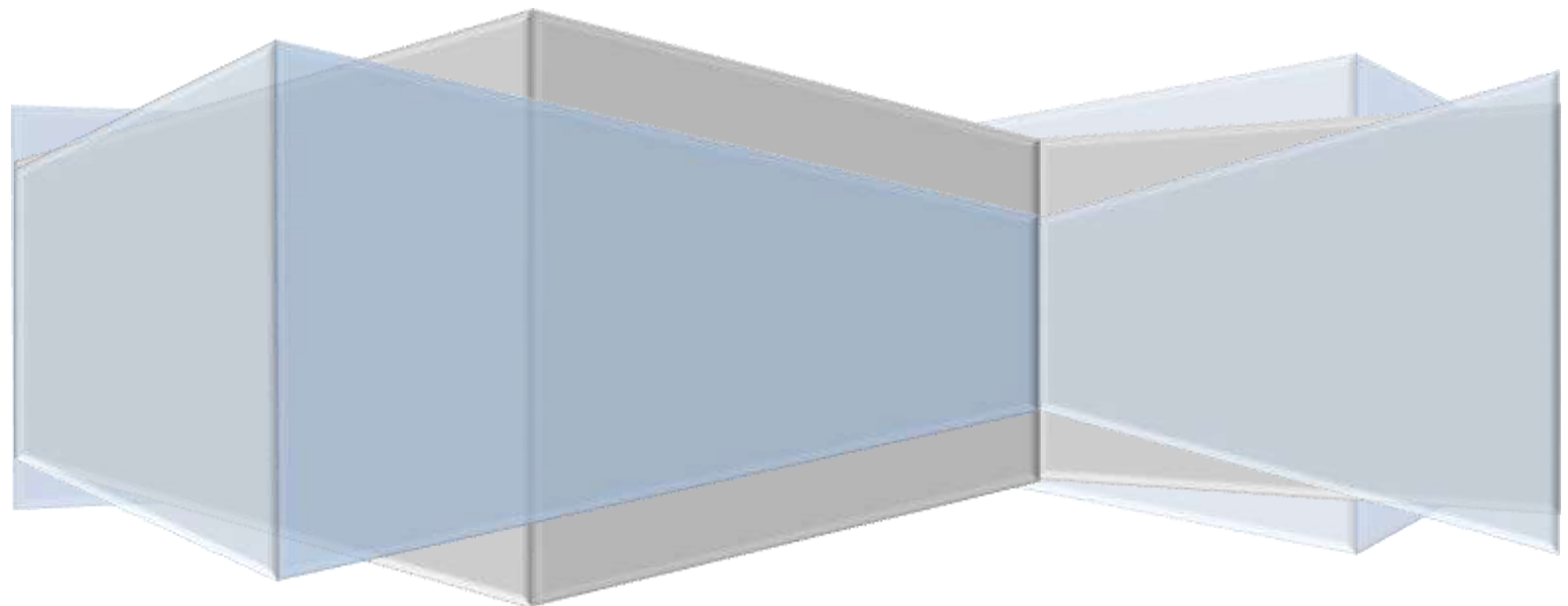




INTERGOVERNMENTAL AUTHORITY ON DEVELOPMENT (IGAD)

IGAD – Procurement Manual

Revised on 1st January 2017



Forward

Over the last eight years Intergovernmental Authority on Development (IGAD) has continued to build and strengthen its human, financial and procurement systems to attain international standards. To achieve this goal IGAD embarked on enhancing its capacity in several key areas including the development of procurement, grants management and sub-delegation manuals. These documents were identified by the FAO capacity assessment and the EU pillar assessment teams as critical components of universally accepted standards and best practices. I wish to congratulate IGAD staff and Member state experts who developed the sub-delegation manual and reviewed and updated the procurement and grants manuals, which was last revised on 31st of March, 2014.

This review came within the context of a number of Institutional assessments that were conducted recently the latest of which was the FAO capacity assessment aiming at strengthening the management capacity including the procurement function within IGAD secretariat and its specialized offices. In addition the review and development of the documents is meant to provide IGAD with up to date working tools even as IGAD addresses the gaps identified by the EU pillar assessment team.

