interested persons to submit expression of interest (EOI) or utilize the list of registered suppliers.
- c) The user Division in consultation with Supply Chain Division shall prepare the terms of reference.
- d) Where Request for Proposals are invited through an EOI, the notice inviting

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expressions of interest shall be advertised on the dedicated Government's advertising tenders' portal (PPIP) or CLEs own website or in at least one daily newspaper of nation-wide circulation. The notice calling for EOIs shall include, at a minimum, the following information:

- The name and address of the project.
 - A brief description of the project, if any, of which the assignment forms a part.
 - A brief description of the proposed contract.
 - A statement of the information required from interested bidders.
 - Instructions on the location and deadline for submission of EOIs and any special instructions on the labeling of EOIs.
- e) The minimum time for preparation of EOI process shall be a period of seven (7) days.
- f) After the deadline for submitting EOI, the opening of the EOI shall be carried out in accordance with the tender opening procedure.
- g) The EOI will be evaluated in accordance with the parameters set out in the EOI documents and the results of the evaluation of the EOI shall state the bidders that were found to be qualified and the reasons why any bidders were not qualified. Due regard shall be paid to the following;
- i. In the case of EOIs for professional services, statutory instruments issued by the relevant professional associations in relation to regulation of fees chargeable for services rendered shall be considered.
 - ii. Subject to total proposals received, a minimum of six (6) proposals shall be shortlisted. However, where less than six (6) proposals have been received, a minimum of three (3) proposals shall be shortlisted.
 - iii. If a repeat process fails to yield the requisite numbers of qualified bidders, CLE shall proceed with the subject procurement and make a report to PPRA.
- h) Record of the evaluation results shall be submitted to the AO for review and approval accompanied by a Professional Opinion from the HSCM.

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- i) The HSCM shall allow each person who is determined to be qualified to be invited to submit a Request for Proposal.
- j) The technical proposals shall be opened first before opening of financial proposals where the tender document requires submission of separate technical and financial bids.
- k) The evaluation process shall be conducted using the selection method set out in the request for proposal document.
- l) The evaluation report shall be submitted to the AO along with the professional opinion for approval and award of contract.
- m) Where applicable and depending on the selection method, negotiations may be entered into with the bidder who submitted the successful proposal and changes may be requested/permitted.
- n) If negotiations with the person who submitted the successful proposal do not result in a contract, negotiations may be entered into with the person who submitted the proposal that would have been successful had the successful proposal not been submitted.
- o) The negotiation report shall be submitted to the AO for decision-making.
- p) The AO shall sign a contract with the successful bidder. The contract must set out either the maximum amount of money or time that can be paid under the contract.

3.1.5.3. Negotiations

- a) Negotiations with the successful tenderer shall not commence until the AO has approved the successful proposal and also notified the successful and unsuccessful bidders.
- b) Where negotiations are to be conducted, the notification of intention to enter into contract to the successful bidder shall specify that entering into a contract shall be subject to successful negotiations.
- c) The appointed ad hoc evaluation committee shall prepare a report of the negotiations and submit it to the Supply Chain Division. The HSCM shall prepare a professional opinion for onward submission to the AO.
- d) The AO may negotiate with the bidder who submitted the successful proposal and may request and permit changes as follows; the subsequent contract may not vary from the requirements of the terms of reference, the request for

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proposals or the terms of the successful proposal except in accordance with the following:

- i) The contract may provide for a different price but only if there is a proportional increase or reduction in what is to be provided under the contract: and
 - ii) The variations shall be such that if the proposal, with those variations, was evaluated again, the proposal would still be the successful proposal.
- e) If the negotiations with the person who submitted the successful proposal do not result in a contract, the AO may negotiate with the second person who submitted the proposal that would have been successful had the successful proposal not been submitted.

3.1.6. Selection Methods for Requests for Proposals

3.1.6.1. Quality Cost Based Selection

3.1.6.1.1. Application

- i) Quality and Cost Based Selection (QCBS) method shall be selected as the preferred method to be used to evaluate proposals and the selection procedure shall be stated in the Request for Proposals.
- ii) For the purposes of item (1) above, "Quality and Cost Based Selection" method is a selection method that uses a competitive process that considers the quality of the proposal and the cost of the services in the selection of the successful firm.
- iii) The Request for Proposal shall request submission of both technical and financial proposals at the same time, but in separate envelopes.
- iv) In the evaluation of tenders by way of these methods prescribed here-in, the criteria for assessing the technical and financial capability of the tenderers shall be as may be prescribed by the AO in the tender documents.
- v) The Request for Proposal under item iv) above shall provide either the estimated budget or the estimated time of key experts, specifying that this information is given as an indication only and that consultants shall be free to propose their own estimates.
- vi) Subject to prescribed restrictions, any of the following alternatives may be used in the selection methods to evaluate proposals and the selection method

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shall be stated in the Request for Proposals—

- (a) Quality Based Selection (QBS), which focuses on quality and selects the highest quality proposal;
- (b) Least Cost Selection (LCS), which selects the lowest priced proposal, which meets the technical requirements;
- (c) Consultants Qualifications Selection (CQS);
- (d) Individual Consultants Selection (ICS);
- (e) Fixed Budget Selection;
- (f) Single Source Selection;

Where alternative methods are selected a report shall be prepared and submitted to PPRA for approval.

3.1.6.1.2. Procedure

- i) The Quality and Cost Based Selection (QCBS) method shall be conducted as follows—
 - (a) Both the quality and the cost of bids shall be considered in a process under which technical bids are evaluated without accessing the financial bids; and
 - (b) 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.
- ii) A bid submitted under the Quality and Cost Based Selection (QCBS) method shall be submitted using the two envelopes submission method and evaluated to determine the—
 - (a) 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;
 - (b) Opening of the financial bid which shall be conducted as follows— only bids which have attained the minimum technical score shall proceed to the financial stage;-
 - I. The bidders who attained the minimum technical score shall be invited to attend the opening of the financial bids;
 - ii. During the opening of the financial bids, the technical scores shall be read out to all bidders who attained the minimum technical scores;

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- iii. An evaluation shall be done against set criteria on a merit point system to determine the total financial score for the financial bid; and
- iv. The total scores determined compared to the minimum financial score;
- (c) Total weighted cost score, with regard to a financial bid, where the bidder attained the minimum technical score shall be applied; and
- (d) 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.
- (e) The formulae for determining the Financial Score (Sf) shall, unless an alternative formulae is indicated in the Appendix “ITC”, be as follows:-

Sf = 100 X ^{Fm} / F where Sf is the financial score; Fm is the lowest priced financial proposal and F is the price of the proposal under consideration. Proposals will be ranked according to their combined technical (St) and financial (Sf) scores using the weights (T=the weight given to the Technical Proposal; P= the weight given to the Financial Proposal; T + p = 1) indicated in the Appendix. The combined technical and financial score, S, is calculated as follows:- S = St x T % + Sf x P %. The firm achieving the highest combined technical and financial score will be invited for negotiations.

- iii) The evaluation criteria provided in the Request for Proposal tender document shall consider the following, among others—
 - (a) Specific experience;
 - (b) Methodology proposed including key deliverables;
 - (c) Key personnel;
 - (d) Transfer of knowledge; and
 - (e) Participation of nationals.

The following are alternatives in the selection methods and any of them may be used to evaluate proposals. The selection method shall be stated in the request for proposal bid document.

3.1.6.2. Quality Based Selection method

3.1.6.2.1. Application

Quality Based Selection method shall be appropriate for—

- (a) Complex or highly specialized assignments for which it is difficult to define precise terms of reference and the required input from the consultants;

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- (b) Assignments that have a high downstream impact and in which the objective is to have the best experts;
- (c) Assignments that can be carried out in substantially different ways;
- (d) Assignments and professional services which are regulated by Acts of Parliament which stipulate fees and charges applicable for such assignments.

3.1.6.1.3. Procedure

- i) A Quality Based Selection (QBS) method shall be conducted as follows—
 - a) A technical bid shall be evaluated against the set criteria on a merit point system to determine the best technical bid without accessing the financial bids;
 - b) The quality of a bid shall be the primary factor to be considered; and
 - c) The bid with the highest technical score shall take priority in the first instance.
- ii) The procedure for the Quality Based Selection (QBS) method of a technical bid shall be conducted in three stages.
- iii) 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.
- iv) A bid that fails to qualify or that is found to be non-responsive to the terms of the bidding document shall be eliminated from further evaluation.
- v) The technical evaluation criteria shall be used to—
 - (a) Evaluate each technical bid against the technical evaluation criteria; and
 - (b) The same method of evaluation as that utilized for the Quality and Cost Based Selection (QCBS) method.
- vi) The evaluation committee shall prepare a technical evaluation report of the technical bids received which shall—
 - (a) Substantiate the results of the evaluation;
 - (b) Describe the relative strengths and weaknesses of the bids; and
 - (c) Indicate which bid is recommended to proceed to the financial evaluation.
- vii) A financial evaluation shall be conducted on the bidder—
 - (a) Who submitted the best evaluated technical bid being invited to submit a financial bid where only technical bids were submitted; or

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- (b) On 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.
- viii) The financial bid shall be negotiated in accordance with the provisions of this manual.
- ix) In this manual "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.

3.1.6.3. Least-Cost Selection method

3.1.6.3.1. Application

Least-Cost Selection method shall be appropriate for selecting consultants for assignments of a standard or routine nature where well-established practices and standards exist. Least cost selection method is used to identify the lowest priced bid which meets all the commercial and technical requirements.

3.1.6.3.2. Procedure

- i) The least cost selection method shall require the use of separate sealed envelopes for submission of technical and financial bids.
- ii) The procedure for the least cost selection method evaluation of the technical bid shall be conducted in three stages.
- iii) A preliminary examination shall be conducted to determine—
 - a) Whether a bidder has qualified, on the basis of having passed or failed the selection for the bid.
 - b) The responsiveness of bids to the terms of the bidding document.
- iv) A bid that fails to qualify or that is found to be non-responsive to the terms of the bidding document shall be rejected.
- v) A technical evaluation of a bid shall be conducted—
 - a) To evaluate each technical bid against the technical evaluation criteria.
 - b) Following the same method of evaluation as that utilised for the Quality and Cost Based Selection.
- vi) A bidder who does not secure the minimum qualifying score shall be rejected.

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- vii) The evaluation committee shall prepare a technical evaluation report prior to the financial evaluation.
- viii) Bidders who have secured the minimum qualifying mark shall be notified of the date and time set for the opening of the financial bids.
- ix) The opening date of the financial bids shall be as specified in the Request for Proposal documents.
- x) Financial bids shall be opened publicly, and at the opening, the following shall be publicly read out:
 - a) Name of the bidder.
 - b) Technical score.
 - c) Bid price.
- xi) A financial evaluation shall be conducted by reviewing the conversion of bids to a single currency as stated in the invitation to bid.
- xii) For the purposes of evaluation, cost shall include local taxes, and other reimbursable expenses such as travel, translation, printing of the report or secretarial expenses, where applicable.
- xiii) Subject to any negotiations that may need to be held, the bidder who has submitted the lowest financial bid and meets minimum technical score shall be recommended for the award of the contract.
- xiv) Negotiations shall be carried out in accordance with the provisions of this manual.
- xv) The evaluation committee shall prepare an evaluation report for submission to the AO through the head of supply chain management and shall be accompanied by the professional opinion.

3.1.6.4. Fixed Budget Selection method.

3.1.6.4.1. Application

Fixed budget selection evaluation method is used only when the assignment is simple and can be precisely defined and when the budget is fixed.

3.1.6.4.2. Procedure

- (a) The available budget shall be indicated in the tender document and evaluation shall be considered as follows—
 - I) A bidder shall be required to provide, within the stated budget, the

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best possible technical and financial bids, in separate envelopes; and

- ii) The bidder with the evaluated technical bid of the highest quality, which is within the stated budget, shall be recommended for award of the contract.
- (b) The schedule of requirements or the terms of reference prepared shall contain all the necessary details to portray the sufficiency of the budget for the performance, by a bidder, of the expected tasks as shall be contained in the contract;

3.1.6.4.3. Guidelines

- a) The procedure for the fixed budget selection evaluation method of a technical and financial bid shall be conducted in three stages.
- b) Following the opening of a technical bid, a preliminary examination shall be conducted to determine—
 - i) Whether a bidder has qualified on the basis of having passed or failed the selection for the bid; and
 - ii) The responsiveness of bids to the terms of the bidding document.
- c) A bid that fails to qualify or that is found to be non-responsive to the terms of the bidding document shall be rejected.
- d) A technical evaluation of a bid shall be conducted—
 - i) To evaluate each technical bid against the technical evaluation criteria;
 - ii) Follow the same method of evaluation as that utilised for the Quality and Cost Based Selection method.
- e) An 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;
 - iii) Indicate which bid is recommended to proceed to the financial evaluation.
- f) The evaluation committee shall prepare a technical evaluation report prior to the commencement of a financial evaluation.
- g) Bidders that have qualified in the technical evaluation stage shall be notified of the date and time set for the opening of the financial bids which

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shall be opened publicly. The following shall be publicly read out:

- i. Name of the bidder;
 - ii. Technical score; and
 - iii. Bid price.
- h) A financial evaluation shall be conducted and any bid that exceeds the budget shall be rejected.
 - i) Subject to any negotiations that may need to be held, the bidder who has submitted the highest ranked technical proposal, of bids submitted within the budget shall be recommended for the award of contract.
 - j) Negotiations shall be carried out in accordance with the provisions of these procedures.
 - k) The evaluation committee shall prepare an evaluation report for submission to the AO through the HSCM and shall be accompanied by the professional opinion.

3.1.6.5. Single Source Selection method

3.1.6.5.1. Application

Single Source Selection method may be appropriate in the following cases, and only if it presents a clear advantage over competition—

- a) Where it can be evidenced that the consultancy service(s) 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 firm;
 - c) In exceptional cases, such as, but not limited to, in response to natural disasters and for a declared national emergency situation.
- i) The AO shall issue a written justification for single-source selection in the context of:
 - a) Ensuring economy and efficiency.
 - b) Natural continuation of previous assignments where continuity of technical services is required.

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- c) Cases of urgency.
- d) Clear advantage over competition.
- e) Qualification, experience and exceptional worth of the consultant.

3.1.6.5.2. Procedure

- i) The decision to use the single source selection method shall be approved in writing by the Accounting Officer on recommendation by the head of the user Division and the head of the supply chain management and submitted to the Authority for approval.
- ii) The User Division shall prepare terms of reference.
- iii) An advertisement on the intention to single source on its website and invite anyone who wishes to bid within a minimum period of three (3) days.
- iv) The terms of reference prepared shall be incorporated in the standard document for Request for Proposal and issued to the selected consultant with a request to submit a technical and financial proposal.
- v) Upon receipt of the technical and financial proposals, the Evaluation Committee shall evaluate the proposals and submit recommendations for award to the Accounting Officer through the HSCM vide a professional opinion.
- vi) Upon approval by the AO, the HSCM shall notify the consultant of the award.

3.1.6.6. Consultant Qualifications Selection method

3.1.6.6.1. Application

Consultant Qualifications Selection method may be appropriate; where small assignments of which the need for preparing and evaluating competitive bids is not justified.

3.1.6.6.2. Procedure

- (i) The process of soliciting bidders under the Consultant Qualifications Selection method shall include the following –
 - (a) Follow a two-stage process;
 - (b) Prepare the terms of reference;
 - (c) Request bidders to supply expressions of interest and information concerning their experience and competence relevant to the assignment; and

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- (d) Establish a short-list.
- (ii) The procedure to be followed for the qualification selection evaluation method shall be conducted in two stages.
- (iii) The Evaluation Committee shall –
 - (a) Evaluate the expressions of interest together with any supporting information;
 - (b) Select a bidder with the most appropriate qualifications and references, to whom the contract is to be awarded.
- (iv) The evaluation committee shall—
 - (a) Prepare a technical evaluation report of the expressions of interest received; and
 - (b) Submit the technical evaluation report to the AO for approval through the HSCM using the professional opinion.
- (v) The Evaluation Committee shall not proceed to stage two of the evaluation procedure before obtaining the approval of the AO which shall be communicated through the HSCM.
- (vi) The Evaluation Committee shall negotiate with the successful consultant on the terms of the contract for provision of the services.

3.1.6.7. Individual Consultant Selection

3.1.6.7.1. Application

Individual Consultants Selection method may be used for an assignment for which—

- (a) A team of experts is not required;
- (b) No additional outside professional support is required;
- (c) The experience and qualifications of the individual are the predominant considerations; or
- (d) Coordination, administration or collective responsibility between individuals is required.

3.1.6.7.2. Procedure

- i) The individual consultant may be procured using any one of the following approaches—
 - a) Open advertisement by request for expression of interest; or
 - b) Request for applications from the list of registered consultants in the relevant category within ceilings specified in the threshold matrix in *Appendix II*.
- ii) The Evaluation Committee –
 - a) Prepare terms of reference setting out the objectives, scope of work,

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- level of effort, evaluation criteria, scoring points and minimum technical score required to pass; and
- b) Estimate the cost of the consultancy based on the terms of reference and market rates.
 - iii) Individual consultants shall be required to submit their applications with curriculum vitae, and other relevant testimonials, including professional and academic certificates.
 - iv) Where a register of consultants under paragraph (i) (b) is used, an invitation shall be issued to at least five (5) consultants.
 - v) All submitted applications shall be opened in the presence of applicants or their representatives who choose to attend.
 - vi) 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.
 - vii) 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.
 - viii) The evaluation committee shall prepare an evaluation report and submit it to the HSCM for the professional opinion before submission to the AO.
 - ix) The first ranked individual consultant with the highest score shall be recommended for award of contract.
 - x) The HSCM shall prepare a draft contract setting out the proposed fees, terms and conditions of contract using the standard template issued by the PPRA.
 - xi) After approval of the recommendation for award by the AO, the first ranked individual consultant shall be invited to negotiate the fees, reimbursable expenses and contract terms with the evaluation committee and where negotiations fail, the second ranked individual shall be invited to negotiate the contract.
 - xii) Negotiations shall be carried out with the successful consultant.
 - xiii) The successful consultant shall be issued with the notification of award and at the same time notify the unsuccessful applicant of their results.
 - xiv) The successful consultant shall enter into contract with CLE within fourteen days from notification of award.