The outcome of this review process was the following three full-fledged manuals:-

(i) IGAD – Procurement Manual

The Procurement Manual establishes the procurement policies and provides further guidance to effectively undertake procurement activities in compliance with the FRR and other applicable legal instruments and documents. The Procurement Manual is issued according to Articles 3, 5, 10 and 13 of the General Conditions of The Agreement Establishing IGAD.

(ii) IGAD – Grants Management Manual

The Grants Management Manual establishes the required policies and procedures to be followed while applications for grant are submitted to IGAD, evaluated using set criteria and awards are made to successful bidders.

(iii) IGAD - Sub-Delegation Manual

The Sub-Delegation Manual provides a step by step guidance on the processes and procedures that sub-delegates and IGAD should apply in the course of implementing activities sub-delegated by IGAD.

The aforementioned manuals were validated on 28th of December, 2016 and shall supersede the IGAD Procurement and Grants Manual which was in use since July 2012 and revised on 31 March 2014.

I am glad to launch these manuals to be used at the Secretariat and the IGAD Specialized Institutions. I extend my, and IGAD's, appreciation to Swiss Development Cooperation (SDC) funding the process under the "IGAD-FAO Partnership Programme on drought resilience" and for their continued support to IGAD's mission and objectives.



(Amb) Eng. Mahboub Maalim
Executive Secretary

Table of Contents

ABBREVIATIONS AND ACRONYMS	6
GLOSSARY OF TERMS	7
1 PREAMBLE	10
1.1 INTRODUCTION	10
1.2 PURPOSE OF THE MANUAL	10
1.3 SCOPE AND APPLICATION OF MANUAL	10
1.3.1 <i>Scope of Application</i>	10
1.3.2 <i>International Obligations</i>	11
1.4 AMENDMENTS AND REVISIONS TO THE MANUAL	11
1.5 STRUCTURE OF THE MANUAL	12
2 GENERAL CONSIDERATION	13
2.1 PROCUREMENT PRINCIPLES.....	13
2.1.1 <i>Value for money achieved through efficiency and economy</i>	13
2.1.2 <i>Fairness, Integrity and Transparency</i>	13
2.1.3 <i>Effective Competition</i>	14
2.1.4 <i>Protecting the interest of IGAD member states</i>	14
2.2 SEGREGATION OF DUTIES	14
2.3 TRANSPARENCY, ACCOUNTABILITY, AND ETHICS	15
2.4 ETHICAL CONDUCTS AND CODE OF ETHICS.....	15
2.4.1 <i>Ethical Conducts</i>	15
2.4.2 <i>Ethical Principles</i>	16
2.4.3 <i>Mis-Procurement</i>	16
2.4.4 <i>Corrupt, Fraudulent and Unethical Practices</i>	16
2.4.5 <i>Conflict of interest</i>	17
2.4.6 <i>Confidentiality and accuracy of information</i>	17
2.4.7 <i>Competition</i>	18
2.4.8 <i>Gifts and hospitality</i>	18
2.4.9 <i>Reporting</i>	18
2.5 PROCUREMENT ETHICS AND PROFESSIONAL RESPONSIBILITY	19
2.5.1 <i>Procurement Officials’ Ethics and Professional Responsibility</i>	19
2.5.2 <i>Applicants, Bidders and Contractors’ Ethics</i>	19
2.5.3 <i>Debarment of economic operators</i>	20
2.5.4 <i>Actions on IGAD Officers who violates the ethical requirements</i>	21
2.6 ELIGIBILITY RULES	21
2.6.1 <i>Rules of Nationality, Origin and IGAD Regional preference</i>	21
2.7 GROUNDS FOR EXCLUSION	22
2.8 VISIBILITY RULES	23
3 AUTHORITIES, RESPONSIBILITIES AND ORGANIZATION OF PROCUREMENT FUNCTION	24
3.1 IGAD EXECUTIVE SECRETARY	24
3.2 IGAD ACCOUNTING OFFICER	24
3.3 IGAD TENDER COMMITTEE	24
3.4 LOCAL PROCUREMENT COMMITTEE (LPC) IN IGAD SPECIALISED OFFICES.....	25
3.5 CRITERIA TO BE USED IN THE SELECTION OF COMMITTEE MEMBERS	26
3.6 PROCEDURES FOR THE FUNCTIONING OF IGAD TENDER AND LPC	26
3.6.1 <i>Responsibilities of the Chairman of Tender Committee/LPC</i>	27
3.6.2 <i>Responsibilities of the Secretary of the Tender Committee/LPC</i>	27
3.6.3 <i>Responsibilities of the Committee Members</i>	27
3.7 DUTIES AND RESPONSIBILITIES OF THE PROCUREMENT UNIT.....	28
3.8 THE BENEFICIARY UNIT	29