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3.1.7. Direct Procurement

3.1.7.1. Introduction

This procedure is necessary to provide guidelines for selection and approval of suppliers and contractors in cases where single sourcing or sole sourcing is the only recourse in terms of the method of procurement that can be used.

Direct Procurement process shall be carried out where and when necessary and justified. The purpose should not be used to avoid competition.

3.1.7.2. Guidelines

Direct Procurement Method may be applied when all requirements for goods, works and services that are within the procurement threshold set out in *Appendix II* have satisfied the following conditions:

- a) The goods, works or services are available only from a particular supplier or contractor, or a particular supplier or contractor has exclusive rights in respect of the goods, works or services, and no reasonable alternative or substitute exists;
- b) Due to war, invasion, disorder, natural disaster or there is an urgent need for the goods, works or services, and engaging in tendering proceedings or any other method of procurement would therefore be impractical, provided that the circumstances giving rise to the urgency were neither foreseeable by CLE nor the result of dilatory conduct on its part;
- c) 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;
- d) CLE, having procured goods, equipment, technology or services from a supplier or contractor, determines that additional supplies shall be procured from that supplier or contractor for reasons of standardization or because of the need for compatibility with existing goods, equipment, technology or services, taking into account the effectiveness of the original procurement in meeting the needs of CLE, the limited size of the proposed procurement in relation to the original procurement, the reasonableness of the price and the unsuitability of alternatives to the goods or services in question;
- e) 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.

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3.1.7.3. Guidelines

- a) The reasons for using direct procurement shall be recorded in writing.
- b) The user Division shall, after identifying the procurement need including an urgent procurement need, inform the HSCM for review and immediate action.
- c) The HSCM shall seek express authority in writing from the AO to initiate the procurement except under an urgent need where such approval may be done retrospectively - refer to the section on emergency procurement.
- d) HSCM, in consultation with the user Division shall identify a firm/person who can provide the goods, works or services and immediately commence negotiations.
- e) The AO on recommendation of the HSCM shall appoint the Evaluation Committee to evaluate and negotiate with the single or sole bidder.
- f) The ad hoc evaluation committee responsible for negotiation under (e) above may negotiate on terms that include-
 - i) Price
 - ii) Terms of contract
 - iii) Terms of delivery
 - iv) Scope of work or service
- g) The offer by the contractor/supplier is within the prevailing market prices.
- h) The fourteen days window period between the notification of award and signing of the contract provided shall not apply for direct procurement method.
- i) The resulting contract must be in writing and signed by both the AO and the Supplier/Contractor.
- j) Standard tender documents shall be used.
- k) For procurement requirements satisfying conditions and foreseen early enough, the use of the direct procurement method shall be included in the procurement plan and approved by the AO.
- l) The requirements provided in section 82 of the PPADA shall not apply when utilizing Competitive negotiations.

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The AO, shall, within fourteen (14) days after notification of the award of contract, report any direct procurement of a value exceeding five hundred thousand shillings to PPRA.

For Direct Procurement, the Accounting Officer or delegated officer in writing shall be responsible for initiating direct procurements as per the threshold matrix in *Appendix II*.

3.1.7.4. Emergency Procurement

An emergency falls under an urgent need that can result in injury, loss of life or critical damage to property or infrastructure and if a response was delayed, it would result in harm to individuals or property and the CLE community.

Emergency situations shall include but not limited to the following:

- (a) Natural or manmade disasters
- (b) Failure of critical infrastructure, e.g. failure of a system
- (c) Critical health or environmental emergencies, e.g. a pandemic
- (d) Political emergencies, e.g. war
- (e) Critical security emergencies, e.g. a terrorist attack
- (f) Unanticipated events that make it impossible to perform a statutory or critical function in the necessary timeframe, e.g. destruction of a system

3.1.7.4.1. Guidelines

- (a) The HSCM shall fill in the checklist in *Appendix V*.
- (b) In exceptional circumstances necessary to respond to an emergency, User Divisions may acquire/purchase urgent requirements and seek *post facto* approval through the HSCM.
- (c) In responding to the situation in paragraph (b) above, Users shall fill out the checklist in *Appendix VI*.

3.1.8. Request for Quotation

3.1.8.1. Introduction

Request for Quotations shall be used to procure goods, works and services which have an established market and are readily available as per the thresholds below.

- i. For goods and services, there is no minimum threshold to use this method. However, the maximum threshold for the procurement of goods and services using this method shall be Kenya Shillings Three Million (KES 3,000,000).
- ii. For works, there is no minimum threshold to use this method. However, the maximum threshold for the procurement of works using

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this method shall be Kenya Shillings Five Million (KES 5,000,000).

3.1.8.2. Guidelines

a) Selection of suppliers

- i) The request for quotations shall be given to suppliers who are registered and to as many of them as possible to ensure effective competition.
- ii) At least three (3) suppliers shall submit their quotations prior to evaluation.
- iii) Every registered supplier shall be given an equal opportunity through fair rotation.
- iv) The request to each person shall be given early enough so that the person has adequate time to prepare a quotation.
- v) The request for quotations shall be in English.
- vi) The request for quotations shall include the technical requirements and must to the extent possible be compatible with requirements under the Kenyan Law.
- vii) The request for quotations shall clearly state the conditions to be met by the suppliers.
- viii) A quotation shall be considered responsive where all conditions have been met by the supplier and the price is considered to be within the prevailing market price.
- ix) The successful quotation shall be the quotation with the lowest price that meets the requirements set out in the request for quotations.

b) Submission of quotations

All quotations shall be submitted as specified.

3.1.9. Low Value Procurement

3.1.9.1. Introduction

This method shall be used on condition that;

- i) The procurement is for low value items which are not procured on a regular or frequent basis and are not covered on a framework agreement;
- ii) The estimated value of the goods, works or non-consultancy services being procured per item per financial year is as per the thresholds below;
 - a) For goods and services, there is no minimum expenditure for use of

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this method. However, the maximum threshold for the procurement of goods and services using this method shall be Kenya Shillings Fifty Thousand (KES 50,000).

- b) For works, there is no minimum expenditure for use of this method. However, the maximum threshold for the procurement of works using this method shall be Kenya Shillings One Hundred Thousand (KES 100,000).
- iii) The procedure is not being used for purposes of avoiding competition.
- iv) No benefit would accrue in terms of time or cost implications if any other procurement method was utilized.
- v) The procedure has been recommended by the HSCM after conducting a market survey and approved by the AO or such person delegated in writing by the AO.
- vi) Where the AO finds it necessary to use low value procurement method, he/she may only delegate that function to the HSCM 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.

3.1.9.2. Guidelines

- a) The user shall forward a duly approved purchase requisition to the HSCM.
- b) The HSCM shall verify if the items meet the thresholds for procurement by low value.
- c) After a market survey the HSCM shall approve the use of low value procurement.
- d) The HSCM shall procure the goods, works or services from a reputable outlet or provider through direct shopping or the HSCM may also raise an LPO/LSO in favour of the supplier.
- e) An original receipt or invoice for the low value procurement of goods, works or services and the price paid shall be obtained and signed by the HSCM or the person undertaking the procurement through delegated authority by the HSCM.
- f) The items purchased and the receipt shall be forwarded to the Office in Charge of Stores to be taken on charge and then they shall be issued to the user who raised the stores Requisition.
- g) The documents with the original invoice or purchase receipt supported by the Kenya Revenue Authority's electronic tax receipt (ETR) shall be submitted to the HSCM who shall forward the same to Finance & Accounts Division for accountability.

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- h) Low value procurement shall be carried out jointly by the supply chain management Division and the respective user Division.

3.1.10. Framework Agreement

3.1.10.1. Introduction

Framework agreements shall be used to procure goods, works or services whose quantities and delivery schedules are not definable or determinable at the beginning. Framework agreements shall not be used in such a way as to prevent, restrict or distort competition. Framework agreements for goods, works and services may be entered into as long as the following conditions are satisfied:

- a) Open tender method of procurement shall be used.
- b) The procurement value is within the thresholds prescribed in *Appendix II*.
- c) The required quantity of goods, works or non-consultancy services cannot be defined or determined at the time of entering into the agreement.
- d) The need for the subject procurement is expected to arise on a repeated basis over a definite period of time.
- e) A minimum of seven (7) alternative vendors are included in each category.
- f) The maximum term for the framework agreement shall be three (3) years.
- g) For framework agreements exceeding one (1) year, a value for money assessment will be undertaken to determine whether the terms designated in the framework agreement remain competitive.
- h) In addition, supplier performance appraisal shall be undertaken annually to ascertain that the supplier is maintaining up to date statutory documents necessary for performance of the contract.

3.1.10.2. Guidelines

- i) The invitation to tender shall specify;
 - a) The intention to establish a framework agreement resulting from the procurement proceedings.
 - b) The number of suppliers or contractors which shall not be less than seven (7).
 - c) The duration of the framework agreement which shall not exceed three (3) years
 - d) The evaluation criteria.
 - e) 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.
 - f) Any other pertinent information.
- ii) The tender document shall specify the relative weighting that it gives to each of the criteria and this weighting may be expressed by providing a range within

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an appropriate maximum spread.

- iii) An ad hoc evaluation committee shall be appointed by the AO and 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 HSCM.
- iv) The HSCM shall prepare a professional opinion and submit it to the Accounting Officer for consideration prior to the approval and award of the framework agreement.
- v) The HSCM shall prepare a contract under the framework agreement and forward it to the Supplier/Contractor for signing.
- vi) The AO may award a contract under a framework agreement either through;
 - a) Call-off orders where the price has been determined in the contract by applying the terms specified without reopening competition; or
 - b) Inviting mini-competition among persons that have entered into the framework contract in the respective category.
- vii) Where mini-competitions are invited according to (vi) (b) above, the following procedure shall be followed;
 - a) The suppliers or contractors that have entered into the framework agreement shall be invited in writing to participate in the mini-competition
 - b) A minimum of three (3) days shall be given for bidders to submit their financial bids
 - c) Suppliers or contractors shall submit their financial bids in writing
 - d) The contents of the financial bids shall be kept confidential until the deadline for receiving tenders has expired
 - e) The financial bids shall be opened by an ad hoc tender opening committee
 - f) The ad hoc evaluation committee appointed shall evaluate the financial bids
 - g) Award of the contract shall be to the tenderer that has submitted the lowest evaluated price on the basis of the award criteria set out in the framework agreement.

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- viii) A contract under the framework agreement shall not be awarded where there is evidence demonstrating that;
 - a) The prices of goods, works or services are above the indicative market prices; or
 - b) Material corporate governance issues have been detected
- ix) The HSCM shall prepare and submit to the AO with a copy to the Internal Auditor quarterly reports detailing an analysis of items procured through these agreements.
- x) Procurements undertaken through framework agreements may be subject to preferences and reservation.
- xi) The requirement of the performance security shall be included in the bid documents and determined in accordance with the value of the orders made where applicable.
- xii) The value of any performance security for framework contracts must be based on the minimum value of the contract and not the maximum value.
- xiii) CLE shall not procure using a framework agreement of another CLE except for those concluded under institutional frameworks.
- xiv) Where framework agreements apply, the provisions of Section 82 and Section 86 of the PPADA 2015 shall not apply.

3.1.11. Framework Contracts

3.1.11.1. Introduction

CLE may utilize framework contracts where the need for the goods, works or services is expected to arise on an urgent basis during the period of the framework contract or other grounds and circumstances have arisen which justify recourse to a framework contracting arrangement. With a framework contract, there is a commitment to order a minimum quantity of goods, works or services. CLE may utilize framework contracts by awarding multiple contracts to suppliers/contractors for a duration not exceeding three (3) years. The renewal of the contract for subsequent years shall be subject to satisfactory performance of the supplier or contractor.

3.1.11.2. Guidelines

Below are the guidelines that will apply for Framework Contracts:

- a) CLE may use open tendering method to develop a list of contractors or suppliers who shall be awarded framework contracts.

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- b) CLE may enter into a framework contract with an unlimited number of suppliers or contractors;
- c) CLE shall ensure that the price of goods, works or services to be procured is established in the framework contract.

3.1.12. Force Account

3.1.12.1. Introduction

Force Account may be used by making recourse to the state or public officers and using public assets, equipment and labor which are competitive and where:

- a) The quantities of work involved are small and are scattered or in remote locations for which qualified construction firms are unlikely to tender at reasonable price and the quantities cannot be defined in advance.
- b) Unforeseen and urgent work is required to be carried out without disrupting on-going operations.
- c) There is need to complete works delayed by a contractor after written warnings did not yield any tangible results.

3.1.11.2. Guidelines

- i) CLE shall identify and include the activity in the annual procurement plan.
- ii) The method shall only be applied with prior approval of the AO based on a report which shall include an assessment and availability of a state officer's or public officer's capacity including public assets, equipment and labor.
- iii) Relevant bills of quantities, cost estimates and technical drawings shall be prepared.
- iv) Procurement of the materials or services to be used as inputs under force account method shall be in accordance with the PPADA 2015 and the PPADR 2020 and this manual.
- v) The total cost of procuring the goods, works and non-consultancy services are set at the prevailing market rates.
- vi) The general procedure for application of force account shall be as follows;
The user Division shall prepare a detailed proposal on the following;
 - a) Scope of works or services
 - b) Status of the project
 - c) Justification for use of force account method
 - d) List of materials and bills of quantities to be procured
 - e) Available state or public officers' capacity and competencies to undertake the assignment.

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- f) Cost analysis of fees or rates using approved government rates
 - g) The proposal shall be submitted to HSCM for review and recommendation to the AO for approval
 - h) Upon approval, the user Division and SCM Division shall commence implementation.
- vii) Where force account is used pursuant to 3.1.12.1 (b);
- a) First establish that the work is urgent and may be carried out without any interruptions on ongoing operations using available state or public officers skills, equipment, materials and labour;
 - b) Seek approval from the AO;
 - c) Ensure that the approval under paragraph (b) is supported by a report which shall include an assessment and availability of a state's or public officer's capacity including public assets, equipment and labor.
 - d) Prepare relevant bills of quantities, cost estimates and technical drawings.
 - e) Ensure that the procurement of the materials or services to be used as inputs is made according to the provisions of the PPADA 2015 and PPADR 2020.
- viii) Where force account is used pursuant to 3.1.12.1 (c);
- a) Seek approval from the AO.
 - b) Ensure that the approval under paragraph (a) is supported by a report which shall include an assessment and availability of a state's or public officer's capacity including public assets, equipment and labour.
 - c) Prepare relevant bills of quantities, cost estimates and technical drawings.
 - d) Ensure that the procurement of the materials or services to be used as inputs is undertaken according to the provisions of the PPADA 2015 and the PPADR 2020.
- ix) Where force account is used pursuant to section 3.1.12.1 (c), the existing contract shall be terminated.
- x) The head of user Division shall be the AO's representative in the projects.

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3.1.13. Design Competition

3.1.13.1. Introduction

The AO may use design competition procedure for the purpose of determining the best architectural, physical planning, engineering, graphic or any design scheme.

3.1.13.2. Guidelines

- a) Design Competition shall involve the following activities—
 - (a) Invite design proposals through a public advertisement;
 - (b) Ensure the preparation of an invitation that sets out the following—
 - i) The name and address;
 - ii) The tender number assigned to the procurement proceedings;
 - iii) Description of technical and functional needs;
 - iv) An explanation of where and when tenders shall be submitted and where and when the tenders will be opened;
 - v) A statement that those submitting tenders or their representatives may attend the opening of the design proposals;
 - vi) A statement that a copyright or other intellectual property of the top three shall vest in CLE.
- b) Bidders shall be given a period of seven (7) days to prepare the tender documents.
- c) Independent assessors shall be appointed to be part of the ad hoc evaluation committee.
- d) Notice of invitation to participate in the design competition shall be issued.
- e) Design proposals shall be submitted by the tenderers.
- f) Design proposals shall be opened by the ad hoc Tender Opening Committee.
- g) The design proposals shall be evaluated in accordance with the criteria set out in the bid documents.
- h) The design competition report shall be submitted to the HSCM for review.
- I) A professional opinion shall be prepared by the HSCM and forwarded to the AO for approval.

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- j) The best three assessed design schemes shall receive as a price an honorarium as provided in the internal policies of CLE subject to the guidelines set out in the applicable county or national level or the PPADA 2015 or the PPADR 2020 and set out in the bid documents.
- k) All bidders shall be notified of the results including declaration of the best three design schemes
- l) Honorarium shall be paid as provided in the bid document inviting the design competition.
- m) The evaluation of design proposals shall be undertaken by an evaluation committee, comprising at least one independent lay assessor, and technical assessors recommended by the professional regulatory body governing the design competition, as per criteria set out in the bid document.
- n) In participating in design competitions, all bidders shall undertake to transfer all copyrights, intellectual property rights and patents relating to their designs to CLE.
- o) Upon completion of the design competition, the best three assessed design schemes shall become the property of CLE.

3.1.14. Two-Stage Tendering

3.1.14.1. Introduction

Two-stage tendering may be used when due to complexity and inadequate knowledge on its part or advancements 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.

3.1.14.2. Guidelines

- a) The provisions of this section shall apply to two-stage tendering proceedings except to the extent those provisions are excluded in this section and the tendering document shall call upon tenderers to submit, in the first stage, initial tenders containing their proposals without a tender price.
- b) In the second stage, tenderers whose tenders were retained shall be invited to submit final tenders with prices with respect to a single set of specifications and in formulating those specifications, CLE may modify any aspect, originally set forth in the tendering document.