IGAD – Procurement Manual

3.9	AD HOC COMMITTEE	30
3.10	LEGAL UNIT.....	30
3.11	THE INTERNAL AUDIT.....	30
3.12	PROCUREMENT APPEALS REVIEW COMMITTEE	30
4	PROCUREMENT PROCESSES	30
4.1	PROCUREMENT PLANNING	30
4.1.1	<i>General</i>	31
4.1.2	<i>The role of The Procurement Unit</i>	31
4.1.3	<i>Types of procurement planning</i>	31
4.1.4	<i>Initiate Procurement Requirement</i>	32
4.1.5	<i>Modification and updating of the Annual Procurement Plan</i>	33
4.2	CATEGORIES OF PROCUREMENT	33
4.2.1	<i>Goods</i>	33
4.2.2	<i>Services - Consulting</i>	34
4.2.3	<i>Services - General / Non-Consultancy</i>	34
4.2.4	<i>Works</i>	34
4.3	PROCUREMENT METHODS (TYPES OF COMPETITION)	34
4.3.1	<i>Open Tender</i>	34
4.3.2	<i>Pre-qualification Tender</i>	35
4.3.3	<i>National Tender</i>	35
4.3.4	<i>Restricted /Limited Tender</i>	36
4.3.5	<i>Selective Tender</i>	36
4.3.6	<i>Single Source</i>	36
4.3.7	<i>Use of Procurement Agents</i>	37
4.3.8	<i>Procurement from UN Agencies or specialized Agencies</i>	37
4.3.9	<i>Procurement under disaster and emergency situations</i>	37
4.3.10	<i>Frame Work Contract</i>	37
4.3.11	<i>Exceptions to procurement processes</i>	39
4.3.12	<i>Publicity requisites</i>	39
4.4	SELECTION METHODS.....	39
4.4.1	<i>Request for Quotation (RFQ)</i>	40
4.4.2	<i>Request for Bids (RFB)</i>	40
4.4.3	<i>Direct Selection</i>	40
4.4.4	<i>Request for Proposal (RFP)</i>	41
4.4.5	<i>Quality Based Selection (QBS)</i>	41
4.4.6	<i>Quality and Cost Based Selection</i>	42
4.4.7	<i>Single-Source Selection</i>	42
4.5	PROCUREMENT THRESHOLDS	43
4.5.1	<i>Authority Limit for LPC</i>	43
4.5.2	<i>Threshold limits, Type of competition and Method of Selection for Goods and Works</i>	43
5	INVITATION FOR BIDS.....	44
5.1	COMPONENTS OF BIDDING DOCUMENTS.....	45
5.1.1	<i>Letter of Invitation (LOI)</i>	45
5.1.2	<i>Requirements Definition</i>	46
5.1.3	<i>Bid Data Sheet</i>	47
5.1.4	<i>Contractual Information</i>	47
5.1.5	<i>Bid Forms</i>	47
5.2	ISSUANCE OF BIDDING DOCUMENTS	48
5.2.1	<i>Advertisements for Open Competition</i>	48
5.2.2	<i>Content of the Advertisement</i>	48
5.3	TENDER PERIOD.....	48
5.3.1	<i>Amendment to Bid documents</i>	48
5.3.2	<i>Bid Clarifications</i>	49
5.3.3	<i>Extension of Bid Closing Date</i>	49
5.3.4	<i>Cancellation of Bidding Process before Bid Opening</i>	49
5.3.5	<i>Modification and withdrawal of submissions</i>	50
5.4	THE TIME TABLE.....	50