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- c) Any such modification or addition shall be communicated to tenderers in the invitation to submit final tenders and a tenderer not wishing to submit a final tender may withdraw from the tendering proceedings without forfeiting any tender security that they may have been required to provide.
- d) The final tenders shall be evaluated and compared in order to ascertain the successful tenderer.
- e) The specifications developed under subsection (b) above shall meet the specific requirements.
- f) When developing the specifications, CLE may engage experts.
- g) The minimum time for preparation of tenders shall be a period of seven (7) days at every stage of tendering.

3.1.15. Specially Permitted Procurement

3.1.15.1. Introduction

This procurement procedure may be used upon approval by the National Treasury in the following circumstances;

- (a) Where exceptional requirements make it impossible, impracticable or uneconomical to comply with the PPADA 2015 and the PPADR 2020;
- (b) Where the market conditions or behaviour do not allow the effective application of the PPADA 2015 and the PPADR 2020;
- (c) For specialized or particular requirements which are regulated or governed by harmonized international standards or practices;
- (d) Where strategic partnership sourcing is applied;
- (e) Where credit financing procurement is applied; or
- (f) In such other circumstances as may be prescribed.

3.1.15.2. Guidelines

The AO shall—

- (a) Approve and issue written justification for use of the procedure upon considering its uniqueness from the other methods of procurement.
- (b) Plan the subject procurement and set it forth in its approved annual procurement plan, where applicable
- (c) Prepare tender documents for the subject procurement which shall at least include specifications, conditions of tendering and contracting; and

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- (d) Submit the tender documents and the proposed procedure to the Cabinet Secretary, National Treasury for approval detailing the justification for the use of the method.

3.1.16. Electronic Reverse Auction

3.1.16.1. Introduction

A request for approval from PPRA shall be obtained prior to use of the electronic reverse auction method for procurement of Goods, Works and Services which have standard and comprehensive specifications.

Reverse auction method may be used where there exists—

- (a) A procurement portal;
- (b) An appropriate secure software with electronic procurement capabilities and functionalities approved by the PPRA.

3.1.16.2. Guidelines

- a) The following procedure shall apply—
 - i. Invite all registered suppliers in the specific category to compete;
 - ii. Advertise its requirements on its website including the period of time and goods specifications;
- b) The prices of bidders within the prescribed time shall be visible to other bidders without revealing the bidder's identity; and
- c) Pre-qualified supplier shall not revise their bid upwards within the prescribed time.
- d) The electronic reverse auction method shall apply to goods, works and services which have standard and comprehensive specifications.

3.1.16.3. Conditions for using Electronic Reverse Auction

- (a) Reverse auction bidding shall be completed within a period of five (5) hours.
- (b) The automatically generated report shall be submitted to the HSCM for a professional opinion.
- (c) The report and the professional opinion referred to in item 3.1.16.3 (b) above shall be submitted to the AO.
- (d) The AO shall notify in writing the successful bidder whose bid has been accepted and also the unsuccessful bidders simultaneously.

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- (e) In the event that the successful bidder declines the offer, the next lowest bidder shall be offered the bid subject to the reserve price.
- (f) Subject to the set reserve price, the successful bid shall be the bid with lowest price at the time of the bid submission deadline.

3.1.17. Pre-Qualification

This is a basic procedure conducted prior to adopting an alternative procurement method other than open tender for the purpose of identifying the best few firms for the subject procurement. The list of prequalified suppliers shall only be utilized for the specific alternative procurement method and ceases to be valid thereafter.

3.1.17.1. Application

Suppliers shall be pre-qualified to meet the requirements for complex and specialized goods, works and services only.

3.1.17.2. Procedure

Suppliers shall be prequalified based on but not limited to the following criteria:

- i) That the tenderer has legal capacity to enter into a contract
- ii) Requirements on nationality of the tenderer
- iii) The tenderer has fulfilled their tax obligations - Tax Compliance Certificate
- iv) That the person is not insolvent, in receivership, bankrupt or in the process of being wound up
- v) That the person, if a member of a regulated profession, has satisfied all professional requirements
- vi) Self-declaration that the person/tenderer is not debarred in the matter of the PPADA 2015 - Form SD1
- vii) Self-declaration that the person/tenderer will not engage in any corrupt or fraudulent practice - Form SD2
- viii) That the person has not engaged in collusive practices - Certificate of Independent Tender Determination
- ix) That the person is not guilty of any serious violation of fair employment laws and practices
- x) Declaration of conflict of interest
- xi) History of non-performing contracts
- xii) Information on bidders' financial situation and performance

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- xiii) General and specific experience of the tenderer
- xiv) Information on pending litigation and litigation history
- xv) Confidential business questionnaire

3.1.17.3. Guidelines

a. Pre-qualification of Suppliers

The HSCM shall publish an invitation to bidders to submit applications to be pre-qualified. The invitation shall include:

- i) The name, address and contact details.
- ii) Outline of the procurement including the nature and quantity of goods or services.
- iii) The location and schedule for delivery or performance of the contract.
- iv) Statement of the key requirements and the criteria to prequalify.
- v) Instructions on obtaining the prequalification documents and any price payable.
- vi) Instructions on location and deadlines for submission of applications to prequalify.
- vii) Applicable preferences and reservations.
- viii) Declaration that it is open to bidders who meet the eligibility criteria.
- ix) Requirement that only bidders with capacity to perform can apply.

The AO shall allow bidders at least fourteen (14) days to prepare and submit their applications to be pre-qualified.

b. Approval of Prequalified Bidders

- i. The evaluation committee shall, in writing, record the results of its evaluation of applications for prequalification and shall give details on which bidders were found to be qualified and reasons why any bidder were not qualified.
- ii. The evaluation report shall be submitted to the HSCM who will in turn submit the same accompanied with a professional opinion to the AO.
- iii. Tenders shall be invited from only the approved suppliers who have been pre-qualified.

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- iv. CLE shall notify every bidder who applied for pre-qualification but did not qualify.

3.1.18. Community Participation

3.1.18.1. Introduction

Community participation shall involve beneficiary communities 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
- d) Socio-economic objectives such as creation of employment

3.1.18.2. Approaches

The following two approaches may be used for community participation, namely -

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

3.1.18.3. Guidelines

- (a) Where it is intended to use community participation as a method of procurement, the following shall be the requirements for identification of the project -
 - i) The project is aligned to CLE's mandate and strategic plan
 - ii) The project has positive socio-economic outcomes with the community as its main beneficiary
 - iii) The project requires community involvement in part or in whole for its success and its continued implementation
 - iv) The project is included in the annual procurement plan
 - v) The project proposal prepared is in line with its strategic plan and which shall include;
 - a) Setting out the key result areas and the specific roles and the target community
 - b) The objectives, estimated budget and the target community beneficiaries

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- (b) Where community participation procurement method is used for delivery of services, the following processes shall be undertaken; 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, CLE 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) A list of community members committed to participate in the procurement proceedings shall be established and those members shall affix their signatures or fingerprints as evidence for their commitment.
- a) Require the community to elect or nominate their representative in all communication and transaction processes and CLE shall identify a contact person and where there is a change to the representatives each party shall communicate the change to the other.
 - b) 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.
 - c) Use its public officers or hire a consultant to technically assist the community for the supervision of works execution if needed.
 - d) With the help of supervisors, assist every participant to sign on a daily basis in the register or on a card prepared for that purpose, as appropriate.
 - e) Before execution of the community project, require every participant to provide his/her full identification, and if necessary, his/her bank account where the payment may be deposited.
 - f) Where CLE is unable to organize the community participation, the same shall be delegate to another public entity capable of managing that activity
 - g) Ensure that a project management committee composed of at least five (5)

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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.
 - iii) Report to the AO.
- h) The AO shall ensure that a person is appointed as project supervisor, who may be the head of the user Division, or a consultant where CLE does not have internal capacity to supervise the project.
- i) These guidelines shall apply to both approaches of community participation method.
- i) Where direct community participation approach is utilized, transfer of the project funds shall be in tranches to the community project management and implementation committee.
 - ii) Where CLE intends to use the services of community-based service providers the AO shall ensure that the PPADA 2015 and PPADR 2020 have been complied with before any award of the tender.

3.1.19. Competitive Negotiations

3.1.19.1. Introduction

Competitive negotiations shall apply subsequent to using a procurement method listed in this manual. Competitive negotiations shall apply, with necessary modifications, to procurement of goods, works and non-consultancy services. The AO shall prior to applying competitive negotiations invite the concerned suppliers to submit their bids for competitive negotiations.

3.1.19.2. Guidelines

- a) The AO may authorize the use of competitive negotiations where -
 - i) There is a tie in the lowest evaluated price by two or more tenderers.
 - ii) There is a tie in the highest combined score points.
 - iii) The lowest evaluated price is in excess of available budget.

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- iv) There is an urgent need that can be met by several known suppliers.
- b) The AO shall -
 - i) Identify the tenderers affected by the tie.
 - ii) Identify the tenderers that quoted prices above available budget.
 - iii) Identify the known suppliers.
- c) For the tenderers that quoted above the available budget, the AO shall -
 - i) Reveal its available budget to tenderers.
 - ii) Limit its invitation to tenderers whose evaluated prices are not more than twenty-five (25) percent above the available budget.
- d) The identified tenderers shall revise their tenders by submitting their best and final offer within a period not exceeding seven (7) 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 phase of the proceedings.
- g) The members of the evaluation committee conducting the competitive negotiations shall prepare a report of the negotiation and submit it to the HSCM for professional opinion and onward submission to the AO for approval.
- h) The successful best and final offer shall be the best rated tender using the evaluation criteria set in the tender documents.
- i) The requirements provided in section 82 of the PPADA shall not apply when utilizing Competitive negotiations.

3.20.1. Post-Qualification (Due Diligence)

- a) Due diligence, if stated in the bid document, may be carried out by the evaluation committee where applicable in order to confirm and verify the qualifications of the tenderer who submitted the lowest evaluated responsive tender to be awarded the contract and the conduct of due diligence may include obtaining confidential references from persons with whom the tenderer has had prior engagement.
- b) The due diligence report shall be initialed on each page by each member of the evaluation committee who conducted the due diligence process and by

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the same breath they shall append their signatures on the last page as well as write their full names and designations as indicated in the respective appointment letters. The due diligence report shall be submitted to the HSCM along with the evaluation report and the HSCM shall give a professional opinion and submit it to the AO.

- c) The criteria for due diligence shall correspond to the technical evaluation criteria in the tender document.
- d) The quorum for conducting due diligence shall be at least three (3) persons including the chairperson.

3.2. Registration of Suppliers

- i) Registration of Suppliers shall be undertaken for purposes of identifying and obtaining a list of prospective providers of a specified category of goods, works or services for a specified period of time but not exceeding two (2) years. The list of registered suppliers shall be applied on the alternative methods of procurement as specified and appropriate. The following procedures shall apply with regard to registration of suppliers.
- ii) Registration of suppliers shall be advertised biennially and shall require prospective suppliers to provide;
 - a) Evidence showing that they meet the eligibility criteria
 - b) Evidence demonstrating their capability in meeting necessary qualifications, experience, resources, equipment and facilities to provide the required procurement item
- iii) The invitation for registration shall include;
 - a) Name, address and contact details
 - b) Instructions on obtaining the registration documents
 - c) Instructions on location and deadline for submission of applications for registration
- iv) The registration document shall contain the following;
 - a) Name, address and contact details
 - b) Instructions on preparation of the applications to register
 - c) Instructions on sealing, labeling and submission of applications to register

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- d) Statement of key requirements information and criteria for registration
- e) Allow bidders at least fourteen (14) days to prepare and submit their applications to be registered
- v) The registration documents shall be opened by the tender opening committee and evaluated by the evaluation committee using the evaluation criteria provided in the registration documents.
- vi) The youth, women and persons with disability who are registered by the National Treasury will be automatically included in the list of registered suppliers maintained by CLE. Inclusion into CLE's list of registered suppliers shall be subject to submission of a valid AGPO registration certificate from the National Treasury.
- vii) Tenderers shall be provided with an opportunity to seek clarification on eligibility but not capability
- viii) The list may also be generated from;
 - a) Portals, websites and people submitting hard copies of their intention to supply
 - b) Market knowledge and survey
- ix) The list of registered suppliers shall allow for continuous applications and hence updating in the following manner;
 - a) The list of registered suppliers shall be updated at least every six (6) months whereby all the additions within the six (6) months shall be evaluated by the Evaluation Committee prior to making a recommendation to the AO for their inclusion into the list of registered suppliers. This shall apply with the exception of the suppliers registered by the National Treasury pursuant to clause vi) above.
 - b) All suppliers shall be notified of the results arising from the registration process.

3.3. Supplier Selection Criteria

The selection criteria for suppliers shall be determined by each respective tendering opportunity.

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4.1. Requirement for Preferences and Reservations

- i) Requirements for preference and reservations shall be adhered to by CLE.
- ii) Subject to availability and realization of the applicable international or local standards, only such manufactured articles, materials or supplies wholly mined and produced in Kenya shall be subject to preferential procurement.
- iii) Preference shall be given to—
 - (a) Manufactured articles, materials and supplies produced in Kenya or where applicable have been assembled in Kenya; or
 - (b) Firms where Kenyans are shareholders (the threshold being $\geq 51\%$ Kenyan shareholding)
- iv) Where there is an intention to source for items not wholly or partially manufactured in Kenya—
 - (a) The AO shall prepare a report detailing evidence of inability to procure manufactured articles, materials and supplies produced in Kenya and submit the report to the National Treasury; and
 - (b) Successful bidders shall cause technological transfer or create employment opportunities.
- v) In conducting of preference and reservation scheme, the procurement of goods, works and services shall be conducted competitively among the qualified target groups.
- vi) Where a person is entitled to more than one preference scheme, the scheme with the highest advantage to the person shall be applied.
- vii) Participation of bidders in preference and reservations:
 - a. Bidders shall participate in procurement proceedings without discrimination except where participation is limited in accordance with the PPADA 2015 and the PPADR 2020.
 - b. The preferences and reservations scheme shall—
 - a) Be non-discriminatory in respect of the targeted groups;
 - b) Allow competition amongst the eligible persons; and
 - c) Be monitored and evaluated by PPRA.
- viii) For the purpose of protecting and ensuring the advancement of persons,

4.0. PREFERENCES AND RESERVATIONS

categories of persons or groups previously disadvantaged by unfair competition or discrimination, reservations and preferences shall apply to—

- a) Bidders such as disadvantaged groups;
 - b) Micro, small and medium enterprises;
 - c) Works, services and goods, or any combination thereof;
 - d) Identified regions;
- ix) In applying the preferences and reservations under this section—
- (a) Exclusive preferences shall be given to citizens of Kenya where—
 - (i) The funding is 100% from the national government or county government or a Kenyan body; and
 - (ii) The amounts are below the prescribed threshold;
 - (iii) The prescribed threshold for exclusive preference shall be above five hundred million shillings (KES 500,000,000);
 - (b) A prescribed margin of preference shall be given—
 - (i) In the evaluation of tenders to bidders offering goods manufactured, assembled, mined, extracted or grown in Kenya; or
 - (ii) Works, goods and services where a preference may be applied depending on the percentage of shareholding of the locals on a graduating scale as prescribed.

The margin of preference for international tendering and competition shall be implemented according to the matrix below;

Table 5: Margin of preference for International Tendering

Percentage margin of preference applicable	Where applicable	Description & percentage shareholding
Twenty percent (20%)	Evaluated Price of the tender	Given to bidders offering goods manufactured, mined, extracted, grown, assembled or semi-processed in Kenya and the percentage of shareholding of Kenyan Citizens is more than fifty percent (50%)
Fifteen percent (15%)	Evaluated Price of the tender	Given to bidders offering goods manufactured, mined, extracted, grown, assembled or semi-processed in Kenya
Ten percent (10%)	Evaluated price of the tender	Where the percentage of shareholding of Kenyan citizens is more than fifty percent (50%)

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Eight percent (8%)	Evaluated price of the tender	Where the percentage of shareholding of Kenyan citizens is less than fifty percent (50%) but above twenty percent (20%)
Six percent (6%)	Evaluated price of the tender	Where percentage of shareholding of Kenyan citizens is above five percent (5%) and less than twenty percent (20%)

- x) For the purpose of ensuring sustainable promotion of local industry, the tender documents shall have a mandatory requirement as preliminary evaluation criteria for all foreign tenderers participating in international tenders to source at least forty percent (40%) of their supplies from citizen contractors prior to submitting a tender.
- xi) A firm qualifying as a citizen contractor registered outside Kenya shall only be eligible to benefit from the preferences and reservations scheme when bidding in international tendering and competition.
- xii) At least thirty (30%) percent of the procurement value in every financial year shall be allocated to the youth, women and persons with disability.
- xiii) All money paid out to an enterprise owned by youth, women or persons with disability shall be paid into an account where the mandatory signatory is a youth, woman or a person with disability.
- xiv) A report shall be made after every six (6) months to PPRA which will:-
 - (a) Certify compliance with the provisions of Part XII of the PPADA 2015; and
 - (b) Provide data disaggregated to indicate the number of youth, women and persons with disability whose goods and services have been procured.
- xv) Procurements reserved for youth, women and people with disabilities shall apply but not limited to the following;
 - a) Supply and delivery of flowers
 - b) Provision of cleaning services
 - c) Provision of garbage collection services
 - d) Supply and delivery of newspapers, journals and magazines
 - e) Provision of labour contracts
 - f) Provision of motor vehicle repair services
 - g) Provision and repair services for office equipment and machines
 - h) Provision of photocopying and videography services

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- i) Supply and delivery of mobile phones and airtime
- j) Supply and delivery of office common user items
- k) Provision of event organization/management services
- l) Design, branding and supply of promotional material
- m) Provision of printing services

Preferences:-

- a) Car leasing
- b) Cab/Taxi service
- c) Courier services
- d) Provision of security services
- e) Contracts for small works

Provision of painting works

4.1.1. Unbundling

Goods, works and services may be unbundled in quantities that are affordable to the target group participating in the procurement proceedings. Unbundling refers to the process of lotting goods, works and services into practicable quantities that are affordable to specific target groups participating in public procurement proceedings. CLE shall maximize the use of request for quotations when inviting bids from firms categorized under youth, women and persons with disability.