IGAD – Procurement Manual

5.5	RECEIPT OF SUBMISSIONS	50
5.5.1	Opening of Tenders.....	51
5.5.2	Public Tender Openings.....	52
5.5.3	Extension of Bid Validity	52
6	ELIGIBILITY, QUALIFICATION, EVALUATION & AWARD CRITERIA	53
6.1	ELIGIBILITY CRITERIA	53
6.2	QUALIFICATION CRITERIA	53
6.2.1	Experience in implementing similar contracts (Technical Capacity):.....	53
6.2.2	Financial Resources (Economic Capacity):.....	54
6.2.3	Personnel Resources (Experience/Professional Capacity):.....	54
6.2.4	Facilities Resources:.....	54
6.3	EVALUATION CRITERIA.....	55
6.3.1	Evaluation on the compliance with the requirements and price (Best technically compliant)....	55
6.3.2	Evaluation using the merit point system (Best value for money)	55
6.3.3	Evaluation report.....	55
6.4	AWARD CRITERIA	56
7	CONTRACT AWARD AND COMPLAINTS HANDLING.....	57
7.1	NOTIFYING THE SUCCESSFUL BIDDER	57
7.2	NEGOTIATION OF THE CONTRACT WITH THE SUCCESSFUL BIDDER	57
7.3	CONTRACT PREPARATION.....	58
7.4	PUBLICIZING THE AWARD OF THE CONTRACT	58
7.5	MODIFYING CONTRACTS	58
7.6	ADVANCE PAYMENTS	59
7.6.1	Advance Payment for Goods	59
7.6.2	Advance Payments for Works and Consultant Services.....	59
7.7	TERMS OF PAYMENTS.....	59
7.8	SECURITIES	59
7.8.1	Bid security.....	59
7.8.2	Performance Securities.....	60
7.8.3	Advance Payment Securities.....	60
7.8.4	Retentions	60
7.9	COMPLAINTS HANDLING.....	60
7.9.1	Request for clarifications.....	60
7.9.2	Submission of a procurement complaint.....	61
7.9.3	Procurement Appeals Review Committee	61
7.9.4	Filing a Complaint	62
7.10	INVESTIGATION AND RECOMMENDED ACTION AGAINST MALPRACTICE	62
7.11	APPEAL RECORDS.....	63
8	CONTRACT ADMINISTRATION.....	63
8.1	THE NATURE AND EXTENT OF CONTRACT ADMINISTRATION.....	64
8.2	PERFORMANCE MEASUREMENT	64
8.3	CONTRACT SUPERVISION AND ADMINISTRATION – GOODS	64
8.3.1	Receipt of goods.....	64
8.3.2	Inspection of Goods.....	65
8.3.3	Payment for goods.....	65
8.4	CONTRACT SUPERVISION AND ADMINISTRATION – WORKS	65
8.4.1	Contract supervision.....	65
8.4.2	Payment for Works.....	65
8.5	CONTRACT SUPERVISION AND ADMINISTRATION - SERVICES CONTRACTS.....	66
8.5.1	Contract supervision.....	66
8.5.2	Payment for Services	66
8.6	CONTRACT EXPIRATION	67
8.7	CONTRACT TERMINATION	67
8.8	RETENTION MONEY.....	67
9	OTHER ISSUES.....	67

IGAD – Procurement Manual

9.1	MONITORING	67
9.1.1	<i>Importance of Monitoring</i>	68
9.1.2	<i>Source of information</i>	68
9.1.3	<i>Reporting</i>	69
9.2	SUPPLIER REGISTER	69
9.2.1	<i>Maintenance and management of supplier registers</i>	69
9.2.2	<i>Additions to the Register of Suppliers</i>	70
9.2.3	<i>Supplier Performance Monitoring:</i>	70
9.2.4	<i>Categories of Registration</i>	70
9.2.5	<i>Other provisions</i>	71
9.3	ELECTRONIC PROCUREMENT	71
9.4	PROCUREMENT RECORDS MANAGEMENT	71
9.4.1	<i>Documentary Records</i>	72
9.4.2	<i>Filing/Record Management System</i>	72
9.4.3	<i>Checklist of Procurement Document to be filed</i>	72

ABBREVIATIONS AND ACRONYMS

BoQ	Bill of Quantities
CB	Capacity Building
CEWARN	IGAD Conflict, Early Warning and Response Mechanism
COMESA	Common Market for East and Southern Africa
CSO	Civil Society Organisation
CV	Curriculum Vitae
EU	European Union
EPA	Economic Partnership Agreement
ESA	Eastern and Southern African Countries
FAO	Food and Agriculture Organisation of the UN
FRR	Financial Rules and Regulations
GS	General Service Staff Category
HR	Human Resources
IGAD	Inter-Governmental Authority on Development
ICPAC	IGAD Climate Prediction and Application Centre
ICPAL	IGAD Centre for Pastoral Areas and Livestock Development
IDDRISI	IGAD Drought Disaster Resilience and Sustainability Initiative
IPSAS	International Public Sector Accounting Standards
IRAPP	IGAD Regional HIV/AIDS Partnership Programme
ISSP	IGAD Security Sector Programme
ITU	International Telecommunications Union
LS	Local Staff Category
MS	Member state
NEPAD	New Partnership for African Development
NGO	Non-Governmental Organisation
N/A	Not Applicable
PPMU	Project Preparation and Management Unit
PRCC	Principles and Rules of Competition and Cooperation
PS	Professional Staff Category
RCM	Regional Coordination Mechanism
REC	Regional Economic Community
ToR	Terms of Reference
UNDP	United Nations Development Programme
UNOPS	United Nations Office for Project Services (UNOPS)
WB	World Bank
WTO	World Trade Organization

GLOSSARY OF TERMS

Accounting Officer – the Executive Secretary shall be the Accounting Officer of IGAD, who is ultimately responsible for all financial transactions and procurements made by IGAD.

Addendum- document modifying the terms of a contract

Beneficiary- country or institution benefitting from a cooperation program

Best value for money- a contract award criterion which combines the quality of the technical offer with the value of the financial offer.

Bid Security – A financial security provided by a bidder to guarantee that the bidder will not withdraw his bid prior to award of contract.

Bidding Documents – The formal invitation documents issued to bidders to solicit a bid.

Bill of quantities- a document in contracts for works which itemizes materials, parts, and labor and their costs. It also (ideally) details the terms and conditions of the construction or repair contract, enabling the contractor to give a price accordingly

Budget breakdown- the schedule which breaks down the contract value according to the different items

Business Unit – A Unit, Division, Department, Project, Programme or Specialized offices with responsibility to initiate procurement.

Calendar days - unless specifically mentioned, when the manual mentions days it refers to calendar days not to working days.

Code of Ethics- a statement of the standards of practice and conduct to be followed by IGAD staff and also by bidders/tenderers

Contracting Authority- institution with legal personality which launches the tenders and call for proposals, e.g. IGAD

Consortium- It is group of legal persons submitting a joint tender for Goods, Services or Works.

Contract award procedure- procedure which defines which of the contractor qualifies best to perform the contract

Donor – An institution providing external funding to IGAD.

Drawings- technical documentation provided to the contractor of a works contract under new FIDIC red conditions in order to perform the works

Final Acceptance Certificate- certificate issued by the supervision of the contract stating that it was accurately executed (for works and goods)

General conditions of contract- are provisions included in every contract regulating financial, technical and legal matters. General conditions for goods, works and services are different

IGAD – Procurement Manual

Guarantee- guarantee is an agreement binding the guarantor to pay an agreed price, in accordance with current legislation, in place of a debtor's principal obligation to the creditor (the beneficiary), either after a certain period, or in certain circumstances that are stipulated in the guarantee contract.

INCOTERMS- a set of internationally accepted definition of trade terms (e.g. CIF, CIP, and FOB) issued by the International Chamber of Commerce.

Invitation to tender- letter sent to the candidates on a selective procedure

Local Procurement Committee – A committee established to facilitate and approve procurements in specialized offices of IGAD.

Lump Sum – Payment includes consultancy fee and reimbursements. It is usually used for consulting services or supervision of works

Officers – are those who are involved in the procurement activities that includes employees from Business units, Procurement unit, Finance & Administration, Tender and Procurement committee members, Internal Audit, Legal Unit, and the Executive Secretary who will give the final authorisation when a need arise.