4.1.2. Tender Securing Declaration form

Youth, women and persons living with disability are exempted from providing the tender security, however they shall be required to fill the tender securing declaration form where applicable.

4.1.3. Registration Documents

- i) For automatic inclusion into the list of registered suppliers, the disadvantaged groups shall present a valid certificate from the National Treasury for Youth, Women or Persons with disability.
- ii) In addition, CLE shall require the following documents for automatic inclusion in the list of registered suppliers;
 - a) Valid tax compliance certificate as at the date of submission of documents.
 - b) Company profile.
 - c) Company registration certificate.
 - d) CR-12 where applicable.

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- e) A completed confidential business questionnaire.
- iii) The AO shall ensure that the tender documents contain a mandatory requirement as preliminary evaluation criteria specifying that the successful bidder shall;
 - a) Transfer technology, skills and knowledge through training, mentoring and participation of Kenyan citizens;
 - b) Reserve at least seventy-five percent (75%) employment opportunities for Kenyan citizens for works, consultancy services and non-consultancy services, of which not less than twenty percent (20%) shall be reserved for Kenyan professionals at management level.
- iv) The tender document shall contain a mandatory requirement specifying:
 - a) Tenderers must include in their tenders a local content plan for the transfer of technology
 - b) Positions reserved for employment of local citizens
 - c) Capacity building and competence development programme for local citizens
 - d) Timeframes within which to provide employment opportunities
 - e) Demonstrable efforts for accelerated capacity building of Kenyan citizens
 - f) Succession planning and management
 - g) A plan demonstrating linkage with local industries which ensures at least forty percent (40%) inputs are sourced from locally manufactured articles, materials and supplies partially mined or produced in Kenya, or where applicable have been assembled in Kenya.
- v) Exclusive preference shall be granted to citizen contractors offering goods, services and works that are assembled, manufactured, mined, extracted or grown in Kenya, including;
 - a) Motor vehicles, motorcycles, bicycles, plant and equipment which are assembled in Kenya;
 - b) Furniture, textile, foodstuffs, oil and gas, information communication technology, steel, cement, leather agro-processing, sanitary products, and any other goods made in Kenya;
 - c) Goods manufactured, mined, extracted or grown in Kenya;
 - d) Hospitality, air travel and security services.
- vi) A bidder shall be entitled to one preference and reservation scheme at a time in procurement proceeding.

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- vii) An advertisement relating to an open tender under a preference and reservations scheme shall state that such tender is open to small and micro enterprises and to disadvantaged groups registered with the National Treasury or regions as appropriate.
- viii) A foreign contractor may benefit from a preference and reservation scheme where it enters into a joint venture or subcontracting arrangement, as evidenced by written agreement, with a firm that is registered in Kenya and where Kenyan citizens have majority shares.
- ix) Where a citizen contractor has entered into a contractual arrangement with a foreign contractor, a ten (10%) percent margin of preference in the evaluated price of the tender shall apply and the citizen contractor shall demonstrate technical capability and competence to perform.



5.0. CONTRACT MANAGEMENT

Contract management is necessary to ensure that procurement contracts entered into are performed according to the terms and conditions contained therein. Contract management, refers to the activities involved in the development, implementation, termination or renewal of contracts. The key players in the contract management process are the Office of the Chief Executive Officer, User divisions, Supply chain division, Contract Implementation Team and the Legal division.

5.1. Procedures and Guidelines for Contract Management

- a) The User Divisions shall be responsible for overall management and supervision of contracts in their Divisions and shall submit monthly contract management and project completion reports to the AO.
- b) The HSCM shall prepare monthly progress reports on the procurement contracts and submit them to the AO.

5.1.1. Scope

This procedure shall cover implementation, monitoring and completion of contracts for goods, works and services.

5.1.2. Guidelines

a) Development of Procurement Contracts

- i) The HSCM shall be responsible for the preparation of all contract documents using the prescribed standard contract forms issued by PPRA for the respective, goods, works, non-consultancy services or consultancy services.
- ii) The User Division and Legal Division shall review the contract documents drafted in sub-clause i) above.
- iii) Despite sub-clause i) above, for contracts involving technical requirements, the Legal and User Division shall be involved in the review of the contracts.

b) Performance Security

- i) A successful tenderer shall submit a performance security equivalent to not more than ten(10%) percent of the contract amount before signing of the contract
- ii) Where the contract is not fully performed, the performance security shall unconditionally be seized as compensation without prejudice to other penalties
- iii) The threshold for providing performance security for goods, works and

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non-consultancy services shall be for contracts above Kshs 5,000,000 shillings.

- iv) Goods, works and services reserved for women, youth, persons with disability and other disadvantaged groups shall have their performance securities waived or fixed at not more than one (1%) per cent of the contract price.
- v) A performance security shall not be required where a professional indemnity cover is provided by consultants.
- vi) Where the specific requirements relating to goods, works or services being procured, comprise the components listed below, the tender document shall require the successful tenderer to submit two (2) separate performance securities for each component listed below;
 - a) One-off costs for supply, installation and commissioning
 - b) Recurrent/maintenance costs
- vii) The performance security shall be submitted prior to award of the contract and the duration for validity of each performance security, taking into consideration the final acceptance, shall be provided in the tender document issued to bidders.
- viii) The performance security shall not generate interest and it shall be determined in accordance with the form provided in the tender document and may be paid in form of a bank guarantee, issued by an authorized financial institution or an irrevocable letter of credit.
- ix) The tender document shall provide for, if necessary, other forms of performance security that may be requested from the successful tenderer.
- x) The bank or authorized financial institution shall be obliged to give to CLE all the amount of the performance security upon claim by the latter.
- xi) The bank or authorized financial institution shall also be obliged to pay an additional interest of one percent (1%) for every day of payment delay after ten (10) working days from the receipt of the claim provided this requirement is disclosed in the performance security and if it is necessary to take the matter to courts, and that the court rules in favour of CLE, this interest shall continue to accrue up to the time the courts' decision is executed.
- xii) If the contractor is foreign, the guarantee shall be issued by a local bank or authorized financial institution issued by a corresponding

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- bank in Kenya recognized by the Central Bank of Kenya.
- xiii) The performance security shall be returned to the successful tenderer within thirty (30) days following the final acceptance by the CLE.
 - xiv) For the avoidance of doubt, the thirty (30) days referred to above shall include the retention period except in cases of procurement for works where the period shall commence from the date of practical completion or handover, whichever is earlier. For contracts with a defect liability period, the performance security shall be discharged within thirty (30) days after the expiry of this period.
 - xv) The HSCM shall be the custodian of the tender security, performance security and professional indemnity certificate and shall monitor its application.
 - xvi) Legal Division shall be furnished with a copy of the performance security prior to signing of each contract.
 - xvii) The security for advance payment shall be under the custody of the Head of Finance with a copy retained by the HSCM.
 - xviii) For contracts involving works and complex and specialized contracts, a retention fee of 10% shall be withheld by Finance for each certificate presented for payment by the supplier.

c) Drafting of procurement contracts

Procurement contracts shall be drafted by the SCM Division. Thereafter, the User shall be given an opportunity to review the contract, prior to the legal Division giving their final review. The existence of a contract shall be confirmed through the signature of a contract document incorporating all agreements between the parties and such contract shall be signed by the AO or delegated officer.

d) Bidder's Refusal to sign contract.

- i) If the tenderer submitting the successful tender refuses to enter into a written contract as required, the tenderer who submitted the tender that, according to the evaluation report would have been successful had the successful tender not been submitted shall be notified.
- ii) The Bidders refusal to sign the contract does not apply if the period during which tenders must remain valid has already expired.
- iii) All the conditions in the contract will be enforced.

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- iv) The tenderer who declines to sign the contract forfeits the bid security and may be debarred.

e) Changes to contract responsibilities.

- i) Bidders shall not be requested or required, as a condition of awarding a contract that a tenderer who submitted a tender undertakes responsibilities not set out in the tender documents.
- ii) Contracts for requests for proposals may not vary from the requirements of the terms of reference, the Request for Proposals or the terms of the successful proposal except in accordance with the following: -
 - The contract may provide for a different price but only if there is a proportional increase or reduction in what is to be provided under the contract; and
 - The variations must be such that if the proposal, with those variations, was evaluated again the proposal would still be the successful proposal.
- iii) The contract must set out either: -
 - The maximum amount of money that can be paid under the contract;
 - The maximum amount of time that can be paid for under the contract.
- iv) A Tenderer who enters into a contract resulting from procurement by a Request for Proposals shall not enter into any other contract for the procurement of goods, works or services that follows from or is related to that original contract.

f) Variations or Amendments to contracts.

Any variation or amendment of a contract shall emanate from CLE on its own volition or from the contractor because of circumstances that were not foreseen during project design and shall be effective only if: -

- i) The price variation from the original price is based on the prevailing consumer price index obtained from Kenya National Bureau of Statistics;
- ii) The quantity variation for goods does not exceed fifteen per cent (15%) of the original contract quantity;

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- iii) The price or quantity variation is to be executed within the period of the contract;
- iv) The cumulative value of all contract variations does not result in an increment of the total contract price by more than twenty-five per cent (25%) of the original contract price;
- v) The AO on the recommendation of an evaluation committee or as prescribed in the signed contract agreement, may approve the request for;
 - a) Use of prime costs
 - b) Use of contingencies
 - c) Reimbursable costs
 - d) Use of provisional sums
- vi) The AO on the recommendation of an evaluation committee or as prescribed in the signed contract agreement, may approve the request for the extension of the contract period, which request shall be accompanied by a letter from the tenderer making justifications for such extension.

Any variation request shall be reviewed by;

- i) The Contract Implementation Team for complex and specialized contracts.
- ii) An Evaluation Committee for other contracts before they are submitted through the HSCM to the AO for approval:
 - a) The extension of the contract period where delivery is delayed shall not have a financial implication.
 - b) Any additional funding required shall be secured and committed prior to a variation of the contract.
 - c) Where the quantity is varied, the amount payable to the supplier is proportionately varied to the quantity supplied.

For clarity in contract management;

- a. **“Contract amendment”** means a change to the terms and conditions of an awarded contract and

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b. “Contract variation” means a change to the price, completion date or statement of requirements of a contract to facilitate adaptations to unanticipated events or changes in requirements.

g) Contract termination.

- i) A contract document shall specify the grounds on which the contract may be terminated and specify the procedures applicable to termination.
- ii) Upon receipt of request for termination from the User Division/Project Manager, and with the advice of the legal Division, the HSCM may request the AO to approve the termination of a contract.
- iii) The request for approval by the HSCM shall clearly state:-
 - a) The contractual grounds for termination.
 - b) The costs and consequences of terminating the contract.
 - c) Project manager's concurrence and technical justification.
- iv) The AO shall seek legal advice or clearance from the Attorney-General or such person designated in writing by the Attorney-General before terminating a contract.
- v) All terminated contracts shall be reported to PPRA on a quarterly basis.

h) Responsibilities in Contract Management

The following are the responsibilities with respect to Contract Management

- i) The AO or his or her appointed representative shall be responsible for ensuring that goods, works and services are of the right quality and quantity.
- ii) The HSCM shall be responsible for:-
 - a) Assisting the AO to confirm the right quality and quantity of goods, works and services have been delivered.
 - b) Issue an acceptance certificate to the AO except where technical specifications are from another technical Division or professionals engaged to work on behalf of the AO. The HSCM shall only issue an acceptance certificate for goods and services below Kshs 200,000 that are non-technical

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in nature. For any goods and services above this threshold, the inspection and acceptance committee shall inspect the goods, works or services.

c) The HSCM shall prepare monthly progress reports of all procurement contracts and submit them to the AO.

iii) The user Divisions shall submit performance reports for every contract to the AO through the HSCM. They shall also perform the following functions:

- Undertake conformity assessments of supplied goods, works and services with the specifications of the contract documents.
- Report any departure from the terms and conditions of the contract to the SCM Division.
- Forward details of any required variations to contracts to the SCM Division for consideration and action.
- Liaise with Records Management Unit to maintain and archive contract management records.

iv) Contract Implementation Team

The AO shall appoint a Contract Implementation Team for every complex & specialized procurement contract composed of the following;

Table 6: Membership of the Contract Implementation Team

No.	Description
1.	SCM Division ⁴⁰
2.	Requisitioner
3.	Relevant technical Division; or
4.	A co-opted member from another procurement entity or outsourced consultant where applicable

⁴⁰ The SCM Division shall offer Secretariat services

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- i) The Contract Implementation Team shall be responsible for:
 - a) Monitoring the performance of the contract.
 - b) Ensure that the contractor submits all documentation as prescribed
 - c) Ensure that payment obligations are met on time
 - d) Ensure that there is right quality and within the time frame and where required
 - e) Review any contract variation requests which are justified by the relevant technical Division in writing and backed by supporting evidence, make recommendations and submit to the HSCM for processing.
 - f) Manage handover or acceptance as prescribed
 - g) Make recommendation for contract termination where appropriate
 - h) Ensure that the contract is complete, prior to closing the contract file including all hand-over procedures, transfers of title if need be and that the final payment is made
 - i) Ensure that all contract administration records are complete, up to date, filed and archived
 - j) Ensure that the contractor acts in accordance with all the provisions of the contract
 - k) Ensure discharge of performance guarantee where required
- ii) The SCM Division shall be the custodian of contract documents and shall maintain copies of the contract documents. The original contract documents shall be maintained by the Legal Division. The User Division shall be provided with a copy of the contract document.
- iii) The HSCM shall be the custodian of ALL original performance securities/bonds and shall confirm authenticity of the performance bonds
- iv) Advance Payment Guarantees shall be kept by the Head of Finance and authenticity of the same must be established (the HSCM shall be furnished with a keep a copy).

5.2. Contract Close-out

Upon completion of a contract, the AO or delegated officer shall be responsible for closing out contracts. The close out shall involve:

- I.) Issuance of certificate of completion to the contractor confirming

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delivery and acceptance of goods works and services where the contract is not complex and specialized.

- ii.) Issuance of certificate of completion by the contract implementation team confirming delivery, acceptance of goods, works and services in case of complex and specialized contracts.

The template for the completion certificate provided in *Appendix XI* shall be utilized during contract close-out.

5.3. Inspection Certificate

The ad hoc Inspection and Acceptance Committee shall issue interim or completion certificates or GRN as appropriate and in accordance with the contract.

The Inspection and Acceptance Committee shall issue the appropriate documents subject to:

- i.) Certificate of confirmation by the technical Division or contract implementation team or project manager and/or consultant for complex procurement.
- ii.) Goods Received Note (GRN) in the format provided in *Appendix XVIII*.

5.4. Records and Archives Management

- a) The HSCM shall designate an officer to facilitate proper keeping and retrieval of procurement files and tender documents.
- b) SCM documents shall be kept for at least six (6) years from the date of opening of the bids.
- c) SCM files will contain all relevant documents including copies of payment vouchers and contract close out certificate.
- d) The file classification and indexing scheme provided in *Appendix XV* shall be utilized by the SCM unit to manage records.
- e) It is imperative that all SCM documents are kept safe. No officer shall tamper with tender documents or cause disappearance of tender documents in any way. SCM officers shall be responsible for files/tender documents under their custody during and after evaluation.
- f) Files submitted for annual audit shall be under the care of Head of Finance during the audit period and shall be returned officially to Records Management

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Unit after the audit. A clear record signed at time of collection and return will be kept.

- g) No SCM file or tender document shall be issued to any officer without prior written approval of the AO through the HSCM.
- h) The records for a procurement file shall include but not limited to all the documents that form a contract file as per the checklist below;
 - i) Procurement plan excerpt
 - ii) Approved requisition
 - iii) Approved specifications/requirements
 - iv) Blank tender document
 - v) Addenda (where applicable)
 - vi) Tender advertisement/notice
 - vii) Appointment letters for the Tender Opening Committee
 - viii) Appointment letters for the Evaluation Committee
 - ix) Appointment letters for the Contract Implementation Team
 - x) Copy of PPIP tender advertisement/notice
 - xi) Tender Opening Register
 - xii) Bidders attendance register
 - xiii) Tender Opening Minutes
 - xiv) Signed Integrity pact (for Evaluators)
 - xv) Signed Individual Evaluation Score Sheets & reports
 - xvi) Signed combined evaluation report
 - xvii) Post-qualification report (where applicable)
 - xviii) Market survey (where applicable)
 - xix) Professional opinion
 - xx) Copies of Letters of Award and debrief letters
 - xxi) Copies of the Contract/LPO/LSO
 - xxii) Performance bond

- xxiii) Appointment letter for Inspection and Acceptance Committee/Contract Implementation Team where applicable
- xxiv) Signed Inspection and Acceptance reports
- xxv) Copy of the payment voucher

5.5. Procurement Timelines

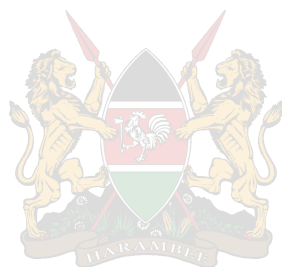
The supply chain management activities undertaken by CLE are subject to prescribed timelines. Below is a summary of key procurement activities and the respective timelines that are applicable;

Table 7: Procurement Timelines

No.	Procurement Activity		Timeline (calendar days)
1.	Inviting Expression of Interest		Minimum of seven (7) days between the advertisement and deadline for submission
2.	Inviting Tender Notice	a. National Open	Minimum of seven (7) days between the advertisement and deadline for submission
		b. International Open	Minimum of seven (7) days between the advertisement and deadline for submission
3.	Inviting Restricted Tender Notice		Minimum of seven (7) days between the advertisement and deadline for submission
4.	Inviting Request for Proposal		Minimum of seven (7) days between the advertisement and deadline for submission
5.	Tender Security Validity		Thirty (30) days after the period of tender validity indicated in the tender document
6.	Inviting Request for Quotations Notice		No minimum duration as long as the conditions are met
7.	Inviting submission of Best and Final Offer under competitive negotiations		Maximum of seven (7) days
8.	Duration for evaluation of goods, works and services	a. Goods, works & services	Within a maximum period of thirty (30) days
		b. Request for Proposals	Within twenty (21) days Not more than fourteen days where conditions are met pursuant to Regulation 118 (2) of the PPADR 2020

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9.	Pre-qualification	Minimum of fourteen (14) days between the advertisement and deadline for submission
10.	Registration of suppliers	Minimum of fourteen (14) days between the advertisement and deadline for submission of applications
11.	Electronic Reverse Auction	Within five (5) hours
12.	Period of notification of intention to enter into contract	Minimum of fourteen (14) days
13.	Extension of Tender validity period	Before the expiry of the period during which tenders shall remain valid and once only for a maximum of thirty (30) Days.
14.	Submission date & time for Tender security as part of the bid document.	Tender Closing date and time
15.	All contracts must be signed:	Within the tender validity period
16.	Notice period for sale by public auction method	Minimum fourteen (14) days



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6.0. INVENTORY CONTROL, STORES MANAGEMENT & DISTRIBUTION, ASSET MANAGEMENT AND DISPOSAL

Only goods that have been certified shall be received. The HSCM shall record goods which have been certified. The HSCM shall ensure proper control and management of inventory, stores and assets with the help of the Officer in Charge of Stores.