Performance Guarantee- A financial security provided by a supplier or contractor to guarantee his performance under the terms of the contract.

Procurement – The formal process of acquisition of goods, works or services.

Procurement Unit – An established Procurement unit, or an Officer or Officers in a Local Office bearing responsibility for procurement processing.

Publication notice – It is a document containing the basic data of an open tender. It must be published according to this manual.

Request for Bids – A procurement procedure where bids are evaluated based on lowest price, technically compliant methodology.

Request for Proposal - A procurement procedure where proposals are evaluated based on combined price/quality methodology.

Request for Quotations - A simple procurement procedure used for the purchase of low value goods, works and simple non-consultancy services.

Retention – A percentage sum that may be deducted from each payment certificate under a contract for works to guarantee performance.

Retention Money Guarantee- a guarantee from a bank held by the contracting authority to pay the contracting authority in the event that the supplier does not meet his or her obligation to remedy any faults that are discovered or appear after the acceptance of the works (defect liability period).

Specialized offices – It is a branch or a special office where the program or operation of IGAD is carried out.

Study contract- a service contract between a service provider and a contracting authority concerning activities such as identifications studies for projects, communication campaigns, feasibility studies, economic and market studies, technical studies, evaluations, audits etc.

Supervision contract- a service contract between a service provider and the contracting authority in order to supervise and manage a works contract

Tender Committee- a committee officially formed by a group of IGAD personnel and technicians which will evaluate tender bids.

Tender documents- documents needed to prepare a tender

Tender guarantee- the contracting authority may request a bank guarantee in order to participate in a tender for goods or works. The tender guarantee cannot be more than 1-5% of the total value of the offer presented by the bidder. The percentage is determined by the size of the contract.

Tender procedure- It is a process of putting a contract out for a public tender, from the publication to the signature of the contract.

Tenderer or bidder- A natural or legal person submitting an offer in a tender.

Time based contract- these contracts require a specific activity and are paid on basis of the hours or days worked by the experts with the profiles agreed upon in the terms of reference. It is usually used for consulting services or supervision of works

1 PREAMBLE

1.1 INTRODUCTION

The Procurement Manual is issued under the authority of the IGAD. The Manual supersedes the IGAD Procurement and Grants Manual (First Edition) which was in use from July 2012 and revised on 31 March 2014.

The Procurement Manual establishes the procurement policies and provides further guidance to effectively undertake procurement activities in compliance with the FRR and other applicable legal instruments and documents.

This Procurement Manual is issued according to Articles 3, 5, 10 and 13 of the General Conditions of The Agreement Establishing IGAD.

1.2 PURPOSE OF THE MANUAL

- i. The Manual is intended to provide guidance on the policies and procedures that govern the procurement of goods, works, and services (consulting and general) to all the staff members involved in the various stages of the procurement activities conducted by the IGAD Secretariat.
- ii. The Manual and any subsequent amendments shall be governed by the IGAD Secretariat's Financial Regulation and IGAD Secretariat Procurement Policy.
- iii. The Manual define the principles of division of responsibilities between the various actors engaged in the procurement processes.
- iv. The procedures stated in the Manual are designed to ensure that IGAD staff can act in accordance with the Procurement Manual, and assisting those economic operators and natural persons seeking to enter into procurement contracts with IGAD, and assure that their bids are considered and assessed in a fair and transparent manner.
- v. When involved in procurement activities for the IGAD Secretariat, all staff members are required to comply with the provisions of the Manual.
- vi. At the same time, for those seeking IGAD Secretariat beneficiary, the Manual set out the conditions to be mandatorily fulfilled for being awarded an IGAD Secretariat procurement contract.

1.3 SCOPE AND APPLICATION OF MANUAL

1.3.1 Scope of Application

The Manual applies to all procurement of goods, works and services by all IGAD structures.

The Manual covers the standard procurement procedures from initiation to final delivery or performance and contract completion. Hence, it is believed to:

- i. Ensure consistency in decision making for comparable situations;
- ii. Introduce procedures for all procurement activities;
- iii. Provide a point of reference against which principles and practices can be evaluated;
and
- iv. Serve as a training manual for IGAD Officers and provide guidance based on best international practices.

Consistent application of the provisions and procedures of the Manual throughout IGAD is essential to achieve improved efficiency, transparency, uniformity of documents and decisions, and reduced costs of procurement.

1.3.2 International Obligations

Where, an Agreement referred to an obligation of the Federal Government under or arising out of an agreement with one or more other states or with an International Organization, the provisions of that agreement shall prevail.

Therefore, where the Procurement is financed out of the proceeds of the development Partners Fund, the procurement will be made in accordance with the grant agreement until the Development Partners recognise and accept this IGAD Procurement Manual as Standard Procurement Manual for their fund for Programmes and Projects.

1.4 AMENDMENTS AND REVISIONS TO THE MANUAL

For reasons of efficiency, transparency and technological changes over time, the Manual shall be subject to review from time to time through a consultative process, usually every three to four years.

Any proposed amendments to this Procurement Manual shall be submitted to the office in charge of the procurement unit at IGAD. The review process shall subsequently be carried out by a relevant committee appointed by the Executive Secretary,

All amendments and revisions to the manual will come into effect only after approval by the Executive Secretary and publication on the IGAD Secretariat website.

To ensure stability and predictability of the IGAD Secretariat procurement system, any procurement process already started at the time of the revision of the Manual shall follow the procurement rules and procedures stipulated in the Manual in force at the time when the procurement process started.

Any amendment to the Manual shall not apply retrospectively.

1.5 STRUCTURE OF THE MANUAL

For ease of use, the manual is separated into nine chapters and the main ideas included in each one of them are shown below.

Chapter One introduces the purpose of the manual, its scope, application and the procedures to be followed when a need arise to amend or revise the manual.

Chapter Two deals with procurement principles & rules to be abide and code of ethics expected from the parties involved in the procurement processes.

Chapter Three explains the authorities, responsibilities and organization of procurement function under IGAD. Specifically, the role of IGAD Tender Committee, Local Procurement Committee in IGAD Specialized Offices, Business unit, Legal department, Internal Audit and Procurement Appeals Review committee are explained in depth.

Chapter Four deals with the procurement processes by introducing the concept of procurement planning and its importance for the effective & timely launching of the procurement processes and award of contracts.

Chapter Five and Six explain about bidding documents, tender period and submission of bidding documents to IGAD. Criteria related to eligibility, qualification, evaluation and award are discussed in chapter six.

Chapter Seven and Eight are devoted to contract award and administration respectively. Publication and modification of contracts and handling of complaints from bidders are also addressed in these chapters.

The last chapter, Chapter Nine, is devoted to show how monitoring of procurement activities conducted in IGAD and how procurement related information are reported.

2 GENERAL CONSIDERATION

2.1 PROCUREMENT PRINCIPLES

IGAD is a steward of public funds and therefore both IGAD and its suppliers must adhere to the highest ethical standards, both during the bidding process and throughout the execution of a contract.

IGAD require that the following general principles shall be given due consideration when exercising the procurement functions of IGAD:

- a. Value for money achieved through efficiency and economy;
- b. Fairness, integrity and transparency;
- c. Effective competition;
- d. Protecting the interest of IGAD member states.

All Officers are required to consistently apply these principles, policies and procedures mentioned in this Manual, together with professional judgment and good management, to ensure the highest standards of integrity and competency are met as promulgated within the IGAD policy and operational framework.

2.1.1 Value for money achieved through efficiency and economy

Value for money is the trade-off between price and performance that provides the greatest overall benefit under the specified evaluation criteria. The purpose of public procurement is to obtain the best value for money. It is important to consider, among other factors, the optimum combination of life cycle costing (i.e. acquisition cost, cost of maintenance and running costs, disposal cost) of a purchase and its fitness for purpose (i.e. quality and ability to meet the IGAD's requirements). This definition enables the compilation of a procurement specification that includes social, economic and environmental objectives within the procurement process.

In order to ensure appropriate value for money the procurement process should be efficient and economical by itself. Hence, undue implementation delays should be avoided in procurement process. Moreover, procurement processes must be well organised, and utilize technology wherever possible.

The processes applied must be proportionate to the value and complexity of the requirement, to ensure that the associated costs are minimised and in line with the budget for the activity.