The Officer in Charge of Stores shall record goods received in the stores ledger. The Officer in Charge of Stores shall manage inventory, assets and stores for the purpose of preventing wastage and loss, and continuing utilization of supplies.

Stocks shall be kept to the minimum necessary to avoid unprofitable lock-up of funds. To ensure proper inventory control, stock control ledgers shall be employed as well as inventory management and control software to assist in ensuring sound inventory management.

The HSCM shall arrange for occasional visits of inspection to the stores, at least quarterly in each calendar year. Quarterly stock taking, cycle counts and annual stock taking shall be conducted in order to ensure compliance with all respective governing laws and a report submitted to the AO.

No stores, inventory and assets that are procured shall be allowed to suffer deterioration from any preventable cause and overstocking of any particular item shall be avoided. All procured items assigned for use by an employee shall be requisitioned from the ERP System and issued by the Officer in Charge of Stores.

Inventory shall be managed using the ERP and below is the procedure that shall be utilized;

6.1. Supply Chain stores

- i) All the stock item records shall be maintained in the stores ledger. The stores ledger shall bear details of the items including description, quantities received, issued and balance.
- ii) The Officer in Charge of Stores shall be responsible for ensuring that the records of all stock items are maintained.
- iii) Where stores ledgers cannot be maintained, a file showing receipts and issue notes shall be kept for ease of reference.
- iv) The following is the procedure for issuing and receiving of goods from the stores:

6.1.1. Requisition of Items from the store

It is the responsibility of the HSCM to approve every requisition from HODs for issuing of items from the store. All HODs shall nominate an officer from their Divisions who will be responsible for collecting items from the store to ensure accountability. The nominated officer shall be the custodian of the issued items on behalf of the Division i.e., he/she shall distribute items as per the request in the Division.

6.1.2. Stock Issuance Process

- i) Stocks will be issued as per the schedule that will be provided by the HSCM.
- ii) The stores requisition and issue form in the format provided in *Appendix XX* shall be used to request and issue items from the stores.
- iii) SCM division shall analyse the consumption of common user items on a quarterly basis to establish quantities to be purchased for the subsequent quarter.
- iv) Every Division shall identify one person to request for items in the system and collect items from the store.
- v) All divisional stores requests will be consolidated in one requisition and presented as one for the entire division per category.
- vi) All stock items purchased shall be taken to the stores before use for receipt and issuing of Goods Received Note (GRN).
- vii) The issuing and receiving officers shall both sign the requisition/issue note before goods are released as a sign of acceptance.
- viii) Stocks issued will not be returned to the store except for quality issues that were not foreseen at the point of issuing.
- ix) Where goods are returned to the store, a goods return note shall be issued acknowledging return of the items. and

6.1.3. Receiving of Goods and Inspection of Works

Receiving Goods

An inspection and acceptance committee may be put in place to facilitate the receiving process for goods and issuing the inspection and acceptance certificate.

The Officer in Charge of Stores shall coordinate with suppliers to confirm delivery date and communicate to the Inspection and Acceptance Committee and user prior to delivery of goods. Goods shall only be received between 8:30am - 4:00pm from

Monday to Friday. Once goods are inspected and accepted by the Inspection and Acceptance Committee, they shall be deemed accepted, stored and fit for use. Goods once rejected by the Inspection and Acceptance Committee shall not be returned to the stores.

Upon receiving of goods, the details of the goods received shall be captured in the ERP system within two (2) days from the date of receipt or inspection and acceptance.

Receiving Works

The Inspection and Acceptance Committee shall either accept or reject the works in totality (with reasons) and not partially. All complex and specialized works will be accepted by the Contract Implementation Team where applicable.

6.1.4. Certifying Delivery of Goods

The procurement process shall be deemed complete upon verification that the goods purchased have been received to satisfaction and in particular, conforming to the specifications.

In all cases, the certification of receipts of goods is a pre-requisite for payment to be done and the following guidelines are essential for that purpose:

- (i) The Officer in Charge of Stores shall ensure that goods received are checked against contracts, invoices or delivery notes before forwarding to finance for payment.
- (ii) The stores section in Supply Chain division shall ensure that a GRN is raised for inventory items.

6.1.5. Physical Management of the Supply Chain Stores

The Officer in charge of stores shall be responsible for management of the Supply Chain Stores and shall undertake the following roles with regard to physical management of the stores;

- a) Ensure that stores are not allowed to suffer deterioration from any preventable cause;
- b) Verify the delivery notes from suppliers;
- c) Verify that available stock levels warrant initiation of a procurement process;
- d) Ensure that all stores requisitions and issues are approved by the HSCM;
- e) Ensure that adequate safety and fire-fighting appliances are installed in the

stores and maintained in good working order and are readily available for emergencies;

- f) Ensure that security personnel and staff are trained in the use of the safety and fire-fighting appliances;
- g) Arrange the items in the stores using appropriate inventory stores layout design for ease of accessibility.

6.2. Asset Management

6.2.1. Purpose

Asset management involves the acquisition, management and disposal of assets. Acquisition of assets by CLE is necessary to support the operations of the organization while asset management is required to ensure that the acquired assets shall be utilized in an effective, efficient and economical manner. Disposal of assets shall be undertaken expeditiously to avoid deterioration of the assets and loss of value.

6.2.2. Scope of Asset Management

Asset management shall apply to the acquisition, management and disposal of assets and these assets shall be subject to asset tagging for purposes of tracking and identification.

6.2.3. Guidelines

- a) Acquisition of assets shall be planned using the annual consolidated procurement plan and shall be linked to the acquisition plans prepared by CLE.
- b) In the process of acquisition of assets, CLE shall prepare a cost benefit analysis comparing the need for outright acquisition of the assets vs outsourcing the services necessitating the acquisition of the assets.
- c) Where applicable, CLE shall consider institution framework agreements while procuring and maintain the assets. This shall include arrangements for leasing of assets as well as maintenance services related to the assets.
- d) Motor vehicles, plant, equipment and related spare parts to be procured shall be new and meet the minimum standards for quality control and standardization.
- e) 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.

- f) For maintenance of motor vehicles, plant and equipment, CLE shall competitively procure such services from a list of registered providers licensed to undertake such services. CLE may also utilize the list of registered service providers by the State Department of Mechanical and Transport Services.
- g) A record of maintenance, repairs and replacement in respect of each motor vehicle, plant and equipment shall be maintained by the administration Division and shall form part of the procurement records.
- h) Information, Communication Technology (ICT) equipment and related accessories shall be environmentally-friendly and the cost of servicing, maintenance and disposal of each of the items shall be specified.
- i) ICT equipment and related accessories shall be procured competitively from suppliers/dealers, shall be new and meet the standard specifications.
- j) All assets acquired shall be classified as fixed assets and allocated in the ERP system as fixed assets.
- k) Donated assets shall be valued at fair value, reflected in the asset register maintained by Finance Division and depreciated as other assets.
- l) The Head of Finance shall maintain the asset register.

6.3. Disposal of Unserviceable, Obsolete or Surplus Stores and Equipment

6.3.1. Purpose

Disposal activities shall be undertaken effectively and efficiently.

6.3.2. Scope of Disposal Items

The procedure applies to all assets and stores items that are obsolete, unserviceable or surplus.

6.3.3. Guidelines

- a) The AO shall appoint a Disposal Committee.
- b) The Disposal committee shall comprise:-
 - i) A chairperson, who shall be a head of Division
 - ii) Head of Finance
 - iii) At least three (3) heads of User Division, of whom one shall be the head of the User Division disposing off the stores or equipment
 - iv) The HSCM as secretary or delegated officer
 - v) Where necessary, the Disposal Committee may co-opt a relevant technical expert in the process of carrying out its functions

- vi) Quorum for the Disposal Committee shall be three (3) members including the chairperson
- c) The Disposal Committee shall be appointed at the beginning of each financial year.
- d) The Disposal Committee shall meet regularly and at least once in every quarter where applicable.
- e) The Disposal Committee shall maintain minutes of its deliberations.
- f) The HSCM shall submit to the Disposal Committee a regular report on slow moving and obsolete stocks.
- g) The HSCM shall be responsible for preparing the consolidated annual disposal plan as contained in *Appendix VII* and issue to the users a format of the Divisional disposal plan for submitting items earmarked for disposal where the user will be required to indicate;
 - i) Item description.
 - ii) Quantity.
 - iii) Unit of issue.
 - iv) Serial Number and/or Model Number.
 - v) Asset Tag Number.
 - vi) Date of Purchase.
 - vii) Original Value.
 - viii) Estimated current value.
 - ix) Lifespan of item for boarding.
 - x) Justification for disposal.
 - xi) State whether unserviceable, surplus, obsolete.
- h) The head of user Division shall submit the Divisional disposal plan to the HSCM for consolidation thirty (30) days after the close of the financial year.
- i) The consolidated annual disposal plan prepared by the HSCM shall be submitted to the AO for approval.
- j) The HSCM shall consolidate the list of items earmarked for Disposal and forward to the Disposal Committee.
- k) The AO shall disclose the reserve price to the prospective buyers based on the prices set in the technical report.
- l) Where there is no responsive bidder, the AO shall have powers based on the recommendations of the disposal committee to revise the reserve price to ensure

expeditious disposal of assets and set it forth in the disposal documents so as to be known by any prospective buyer.

m) The Disposal Committee shall deliberate on the disposal requirements and forward its recommendations to the AO through the HSCM.

n) The AO shall accept or reject the recommendations within fourteen (14) days of receipt of the recommendations. The Disposal Committee shall proceed to implement the decisions of the AO.

o) In determining disposal opportunities, the disposal committee shall;

- i) Examine relevant documents,
- ii) Conduct a physical inspection of the stores, plant and equipment, motor vehicles, (board of survey of items for disposal)
- iii) Verify the condition and the location of the items identified for disposal
- iv) Determine the current market value of the items for disposal
- v) Set up a reserve price based on the current market value of the items for disposal where technical advice is not required
- vi) Verify the justification and procedure for disposal
- vii) Prepare a disposal report and submit it to the AO with specific recommendations on the items to be disposed or those not to be disposed and reasons thereof
- viii) Obtain necessary technical advice from user Divisions, procurement and any other relevant stakeholders
- ix) There shall be a technical report where appropriate by a relevant expert on the subject items for disposal that considers the real market price and also sets up a reserve price which shall be the minimum acceptable price.

The detailed report should include;

- i. Condition of the assets earmarked for disposal
- ii. Value of items when they were purchased.
- iii. Current value of the stores (reserve prices which will be disclosed to prospective bidders). The reserve prices shall be below the real market value of the boarded items.
- iv. Physical location of the assets earmarked for disposal.
- v. Designated place of disposal.

p) The methods of disposal may include:

- l) Transfer to another public entity or part of a public entity, with or

without financial adjustment.

- ii) Sale by public tender.
 - iii) Sale by public auction.
 - iv) Trade-in.
 - v) Waste disposal management.
- q) CLE shall consult the National Environment Management Authority (NEMA) prior to disposal of electronic waste. Prevailing guidelines on disposal of electronic waste shall be taken into consideration prior to disposing electronic waste.
- r) Disposal to employees shall be guided by the following procedures;
- l) The AO may dispose-off items set aside for disposal to employees or committee members where:
 - a) The time and cost required to dispose-off to any other person would be disproportionate to the value of the items to be disposed.
 - b) The employee or committee member is in possession of the stores or equipment to be disposed and may be given priority to purchase the item.
 - c) Assets, stores and equipment are to be disposed of by taking into consideration the net book value or minimum acceptable price set by the technical expert, where applicable, at the time of disposal based on government policy. Motor vehicles shall be valued by the State Departmental in charge of Transport.
 - d) All disposals to employees etc. shall be reported to PPRA within fourteen (14) days after the disposal.
 - e) The following steps shall be taken when disposing assets to employees:
 - (i) The User Division shall bring to the attention of the HSCM the assets that need to be disposed with relevant details as contained in the asset register including current custodian/holder of the assets.
 - (ii) The HSCM shall review the list of items presented and submit a report to the Disposal Committee through the AO requesting disposal of the assets to employees as contained in e), i) above including whether to dispose the items directly to the employee(s) or use a competitive method (which shall be restricted to employees) to dispose the items to the employees. The Disposal Committee shall give their

recommendation to the AO and this recommendation shall be based on the value of the item at hand among other factors.

- (iii) The AO shall consider the recommendation of the HSCM and give his/her approval.
- (iv) Prior to commencement of the disposal to employees, the Committee shall be informed of the intended disposal.
- s) For greater certainty, employees of CLE are allowed to participate in disposal processes through public tender and auction provided the employee is not directly involved in the disposal proceeding.
- t) After every disposal, the Disposal Committee shall prepare and submit a report to the AO.
- u) For the disposal of a building or land, the approval of the National Treasury shall be obtained.
- v) After disposal of a building or land, a disposal report shall be submitted to the National Treasury.
- w) The HSCM shall prepare quarterly reports on implementation of the annual asset disposal plan and submit it to the AO.



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Figure 6: Procedure for Disposal of Assets

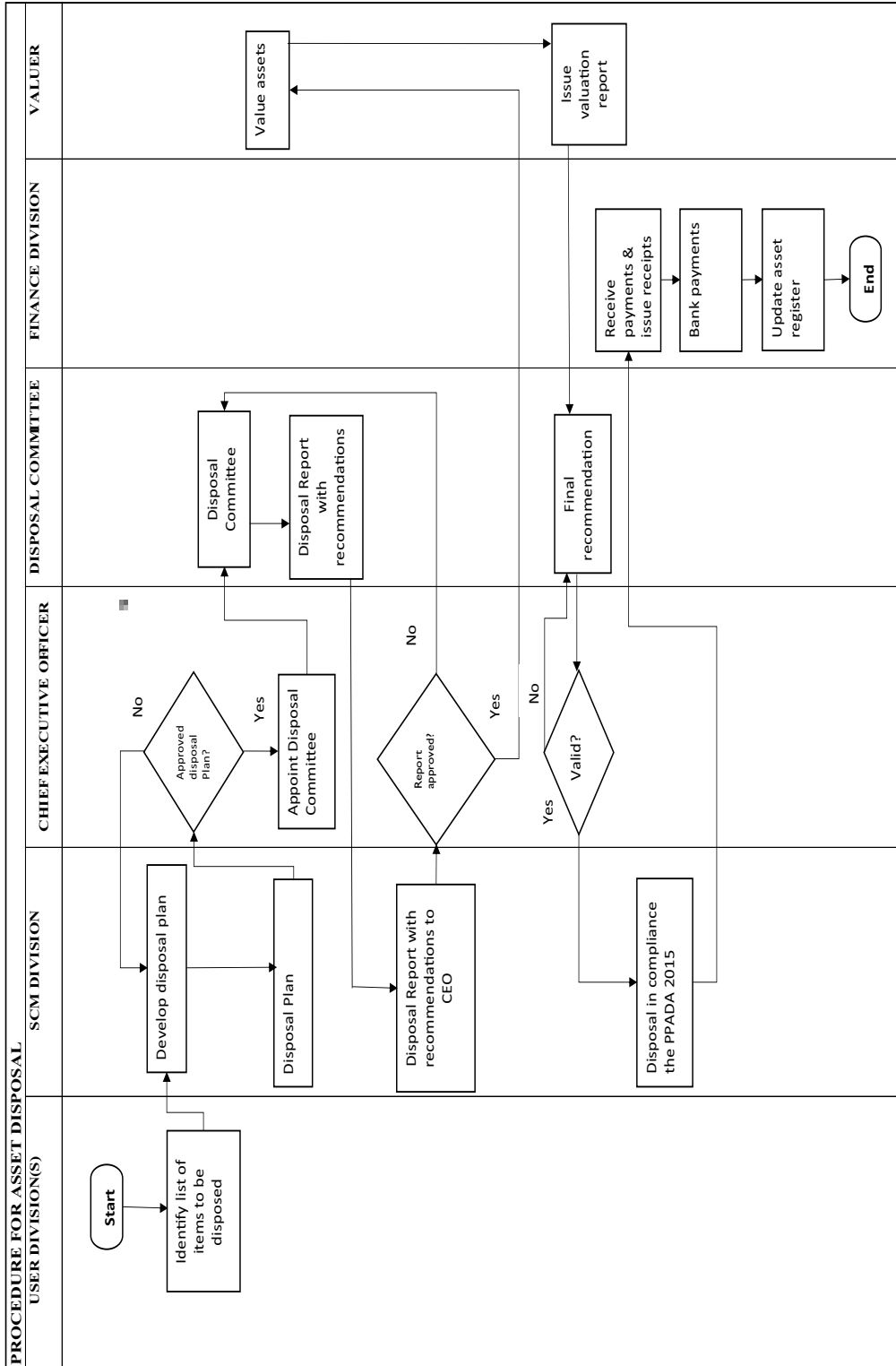


Table 8: Responsibility Table for Asset Disposal

Activities	1	2	3		4	5	Documented information to be maintained
Identification of assets for disposal	X						Asset register
Preparation of the disposal plan			X				Disposal plan
Valuation of assets						X	Valuation report
Propose disposal methods and items					X		None
Consideration of Disposal Committee		X					Recommendation from Disposal Committee

Key

1. Head of User Division
2. Accounting Officer
3. SCM Division
4. Disposal Committee
5. Professional Valuer



7.0.SEPARATION OF DUTIES & PAYMENT

7.1. Separation of Duties

There shall be separation of duties between:

- a) The person who orders particular goods, service or works from a tenderer.
- b) The person who certifies that the services and goods supplied or works done are satisfactory and as per the specifications.
- c) The person who accepts goods into the stores.
- d) The person who authorizes payment of services offered, work done or goods delivered.

Where the above separation is not possible, then a 2nd person shall confirm the activities executed by the 1st person who undertakes more than one of the activities mentioned above.

7.2. Controls in Procurement

- i) Any variation of the budget shall be communicated in writing to the HSCM for recording.
- ii) The HSCM and Head of Finance shall conduct periodic checks on purchasing activities to ensure they conform to the budget and APP and policies and procedures where applicable.
- iii) It shall be the responsibility of the person receiving goods or services to countercheck with the LPO/LSO or contract and ensure:
 - 1. That the correct quantity has been received and signed.
 - 2. That the quantity and price of goods is as per the contract.
 - 3. That all goods delivered are secure and an inventory record appropriately updated.
 - 4. That the delivery note is checked, signed and forwarded as prescribed together with the invoice and Goods Received Note for processing of payments.
 - 5. That Goods Received Note is prepared upon inspection and acceptance of goods.
- iv) To facilitate decision making by the AO, when raising LPO/LSOs, all approval requests shall be accompanied by the approved professional opinion.

7.0.SEPARATION OF DUTIES & PAYMENT

- v) The LPO/LSO shall be a contract with suppliers/service providers which shall include all the information regarding the goods and services being purchased as well as standard terms of delivery.
- vi) Upon selection of the service provider/supplier, a legally binding contract or LPO/LSO shall be prepared for goods and services in question and signed by both parties. It shall contain detailed specifications, unit prices, delivery deadlines and locations.

7.3. The Purchasing Progress Report

- i) The HSCM shall prepare monthly progress reports of all procurement contracts and submit them to the AO.
- ii) The HSCM shall also ensure that quarterly reports are prepared and submitted to the Public Procurement and Regulatory Authority (PPRA) and relevant government agencies as per the list below or as may be prescribed:

Figure 7: Statutory Procurement Reports

#	Type of report	Submission timeline
1.	Termination of procurement and asset disposal proceedings	Within 14 days after termination
2.	Direct procurement of a value exceeding Kshs 500,000	Within 14 days after notification of award
3.	All signed contracts awarded through all procurement methods	Within 14 days after the end of every month
4.	Contract amendment/variation	Within 14 days after close of the quarter
5.	Report seeking approval for use of alternative selection method for consultancy services	Within 14 days
6.	Termination of contracts	Within 14 days after close of the quarter
7.	Report on all contract awards where preferences and reservation schemes are applied with disaggregated data Note; copy of the report submitted to the National Treasury	Within 14 days after close of the quarter

7.0.SEPARATION OF DUTIES & PAYMENT

8.	Report on preferences and reservation of contracts awarded to the youth, women and persons with disability Note; a copy of the report submitted to the National Treasury	Within 14 days after close of the half of the financial year
9.	Part of annual procurement plan demonstrating application of preference and reservation schemes	Within sixty (60) days after commencement of the financial year
10.	Publication of tender opportunities and awards in the Public procurement Information Portal (PPIP)	Within 14 days of every subsequent month

- iii) The HSCM shall also submit quarterly reports on Framework Contracts to the AO with a copy to the Head of Internal Audit.
- iv) The HSCM will ensure that procurement status reports are sent monthly to all Heads of Divisions that have submitted approved Purchase Requisitions. The monthly status report will be in a simple to understand format and shall contain the following details; procurement requisition reference number, date procurement requisition was received by the SCM Division, status of the procurement process, expected date of delivery and a comments section where the SCM Division will highlight any key feedback such as any delays and/or challenges that have been brought to the attention of SCM Division by the supplier/contractor.
- v) HSCM shall ensure the relevant reports are published on the PPIP website.

7.4. Payment Procedure

- i) Upon receiving the invoices from Suppliers, they shall be forwarded to the Office of the Chief Executive Officer prior to processing by SCM Division.
- ii) The SCM Division shall forward invoices and relevant supporting procurement documents to the Head of Finance for payment.
- iii) To facilitate the payment process, the following documents shall be submitted to finance; invoices, purchase orders, inspection and acceptance committee minutes and signed certificates, requisition notes/memos, stores receipts/goods received notes, contract agreements, quotations, delivery notes, professional opinions, memorandums of understanding, approved work plans, certificates of completion of works, statutory documents like PIN Certificate, bank details among others as may be applicable.

7.0.SEPARATION OF DUTIES & PAYMENT

- iv) In those exceptional cases where advance payment will be required, a pro-forma invoice shall be availed. The advance payment shall not exceed 20% and must be secured by a bank guarantee of the same amount from a reputable bank.
- v) The user who requested for the goods, works or services shall certify the invoice and sign the GRN as proof of acceptance and delivery. The Officer in Charge of Stores shall endorse the GRN and together with the signed inspection certificate, forward through the HSCM, the verified payment documents to the Head of Finance for further checking, verification and approval to pay.
- vi) All payments shall be made in accordance with the contractual terms between CLE and the service provider/ supplier and with reference to the relevant policies.
- vii) Quarterly payment performance statistics shall be submitted to the National Treasury and PPRA demonstrating compliance with the obligation to pay invoices within sixty (60) days for publication.

7.5. Payment through the ERP system

The process is automated and completed by the Finance Division. This commences upon the certification of goods or issuance of the Inspection and Acceptance certificate.

7.6. Supplier Performance Appraisal

- i) In order to achieve competitive advantage and cost effectiveness, the SCM Division shall develop an effective system of supplier evaluation. Such system shall have clear measurable and easily comprehensible criteria and shall be developed prior to any procurement.
- ii) Supplier performance appraisal refers to determination of the suppliers' capability to meet 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. It assists in prior assessment of supplier capacity and competence.
- iii) 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.

7.0.SEPARATION OF DUTIES & PAYMENT

- iv) The following factors shall be considered during supplier performance evaluation:
 - a) Whether the supplier has been debarred from participation in public procurement
 - b) Quality control systems in place e.g., ISO Certifications
 - c) Financial capability and years of experience
 - d) Timeliness in delivery
 - e) Urgency of required goods, works or services
 - f) Licenses, manufacturer's authorization
 - g) Terms of Payment/Credit terms
 - h) Reputation and litigation history
 - i) Rejections for quality deficiency
 - j) Equipment warranty/after-sale services
 - k) Compatibility with existing equipment
 - l) Consistency in the quality of items, reliability/dependability record on making full delivery
 - m) Record of resolution of complaints, returned/rejected supplies, and defect management of works.
 - n) The suppliers' attention shall be drawn to the fact that their continued business relationship with the organization will depend on past performance and timeliness in fulfilling contract obligations.
- v) Apart from the supplier evaluation form provided in *Appendix XII*, questionnaires may also be utilized to establish satisfaction levels by the users.
- vi) An ad hoc Evaluation Committee shall be used to assess the suppliers' performance and give a recommendation to the AO through the HSCM.
- vii) The Supplier Performance Appraisal shall be linked to the Supplier Relationship Manual.
- viii) While undertaking supplier performance appraisal, CLE shall refer to the Public Procurement and Asset Disposal Debarment Proceedings manual and

7.0.SEPARATION OF DUTIES & PAYMENT

the contractor or supplier may be recommended for debarment in the following circumstances;

- a. The contractor or supplier has committed an offence under the PPADA 2015;
- b. The contractor or supplier has breached a contract for a procurement by CLE including poor performance;
- c. The contractor or supplier has, in procurement or asset disposal proceedings, given false information about his or her qualifications;
- d. Has breached a code of ethics issued by PPRA or the code of ethics of the relevant profession regulated by an Act of Parliament;
- e. Has defaulted on his or her tax obligations;
- f. Is guilty of corrupt or fraudulent practices; or
- g. Is guilty of a serious violation of fair employment laws and practices;
- h. Has not performed according to professionally regulated procedures.

7.7. Market Survey

- i) Market surveys shall be undertaken to inform the placing of orders or decision making by the AO and the market survey template provided in *Appendix IX* may be utilized to conduct a market survey.
- ii) The Supply Chain Management Division shall conduct continuous market surveys and develop an internal data base for market prices.
- iii) The HSCM will ensure that an appropriate survey tool is developed for each category of goods, works and services.
- iv) The market surveys will include other institutions using similar goods, works or services.
- v) This database together with the one provided by PPRA shall be used for price comparisons and establishment of market trends.
- vi) The database shall be referenced when carrying out both technical and financial evaluation of bids.
- vii) Each Supply Chain Management Officer shall undertake market surveys for individual procurements assigned using the processes and tools for carrying out market surveys.
- viii) For works, the engineer's estimate being an expert estimate shall be utilized.

8.0.CODE OF CONDUCT

8.1. Introduction

This code is necessary to ensure that the SCM Division operates in a transparent and accountable manner in order to get value for money. Every person that causes (or is responsible for) procurement decisions shall arrive at that decision in a fair and transparent manner and ensure that all procurement activities are executed ethically. Each procurement action taken in the procurement process shall be for the benefit of CLE and not for personal gain. This procedure covers the conduct of all employees or any agent of CLE involved in the procurement and asset disposal process.

8.1.1. Application

Officers responsible for procuring goods and services shall adhere to the following:

a) Ethics

- i) All procurement activities shall be executed in consistence with the highest professional, ethical, and moral standards.
- ii) Accordingly, persons involved in the procurement processes shall not use their status for personal gain and must maintain honesty and fairness while executing their responsibilities.

b) Conflict of Interest

Any Officer or Agent who has a conflict of interest with respect to procurement: -

- i) Shall not take part in the procurement process;
- ii) Shall not, after a procurement contract has been entered into, take part in any decision relating to the procurement or contract;
- iii) Situations that shall give rise to conflict of interest shall be recorded in a conflict-of-interest register.

c) Confidentiality and Accuracy of Information

- i) All employees or agents shall safeguard all information coming into their possession while executing their official duties. The Officers who are appointed to the ad hoc evaluation committees must sign the impartiality and confidentiality form as well as the confidentiality declaration form provided in *Appendix XIV*.
- ii) All employees are obliged to inform the Accounting Officer of instances of breach of this procedure within reasonable time.

8.0.CODE OF CONDUCT

d) Bribery

No employee or agent of CLE shall engage in acts of bribery contrary to the Bribery Act, 2016.

e) Undue influence

- i) No employee or agent of CLE shall apply undue influence on any person undertaking the procurement process.

f) Collusion

No employee or agent of CLE shall collude or attempt to do so with any other person:

- i) To make any proposed price higher than otherwise has been the case;
- ii) To withdraw or change the contents of a tender, proposal or quotation;
- iii) To prepare a tender, proposal or quotation with specifications which favour a particular supplier(s).
- iv) To accept a late tender.

g) Fraudulent Practice

No employee or agent or a member of a committee shall be involved in a fraudulent practice in any procurement proceeding.

h) Splitting of Procurement Contracts

Procurement shall not be structured as two or more procurements for the purpose of avoiding the use of a procurement procedure except where unbundling applies under preferences and references.

i) Business gifts and hospitality

Potential respondents and all suppliers are strictly prohibited from providing gifts or hospitality in any form that would jeopardize the process and may result in them being excluded from business opportunities. In deciding the inappropriateness of a gift, one should consider the value and the intention of the gift. Any requests soliciting any form of gifts or hospitality by employees or contractors or those associated with procuring activities or involved in the procurement is also strictly prohibited. All kinds of gifts exceeding Kshs 20,000 and obtained in the line of duty shall be declared in accordance with the set policies by CLE.

8.0.CODE OF CONDUCT

j)Corrupt Practice

No employee or agent of CLE shall be involved in any corrupt practice in any procurement process.

The PPADA 2015 and PPADR 2020 shall take precedence in the event of inconsistency with this code.

8.2. Sanctions for Breach of the Code of Conduct

Where any employee or committee contravenes this manual, the sanctions provided in section 177 of the PPADA 2015 and regulation 223 of the PPADR 2020 shall apply.



9.0. REVISION OF THE MANUAL

9.1. Revision of the Manual

The revision of this manual shall be initiated by the HSCM, reviewed by the AO and approved by the Council.

9.1.1. Procedure

The review of this manual shall be done in a structured manner and shall be in the interest of CLE. Any request for review shall have written justifications ensuring that any change to the contents of the documents shall not cause loss or damage. The procedures established here-in shall be subject to review as and when the need arises.

9.1.2. Guidelines

- a) The HSCM shall periodically recommend to the Accounting Officer changes and amendments to the Manual.
- b) Any member of staff may originate a proposal(s) for amendments to the Supply Chain Management Procedures Manual by writing to the HSCM.
- c) The HSCM shall acknowledge the receipt of the recommendations in writing.
- d) The HSCM shall examine the proposal and together with comments, present the matter to the Accounting Officer and subsequently the Council for deliberation, consideration and approval.
- e) Upon approval the AO shall sign the revised Supply Chain Management Procedures Manual.

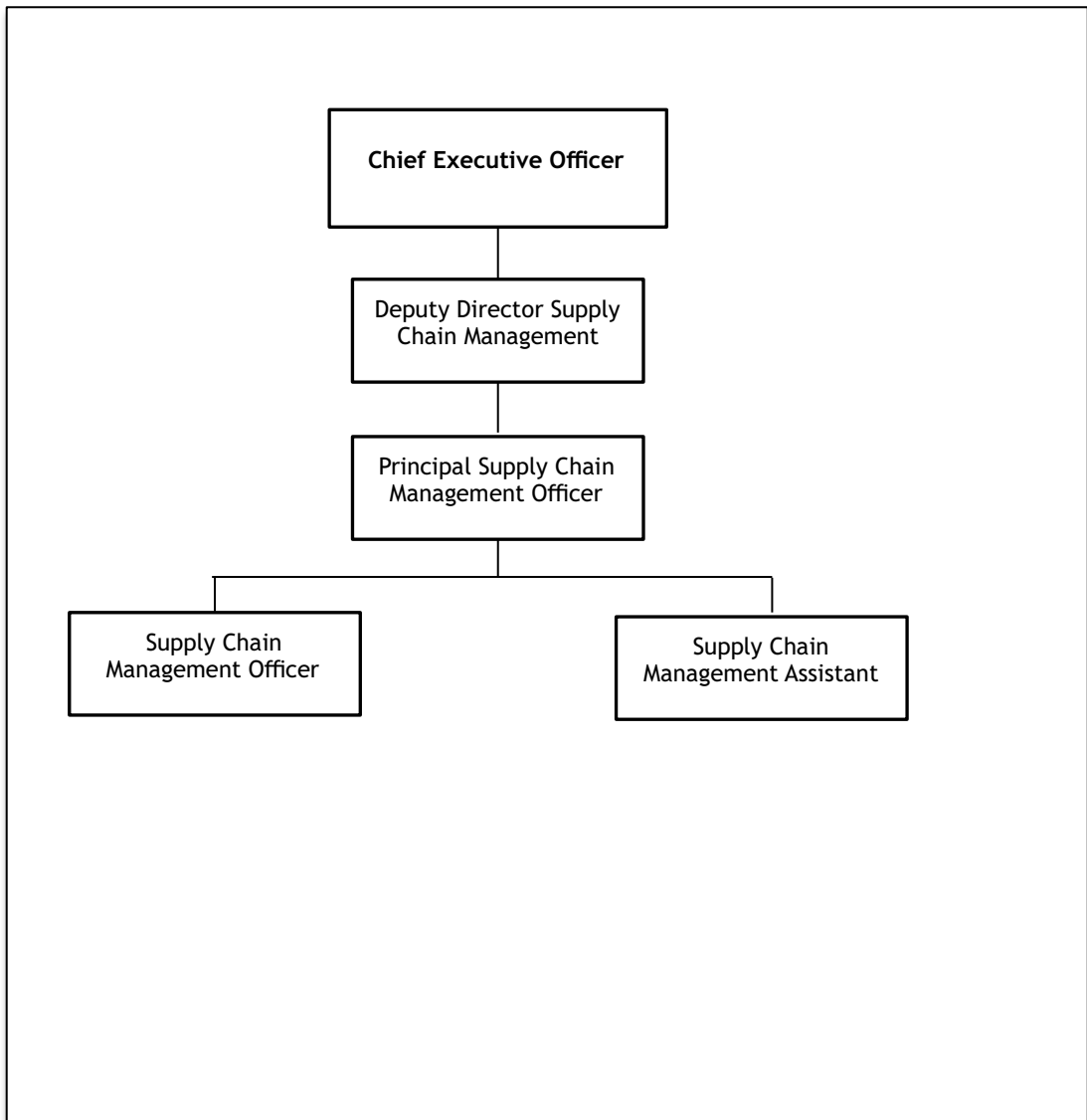
9.2. Effective Date

This manual shall be effective from the date of approval by the Council.

9.3. Review and Amendment

This manual shall be reviewed periodically whenever there are changes to the Public Procurement and Asset Disposal Act 2015, the Public Procurement and Asset Disposal Regulations 2020, relevant legislation and the business requirements.

Appendix I: Organization of the Supply Chain Management Division



Appendix II: Threshold matrix for use of the methods of procurement

Procurement Method	Maximum or minimum level of expenditure allowed for the use of a particular procurement method			Segregation of duties for different officers and committees in the procurement cycle under section 45 of Part V of the Act				
	GOODS	WORKS	SERVICES	Person Responsible for procurement initiation	Body Responsible for Awarding the Contract	Person responsible for signing the Contract	Person responsible for witnessing the contract	Verification of receipt of Goods, services or works where applicable.
International Open tender (s. 89 of the Act)	No minimum Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement.	No minimum Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement.	No Minimum Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement.	Head of the User Division in consultation with the Accounting Officer	Accounting Officer	Accounting Officer	Head of Legal Services	Accounting Officer or His or her Appointee In writing

National Open tender (s. 96 of the Act)	No minimum. Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement.	No minimum. Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement.	No minimum. Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement.	Head of the User Division in consultation with the Accounting Officer	Accounting Officer	Accounting Officer	Head of Legal Services	Accounting Officer or his or her appointee in writing
Restricted tender under s. 102(1)(a) of the Act	No minimum. Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement.	No minimum. Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement.	No minimum. Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement.	Head of the User Division in consultation with the Accounting Officer	Accounting Officer	Accounting Officer	Head of Legal Services	Accounting Officer or his or her appointee in writing

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Procurement Method	Maximum or minimum level of expenditure allowed for the use of a particular procurement method			Segregation of duties for different officers and committees in the procurement cycle under section 45 of Part V of the Act				
	GOODS	WORKS	SERVICES	Person responsible for procurement initiation	Body responsible for awarding the contract	Person responsible for signing the Contract	Person responsible for witnessing the contract	Verification of receipt of goods, services or works where applicable.
Restricted tender under s. 102(1)(b) of the Act	The Maximum level of expenditure shall be KES. 30,000,000 above this threshold use open tender	The Maximum level of expenditure shall be KES. 30,000,000 above this threshold use open tender	The Maximum level of expenditure shall be KES. 20,000,000 above this threshold use open tender	Head of the User Division in consultation with the Accounting Officer	Accounting Officer	Accounting Officer	Head of Legal Services	Accounting Officer or his or her appointee in writing
	No minimum	No minimum	No minimum					

Restricted tender under s. 102(1)(c) of the Act	No minimum. Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement.	No minimum. Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement.	No minimum. Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement.	Head of the User Division in consultation with the Accounting Officer	Accounting Officer	Accounting Officer	Head of Legal Services	of	Accounting Officer or his or her appointee in writing
Request for proposals (s. 116 of the Act)	No minimum. Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement.	No minimum. Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement.	No minimum. Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement.	Head of the User Division in consultation with the Accounting Officer	Accounting Officer	Accounting Officer	Head of Legal Services	of	Accounting Officer or his or her appointee in writing

Procurement Method	Maximum or minimum level of expenditure allowed for the use of a particular procurement method			Segregation of duties for different officers and committees in the procurement cycle under section 45 of Part V of the Act				
	GOODS	WORKS	SERVICES	Person responsible for procurement initiation	Body responsible for awarding the contract	Person responsible for signing the Contract	Person responsible for witnessing the contract	Verification of receipt of goods, services or works where applicable.
Direct Procurement under s. 103(2) and (3) of the Act	No minimum or maximum expenditure under this method provided the conditions under this section are met	No minimum or maximum expenditure under this method provided the conditions under this section are met	No minimum or maximum expenditure under this method provided the conditions under this section are met	Head of the User Division in consultation with the Accounting Officer	Accounting Officer	Accounting Officer	Head of Legal Services	Accounting Officer or his/her appointee in writing
Request for quotations(s. 105 of the Act)	Maximum level of expenditure under this method is KES. 3,000,000 per request for quotation	Maximum level of expenditure under this method is KES. 5,000,000 per request for quotation	Maximum level of expenditure under this method is KES. 3,000,000 per request for quotation	Head of the User Division in consultation with the Accounting Officer	Accounting Officer	Accounting Officer	Not Applicable	Accounting Officer or his/her appointee in writing

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Low value procurement (s. 107 of the Act)	Maximum level of expenditure under this method is KES. 50,000 per item per financial year	Maximum level of expenditure under this method is KES. 100,000 per item per financial year	Maximum level of expenditure under this method is KES. 50,000 per item per financial year	Head of the User Division in consultation with the Accounting Officer	A person delegated to in writing by the Accounting Officer	A person delegated to in writing by the Accounting Officer	Not Applicable	Accounting Officer or his/her appointee in writing
	There is no minimum expenditure for the use of this method	There is no minimum expenditure for the use of this method	There is no minimum expenditure for the use of this method					
Competitive negotiation. (s.131 of the Act)	No minimum or maximum expenditure under this method provided the conditions under this section are met	No minimum or maximum expenditure under this method provided the conditions under this section are met	No minimum or maximum expenditure under this method provided the conditions under this section are met	Head of the User Division in consultation with the Accounting Officer	Accounting Officer	Accounting Officer	Head of Legal Services	Accounting Officer or his/her appointee in writing

Procurement Method	Maximum or minimum level of expenditure allowed for the use of a particular procurement method			Segregation of duties for different officers and committees in the procurement cycle under section 45 of Part V of the Act				
	GOODS	WORKS	SERVICES	Person responsible for procurement initiation	Body responsible for awarding the contract	Person responsible for signing the Contract	Person responsible for witnessing the contract	Verification of receipt of goods, services or works where applicable.
Electronic reverse auction (s.110 of the Act)	No minimum or maximum expenditure under this method provided the conditions under this section are met	No minimum or maximum expenditure under this method provided the conditions under this section are met	No minimum or maximum expenditure under this method provided the conditions under this section are met	Head of the User Division in consultation with Accounting Officer	Accounting Officer	Accounting Officer	Not Applicable	Accounting Officer or his/her appointee in writing

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Force account (s.109 of the Act)	No minimum. Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement provided the conditions under this section are met.	No minimum. Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement provided the conditions under this section are met.	No minimum. Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement provided the conditions under this section are met.	Head of the User Division in consultation with the Accounting Officer	Accounting Officer	Accounting Officer	Head of Legal Services	Accounting Officer or his or her appointee in writing
Two stage tendering (s.99 of the Act)	No minimum. Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement provided the conditions under this section are met.	No minimum. Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement provided the conditions under this section are met.	No minimum. Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement provided the conditions under this section are met.	Head of the User Division in consultation with the Accounting Officer	A person delegated to in writing by the Accounting Officer	A person delegated to in writing by the Accounting Officer	Head of Legal Services	Accounting Officer or his or her appointee in writing

	conditions under section are met.	conditions under section are met.	procurement provided the conditions under this section are met.					
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Procurement Method	Maximum or minimum level of expenditure allowed for the use of a particular procurement method			Segregation of duties for different officers and committees in the procurement cycle under section 45 of Part V of the Act				
	GOODS	WORKS	SERVICES	Person responsible for procurement initiation	Body responsible for awarding the contract	Person responsible for signing the Contract	Person responsible for witnessing the contract	Verification of receipt of goods, services or works where applicable.
Design competition (s.100 of the Act)	No minimum or maximum expenditure under this method provided the conditions	No minimum or maximum expenditure under this method provided the conditions	No minimum or maximum expenditure under this method provided the conditions	Head of the User Division in consultation with the	Accounting Officer	Accounting Officer	Head of Legal Services	Accounting Officer or his or her appointee in writing

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	under this section are met	under this section are met	under this section are met	Accounting Officer		Accounting Officer	Head of Legal Services	Accounting Officer or his/her appointee in writing
Framework agreement of the Act)	No minimum or maximum expenditure under this method provided the conditions under this section are met	No minimum or maximum expenditure under this method provided the conditions under this section are met	No minimum or maximum expenditure under this method provided the conditions under this section are met	Head of the User Division in consultation with Accounting Officer	Accounting Officer	Accounting Officer	Head of Legal Services	Accounting Officer or his/her appointee in writing
Community Participation	No minimum Maximum Kshs 10,000.000.00	No minimum. Maximum Kshs 30,000.000.00	No minimum. Maximum Kshs 5,000.000.00	Head of the User Division in consultation with Accounting Officer	A person delegated to in writing by the Accounting Officer	A person delegated to in writing by the Accounting Officer	Head of Legal Services	Accounting Officer or his/her appointee in writing

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Appendix III: Professional Opinion Template

TO: ACCOUNTING OFFICER

FROM: DEPUTY DIRECTOR SUPPLY CHAIN MANAGEMENT

CC:

DATE:

SUBJECT: PROFESSIONAL OPINION - TENDER FOR _____ REF NO.: _____

AGENDA

Request to consider the recommendation of the Evaluation Committee and Professional Opinion for the Tender for

No	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)	<u>Tender Opening Committee</u> 1. Chairperson 2. 3. <u>Bidders Present</u>
7.	No. of Tenderers Issued with Tenders Documents (where applicable)	
8.	No. of Bids received	
9.	Method of Procurement Applied/used (specify provision of law)	

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10.	Names of Appointed Evaluation Committee Members (specify names, designation, Section or org, memo or Letter reference number and date)-annex appointment letter	
	<i>PART B - LEGAL & PRACTICAL ASPECTS OF THE TENDER</i>	
1.	A brief background statement of the procurement proceeding from planning to tender evaluation. <u>TECHNICAL AND FINANCIAL EVALUATION</u>	
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.	
	<i>PART C - RECOMMENDATION TO THE ACCOUNTING OFFICER FOR APPROVAL/ REJECTION</i>	
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 the Accounting Officer may consider approval/rejection of the recommendations of the evaluation report.	

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2.	Where the recommended bid price is in excess of available budget state:- 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; whether there is need to result to use competitive negotiations.

Signed by.....
Head of Supply Chain Management

Date

Approved by
Accounting Officer

Date

OR

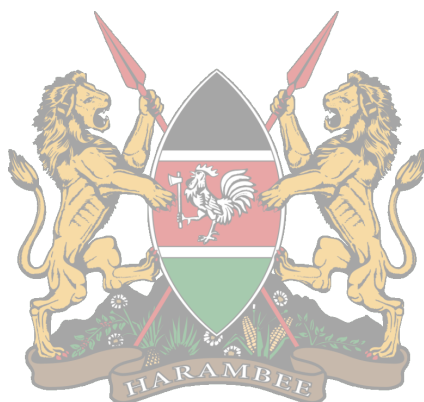
Rejected by.....
Accounting Officer

Date

Reason(s) for rejection

.....

.....



REPUBLIC OF KENYA



Appendix IV: Annual Procurement Plan Template

Procuring Entity's Name: Council of Legal Education (CLE)

Project Name (if applicable):

Financial Year:

No	Item description	Unit	Qty	Procurement Method	Source of Funds	Estimated Cost Kshs. '000	Time Process	Invite/ Advertise Tender	Bid Opening	Bid Evaluation	Tender Award	Notification of Award	Contract Signing	Total time to contract signing	Date of completion of contract
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
1.							Planned Days								
							Actual Days								
							Variance								
2.							Planned Days								
							Actual Days								
							Variance								
3.															
Total															

Prepared by: Head of Supply Chain Management
 Sign:..... Date

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Countersigned by: Accounting Officer

Sign

.....

Date

Guidance Notes on Preparing the Procurement Plan as per Column

1. Represents a number at the PE's discretion
2. Description of the goods being procured. This should be comprehensive but not go to the level of specifications.
3. Unit of purchase or issue.
4. Quantity should be expressed in universally acceptable terms, for instance, number (No.), kilograms (Kg), tonnes, etc.
5. Procurement method - the methods are limited to only open tender, direct, restricted, request for quotation, low value, community participation, design competition, electronic reverse auction, force account, competitive negotiations and Request for Proposals.
6. Source of funds - could either be from the Government of Kenya or a donor.
7. Estimated cost - represents the total cost at which the goods are estimated to be procured. The cost should be established through market surveys.
8. Time process - represents the planned dates for execution of the various activities, planned days those activities are expected to take and actual dates taken in each specified activity. The variance should be filled after the activities are concluded (variance = planned days -actual days).
9. Invite/advertise tender - this is the date when tenders are advertised in the newspapers or when bidders are invited to collect tender documents under the restricted procurement method.
10. Bid opening - this is the date when tender documents are opened.
11. Bid evaluation - is the process used to identify the most preferred bidder technically and financially. This process should not take more than 30 calendar days.
12. Accounting officer approval to award - this is the date that the accounting officer awards the subject procurement.

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13. Notification of award - this is the date that notification of award letter is sent to the preferred bidder.
14. Signing of contract - this is the date on which the contract is signed between the PE and the supplier/contractor.
15. Total time to contract signature - this is the number of days taken between issuance on notification of award and signing of the contract.
16. Time for completion of contract - this is the time in days to be taken before the contract is completed.

Status.

Appendix V: Emergency procurement checklist (Procurement Division)

#	Requirement	√/X
1.	Clarify whether the situation is deemed an emergency for supply of essential urgent goods or services	
2.	Review Annual Procurement Plans and routine procedures that may delay effective relief being delivered in a timely manner (e.g. advertising, tendering)	
3.	Furnish the Accounting Officer with adequate evidence to verify the emergency.	
4.	Consider what is a reasonable and justifiable procurement method/action given the circumstances and information available in line with the procurement and asset disposal procedures manual	
5.	Identify, specify and prioritize immediate procurement needs	
6.	Seek requisite approvals and act within existing delegated Authority or within established short -term emergency approval arrangements	
7.	Use direct procurement method where applicable or acquire the services from another government entity	
8.	Consider obtaining the necessary goods or services directly from the registered list of suppliers (where possible) or procure outside the supplier list if the list is not suitable	
9.	Put in place plans to regularly communicate with, and monitor, the supplier's situation and ongoing ability to provide the essential supplies	
10.	Expedite receipt, inspection and payment processes	
11.	Maintain all records of the procurement process	

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Prepared by: Designation: Signature:

Date:

Approved by: Designation: Signature:

Date:

Appendix VI: Emergency procurement checklist (User Division)

#	Requirement	√ /X
1.	Events that led to the emergency procurements were unforeseeable	
2.	There were genuine reasons for the emergency procurement that necessitated immediate response e.g. public health risks, calling of an ambulance, etc.	
3.	It was impractical to comply with Procurement Procedures	
4.	The Accounting Officer's approval was sought within 14 working days providing evidence to verify the emergency	
5.	Supporting documents including the Accounting Officer's approval, invoices, delivery notes etc. were submitted to HSCM	

Prepared by: Designation: Name of Division:

Signature:

Date:

Approved by: Designation: Accounting Officer

Signature:

Date:

Financial Year:

.....

Council of Legal Education

No	Item Description	Qty	Unit of Issue	Date of Purchase	Purchase Price	Estimated Current Value	Justification for Disposal	Item Life Span	Ref. No to the asset register	Disposal Method	Date of Approval/ Rejection	Dates for completing key disposal activities									
												Disposal Initiation	Bid Documents Prepared	Invitation To Tender/ Public Auction	Bid Opening/ Registration of Bidders	Accounting officer Award/ Fall of Auction	Notification of Award/ Hammer Contract Signed	Disposal Completed	Notice to PPR (if Disposal to Employee)		
1.																					
2.																					
3.																					
4.																					

Prepared by: Head of Procurement: Sign

..... Date.....

Approved by: Accounting Officer Sign

..... Date.....

Appendix VIII: Checklist for the Procurement Process

	Consideration	Options
A	Overall timescale	Determine timescale provided by the overall procurement plan for this piece of procurement. Identify slippages in plan and total period remaining to complete the procurement.
B	Procurement method	Determine the procurement method that must be used considering the circumstances of the requirement.
C	Procurement Plan	Produce an individual procurement plan to complete this procurement, compare with overall procurement plan and make necessary adjustments
D	Technical advice and assistance	Determine technical advice required to draft specification and technically evaluate. (User, independent specialist/consultant to be engaged)
E	Pre-bid conference/site visit	Assess whether a pre-bid conference or a site visit is necessary for bidders
F	Pre-qualification/ Expressions of Interest	Determine need to pre-qualify and/or issue an EOI to identify likely sources of supply, or are the sources limited internationally/nationally.
G	Type of Bidding Stages necessary	Is one stage-single envelope bidding appropriate?
		Is one stage-two envelope bidding appropriate?
		Is two stage bidding appropriate?
H	Bidding period	Consider minimum period against practical requirements
I	Validity period	Consider time to evaluate and reach award stage (include time for approvals and prior reviews). 120 to 150 days is usual
K	Standard bidding and proposal documents	Doc 1 - STD for Procurement of Works (Building & Associated Civil Engineering Works)
		Doc 2 - STD for Procurement of Works (Roads, Water Bridges, e.t.c)
		Doc 3 - STD for Procurement of Small Works
		Doc 4 - STD for Procurement of Goods
		Doc 5 - STD for Selection of Consulting Firms
		Doc 6 - STD for Procurement of Framework Agreements
		Doc 7 - STD for Procurement of Non-Consulting Services

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	Consideration	Options
		Doc 8 - STD for Disposal
		Doc 9 - STD for Procurement of Insurance Services
		Doc 10 - STD for Procurement of Information Technology, Design, Supply and Installation (One-Envelope Tendering Process - (with or without pre-qualification)
		Doc 11 - STD for Procurement of Maintenance Services
		Doc 12 - STD for Procurement of Design and Build (Turnkey) Contracts
		Doc 13 - STD for Procurement of Supply and Installation of Plant and Equipment
		Doc 14 - STD for Procurement of Specialized Goods (Text Books and Reading Materials)
		Doc 15 - STD for Procurement of Specialized Goods - Health Sector Goods (Pharmaceuticals, Vaccines and Condoms)
		Doc 16 - STD Pre-qualification Document for Procurement of Works or Supply of Goods or Provision of Non-Consulting Services Contracts
		Doc 17 - STD for Procurement of Management Services
		Doc 18 - STD for Leasing
		Doc 19 - STD for Performance-Based Contracts
		Doc 20 - STD for Purchase of Immovable Assets/Property
		Doc 21 - STD for Request for Quotation
		Doc 22 - Standard Proposal Evaluation Report for Selection of Consultants
		Doc 23 - Standard Tender Evaluation Report for Procurement of Goods and Works
L	Likely resources required in terms of documentation	Draft Invitation to Pre-qualify/EOI
		Draft Pre-qualification document
		Evaluation pre-qualification/EOI applications
		Decide on Shortlist
		Draft Invitation to Bid Notice
		Draft Bidding Document/RFP/RFQ

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	Consideration	Options
		Conduct Bid opening
		Conduct Evaluation and produce Evaluation Report
		Draft Award Notice
		Draft Contract Document



REPUBLIC OF KENYA



Appendix IX: Market Survey Form

0	1	2 ⁴³			3	4					5	
No .	Descripti on of item	Suppli er a	Suppli er b	Suppli er c	Average unit cost (2a+2b+2 c)/3	Adjustments for the average unit cost					Total adjusted unit cost [(3+4(a)+4(b)+ 4(c)+4(d)+ 4 (e)]	
		Unit Cost	Unit Cost	Unit Cost		4 (a) Inflatio n	4 (b) Transpo rt	4 (c) Demurra ge	4 (d) Insuranc e	4 (e) Credit period		

⁴³ Comparison can be done with one supplier or multiple suppliers

Appendix X: Inspection and Acceptance Report/Certificate

TO BE PROVIDED BY CLE

INSPECTION AND ACCEPTANCE REPORT/CERTIFICATE

We the undersigned, being members of the Inspection and Acceptance Committee appointed by the Accounting Officer vide letter ref no.: **[insert reference number]** dated: **[insert date]** confirm that we have performed the assignment diligently and issued this Acceptance Certificate for the subject procurement highlighted herein;

Contract Title and No.: _____

Date of Contract: _____

Supplier/Contractor: _____

Value of Contract: _____

Particulars of the contract and Contract items: _____

S/NO.	ITEM DESCRIPTION	UOM	QUANTITY		COST	
			ORDERED	DELIVERED	UNIT	TOTAL

Contract delivery due date: _____

Actual delivery date: _____

Contract Manager: _____

Remarks: _____

Signed:

1. Name: _____ Designation: _____ Signature: _____

2. Name: _____ Designation: _____ Signature: _____

3. Name: _____ Designation: _____ Signature: _____

4. Name: _____ Designation: _____ Signature: _____

5. Name: _____ Designation: _____ Signature: _____

Dated:

Appendix XI: Completion Certificate

Date:

Location:

We hereby affirm, to the best of our knowledge and belief arising from inspections and tests for the ***[insert contract name]*** and also based on reports submitted by the technical experts vide reports dated ***[insert date of reports submitted by technical experts]*** annexed to this completion certificate that the ***[insert contract name]*** was completed in accordance with the contract requirements.

CONTRACTOR'S INFORMATION

Name of Contractor:

Postal Address:

CONTRACT DETAILS

Contract description:

Contract Commencement date:

Contract completion date:

Actual Completion date:

Location of completion:

Issued by:

Inspection and Acceptance Committee/Contract Implementation Team

Signed:

1. Name: _____ Designation: _____ Signature: _____

2. Name: _____ Designation: _____ Signature: _____

3. Name: _____ Designation: _____ Signature: _____

4. Name: _____ Designation: _____ Signature: _____

5. Name: _____ Designation: _____ Signature: _____

Dated:

Appendix XII: Supplier Evaluation Form

Supplier Performance Appraisal Form

Contract Details

Contract Number	
Contract Title	
Contractor	
Contract Period	
Contract Value	
Contract Manager	
Meeting Type (monthly/quarterly/biannual/annual)	

	Critical Success Factor & KPI	Max Score	Max Percent (%)	Bidders Score	Bidders Percent age score (%)	Supporting Comments
1	Timeliness (On-time-in-full deliveries)					
i)	Were the goods/ services/works delivered on time?	2	50%			
ii)	Were there losses to CLE due to late delivery?	2	50%			
Sub-total		4	100%			
2	Quality					
i)	Did the supplier have the required expertise to deliver the services/goods/ works?	2	25%			
ii)	Did all the goods/services/	2	25%			

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	works meet the Quality specifications?					
iii)	Were there any goods/services/works that were rejected?	2	25%			
iv)	Was the LPO/LSO/contract cancelled or was the supplier asked to re-supply?	2	25%			
Sub-total		8	100%			
3	Capacity of Supplier/Adequacy of Resources					
i)	Did the Supplier have adequate equipment to carry out the assignment?	2	50%			
ii)	Were the personnel involved in the assignment competent and skilled?	2	50%			
Sub-total		4	100%			
4	Adherence to Conditions of Contract					
i)	Has the contractor adhered to all the conditions of contract?	2	100%			
Sub-total		2	100%			
Total Score		18				
5	Evaluator's/User Division(s) recommendation for the Supplier Evaluated by:_____ Sign:_____ Date:_____					

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		User
		Head of Division's Recommendation: Evaluated by:_____ Sign:_____ Date:_____ _____ Head of Division
6		Head of Supply Chain's Recommendation to the Accounting Officer Name:_____ Sign:_____ _Date:_____ Head of Procurement

Weighting

#	Critical Success Factor	Weight
1.	Timeliness (On-time-in-full delivery)	30%
2.	Quality	30%
3.	Price variations	20%
4.	Litigation	20%

Rating

S/N	Rating	Interpretation	Score	Management Decision
1	Excellent	Has met all the contractual and SLA requirements	$\geq 85\% - \leq 100\%$	Retain and consider for future business
2	Fair	Has met some of the contractual and SLA requirements	$\geq 75\% - \leq 84\%$	Develop and place on Performance Improvement Plan and monitor for thirty (30) days or any other period as determined by CLE
3	Poor	Has not met the contractual and SLA requirements	$\leq 74\%$	Suspend dealings with the supplier including termination of contract and consider reporting the supplier to PPRA for debarment

Appendix XIII: Divisional Procurement Plan Template

COUNCIL OF LEGAL EDUCATION										
DIVISIONAL PROCUREMENT PLAN										
FINANCIAL YEAR:										
Budget Code	Item description	Unit of Measure	Quantity	Procurement Method	Source of Funds	Estimated Cost	Time Process			
							Q1	Q2	Q3	Q4
							X			
								X		
									X	
										X
SUB-TOTAL										

Appendix XIV: Declaration of impartiality and confidentiality

Declaration of Impartiality and Confidentiality

TENDER/ RFP/RFQ DETAILS;	
TENDER/ RFP/RFQ REFERENCE;	

I, the undersigned, hereby declare that I agree to participate in the evaluation of the above-mentioned tender. By making this declaration, I confirm that I have familiarised myself with the information available to date concerning this tender including the provisions of guidance on contract procedures for external actions relating to the evaluation process.

I shall execute my responsibilities impartially and objectively.

I hereby declare that I am independent of all parties which stand to gain from the outcome of the evaluation process. To the best of my knowledge and belief, there are no facts or circumstances, past or present, or that could arise in the foreseeable future, which might call into question my independence in the eyes of any party; and, if I discover or should it become apparent during the course of the evaluation process that such a relationship exists or has been established, I will declare it immediately and cease to participate in the evaluation process. I declare that I have not been employed by any of the tenderers, their consortium members or subcontractors.

I further declare that to the best of my knowledge, I am not in a situation that could cast doubt on my ability to evaluate the tender.

I agree to hold in trust and confidence any information or documents ("confidential information") disclosed to me or discovered by me or prepared by me in the course of or as a result of the evaluation and agree that it shall be used only for the purposes of this evaluation and shall not be disclosed to any third party. I also agree not to retain copies of any written information or prototypes supplied.

Confidential information shall not be disclosed to any employee or expert unless they agree to execute and be bound by the terms of this Declaration.

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No .	Full Names	Staff Number	Designation	Signature
1				

CONFIDENTIALITY DECLARATION FORM

(r.65)

I,an *employee/agent/member of a commission/member of a committee* of **COUNCIL OF LEGAL EDUCATION** hereby declare that I shall not disclose any information that comes into my possession during or after any procurement proceedings of **COUNCIL OF LEGAL EDUCATION** relating to -

- (1) any procurement whose disclosure would impede law enforcement or whose disclosure would impede law enforcement or whose disclosure would not be in the public interest;
- (2) any procurement whose disclosure would prejudice legitimate commercial interests, intellectual property rights or inhibit fair competition;
- (3) information relating to the evaluation, comparison or clarification of tenders, proposals or quotations; or
- (4) the contents of tenders, proposals or quotations.

I understand that the disclosure of such information to any authorized person(s) or in circumstances not permitted under the Public Procurement and Asset Disposal Act, 2015 is an offence.

I confirm that the declarations I have made above are correct to the best of my knowledge.

Name:

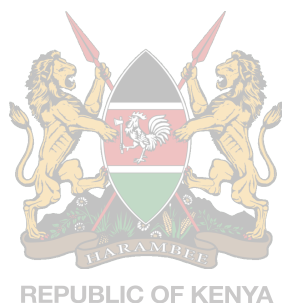
Signature:

Date:

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Appendix XV: Records Classification and Indexing Scheme (Supply Chain Management)

	Supply Chain Management Division	Records Classification
1	Request for Quotation	CLE/SCM/RFQ/VOL1
2	Tenders	CLE/SCM/TEN/VOL1
3	Request for Proposal	CLE/SCM/RFP/VOL1
4	Reports	CLE/SCM/RPT/VOL1
5	Procurement Plan	CLE/SCM/PP/VOL1
6	Memos	CLE/SCM/MEMO/VOL1
7	Correspondence	CLE/SCM/COR/VOL1
8	Performance Appraisals	CLE/SCM/PA/VOL1
9	Procurement Requisitions	CLE/SCM/PR/VOL1
10	Contracts	CLE/SCM/CONT/VOL1
11	Asset Register	CLE/SCM/AR/VOL1
12	Asset Disposal	CLE/SCM/AD/VOL1
13	Procurement Compliance Reports	CLE/SCM/PCR/VOL1
14	Prequalified Suppliers	CLE/SCM/PS/VOL1
15	Framework Contracts	CLE/SCM/FC/VOL1
16	Performance Appraisals System	CLE/SCM/PAS/VOL1
17	Training - Staff and Suppliers	CLE/SCM/TSS/VOL 1



Appendix XVI: Integrity Pact (referenced to CLE's Code of Ethics)

INTEGRITY PACT

Between Council of Legal Education and the Evaluators for the (INSERT TENDER NAME AND REFERENCE NUMBER)

Accepting that transparent public administration free of corruption is the key to social development and competitiveness, this Integrity Pact establishes the reciprocal formal commitment of Council of Legal Education and of the participants to the tender in subject. Council of Legal Education and the participants subscribe to the principles of transparency and fairness as well as the explicit anti-corruption undertaking not to offer, accept or require any sum of money nor any other remuneration, advantage or benefit, both directly and indirectly by means of intermediaries in order to obtain the contract award and/or to distort its correct execution.

The personnel and consultants of Council of Legal Education involved at any level in the implementation of this tender and in the subsequent execution of the contract awarded, are aware of this Integrity Pact, the reasons and spirit for entering into such an agreement, as well as of the sanctions that may arise should this agreement not be adhered to.

Council of Legal Education will on request undertake to make available for scrutiny the following information in respect of the tender:

- The list of negotiators and other personnel involved in the administration of this tender;
- The list of bidders and the relevant prices quoted (where the financial and technical proposals are separate, this will be disclosed at the appropriate time);
- The list of the bids recommended for rejection with the reasons of the recommendation for rejection; and
- The specific reasons for recommendation for award to the successful bidder.

As a negotiator of the above tender, I confirm the following:

- 1. That** I did not for any reason, demand or accept bribes, gifts, entertainment, any other inducements or undue benefits in the process of bidding, or concluding or execution of a contract.
- 2. That** I had no conflict of interest with respect to this procurement.
- 3. That** during and after the procurement proceedings I have maintained confidentiality and did not disclose any information relating to this

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procurement save allowed by law under Section 67(3) of the Public Procurement and Asset Disposal Act 2015.

4. That I abided by the provisions of the Public Procurement and Asset Disposal Act 2015 and the PPADR 2020 and any other relevant laws and policies in the discharge of my duties as an evaluator.

5. That I understood that any violation of this Integrity Pact shall result in disciplinary action being taken against me as well as other remedies provided under the Public Procurement and Asset Disposal Act 2015 and the Public Procurement and Asset Disposal Regulations 2020. In addition, any violation of this Integrity Pact may result in referral for investigation and criminal prosecution may also be effected.

1.Name:.....Signature:.....Date:.....

2.Name:.....Signature:.....Date:.....

3.Name:.....Signature:.....Date:.....

4.Name:.....Signature:.....Date:.....



Appendix XVII: Contract Execution Form

CONTRACT EXECUTION FORM

PART A - DOCUMENT DETAILS

CONTRACT TITLE		
CONTRACTOR/ PROVIDER		
CONTRACT PRICE		
USER DIVISION		
DURATION OF CONTRACT		
COMMENCEMENT DATE		
PERFORMANCE SECURITY	REQUIRED:	PROVIDED:
AWARD/ AUTHORITY	APPROVAL	

PART B - APPROVAL SIGN OFFS

CONTENT REVIEW	APPROVED BY <i>(name of authorized person)</i>	SIGNATURE	DATE
HEAD OF THE USER DIVISION			
HEAD OF SUPPLY CHAIN MANAGEMENT			

PART C- LEGAL REVIEW

	REVIEWED AND APPROVED BY <i>(name of authorized person)</i>	SIGNATURE	DATE
REVIEWED BY:			

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RECOMMENDED BY HEAD OF LEGAL			
---------------------------------	--	--	--

PART D - DOCUMENT EXECUTION

DESIGNATED SIGNATORY	SIGNATURE	DATE
ACCOUNTING OFFICER		

NB: USER NOTES

1. All contracts must be signed by the Accounting Officer
2. The accuracy of the technical content of any contract is the responsibility of the user Division.

Appendix XVIII: Goods Received Note (GRN)

COUNCIL OF LEGAL EDUCATION						
GOODS RECEIVED NOTE (GRN)						
Received the items listed below from (source):						
Code	Item Description	Unit	Qty	Unit	Value	Remarks
	Order No.:	Invoice No.:				
	Delivery No.					
	Certified that the quantities received has been taken on charge.					
	Receiving Officer: Signature Designation Date					

Appendix XIX: Local Purchase Order

LOCAL PURCHASE ORDER

To M/S:

Order No. :

Date:

Quotation/Contract No.:

Delivery Date:

Please Supply the following goods/services on or before the specified date above. The conditions of this contract are on the reverse side of this order.

S/No.	Description	Unit	Quantity	RATE	Amount

% VAT

Please quote order No. on all invoices and delivery notes in respect of this order.

Total (KSH)

Prepared by:

Supply Chain Management Officer

Date:

Supplier Signature

Signed: :

Head of Supply Chain Management

Date:

Date & Stamp

Signed:

Chief Executive Officer

Date:

CONDITIONS OF CONTRACT FOR THE LOCAL PURCHASE ORDER

Language

The Contract as well as all correspondence and documents relating to the Contract exchanged by the Supplier/Contractor/Service Provider and the Council of Legal Education, shall be written in the English Language.

Eligibility

The goods shall have the nationality of an eligible country. All Goods and Related Services to be supplied under the Contract shall have their origin in Eligible Countries.

Notices

Any notice given by one party to the other pursuant to the Contract shall be in writing.

Governing Law

The Contract shall be governed by and interpreted in accordance with the Laws of Kenya, unless otherwise specified hereunder.

Settlement of Disputes

The Council of Legal Education and the Supplier/Contractor/Service Provider shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract. If the parties have failed to resolve their dispute or difference by such mutual consultation, either the Council of Legal Education or the Supplier/Contractor/Service Provider may give notice to the other party of its intention to commence arbitration.

The dispute shall be referred to adjudication or arbitration in accordance with the laws of Kenya.

Supplier/Contractor/Service Provider Responsibilities

The Supplier/Contractor/Service Provider shall supply all the Goods/Services/Works included in the Schedule of Requirements.

Contract Price

Prices charged by the Supplier/Contractor/Service Provider under the Contract shall not vary from the prices quoted by the Supplier/Contractor/Service Provider in its quotation.

Terms of Payment

The Contract Price shall be paid 100% the Contract Price or using milestone payments of the contract price where applicable within a period of 60 days as follows:

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For Goods, price of goods received upon submission of a claim/invoice supported by the inspection and acceptance certificate issued by the Council of Legal Education;
or

For Works, upon valuation by the Contractor of the portion of the works completed, such valuation to be accepted by the Council of Legal Education, payments up to final completion certificate; or

For Services, upon valuation by the Service Provider of the services completed, such valuation to be accepted by the Council of Legal Education, payments up to final completion certificate. Alternatively, milestone payments as per the schedule of requirements may be applied in the payment of services.

Inspections and Tests

The Supplier/Contractor/Service Provider shall at its own expense and at no cost to the Council of Legal Education carry out all such tests and/or inspections of the Goods, works or Services to confirm their conformity to technical specifications.

Warranty

The Supplier warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the contract.

Appendix XX: Stores Requisition Note

[illegible]



REPUBLIC OF KENYA



COUNCIL OF LEGAL EDUCATION



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