2.1.2 Fairness, Integrity and Transparency

To achieve best value for money, the procurement process must protect IGAD from proscribed practices such as fraud, corruption, collusion and other unethical practices. Each procurement process must be conducted on the basis of clear and appropriate regulations, rules, processes, procedures and standards that are applied consistently to all potential suppliers. Further, the manner in which the procurement process is undertaken must provide all stakeholders of the organization with assurance that the process is fair and transparent and that integrity has been maintained.

IGAD and its Officers must maintain fairness during the procurement process. This means that all suppliers must be offered equal access to the same opportunity. A fair process is free from favoritism, self-interest or preference in judgment.

Integrity is when an Officer exhibits probity in their actions. Probity means that an individual has strong moral principles, honesty and decency as character traits. A person of integrity has a sense of honesty and truthfulness that is apparent in their professional and personal conduct. Demonstrating integrity reduces the risk of reputational damage and preserves the public image of IGAD.

Transparency, in the context of public procurement, refers to the ability of all interested participants to know and understand the actual means and processes by which contracts are awarded and managed. Transparency is a central characteristic of a sound and efficient public procurement system and is characterised by;

- Well-defined regulations and procedures open to public scrutiny
- Clear, standardised tender documents
- Bidding and tender documents containing complete information
- Equal opportunity for all in the bidding process

In other words, transparency means the same rules apply to all bidders and that these rules are publicised as the basis for procurement decisions prior to their actual use. It is an effective means to identify and correct improper, wasteful--and even corrupt--practices.

Information on procurement policies, procedures, opportunities and processes is clearly defined and made public to all interested parties concurrently. A transparent system has clear rules and mechanisms to ensure compliance with established rules (unbiased specification; objective evaluation criteria; standard solicitation documents etc.).

2.1.3 Effective Competition

By fostering effective competition amongst suppliers, IGAD applies the principles of fairness, integrity and transparency to achieve best value for money.

Effective competition is achieved under the following conditions:

- a) Sufficient number of prospective suppliers
- b) Prospective suppliers are independent of each other
- c) Competition for the same business opportunity under the same conditions
- d) Response to the procurement opportunity by a sufficient number of offers

2.1.4 Protecting the interest of IGAD member states

The procurement process should not compromise the public interest in any manner and should not give the impression that public interest is not considered in its decision making. The procurement process should end up with procuring goods, service or works which would leave the people of IGAD member states beneficial.

2.2 SEGREGATION OF DUTIES

Segregation of duties is a basic internal control that attempts to ensure no single individual has the authority to execute an entire transaction in the procurement process. This is one of the most effective ways of preventing fraud, as it removes the possibility of one person having an inordinate amount of authority to handle multiple stages in the procurement process and creates a check-and-balance system to decentralise control of the procurement process.

There are three main duties in the procurement process that should be adequately separated. These duties are:

- i. Determining the need (e.g. requisition or equivalent, specification, budget holder approval)
- ii. Undertaking the procurement (e.g. sourcing and commitment)

- iii. Effecting the financial aspects (e.g. authorising payment)

Segregation of duties is critical to effective internal control; it reduces the risk of both erroneous and inappropriate actions. Segregation of duties is a deterrent to fraud because it requires collusion with another person to perpetrate a fraudulent act and also simplifies detection process if such act is perpetrated. Segregation of duties should apply to the entire process, including the bidding procedure, tender evaluation, and contract management, and most importantly, payment. Incompatible functions such as initiating, approving & recording transactions, reconciling balances, accepting goods, certifying services performed, effecting payments and reviewing reports should not be done by one person.

However, in some situations an adequate level of segregation of duties may not be possible due to lack of sufficient staff. In such situations, detailed supervisory review, oversights (audit reviews) of related activities and mandatory staff rotation are required as a compensating control activity.

2.3 TRANSPARENCY, ACCOUNTABILITY, AND ETHICS

The procurement system must ensure fairness, integrity, transparency and value for money in the procurement of goods, services and works. The Procurement Manual is designed to facilitate the procurement of goods, services and works of the right quality, at the right price, at the right time and at the right place through effective competitive bidding processes.

IGAD is entrusted with public funds to provide services and support to the IGAD policies and programmes. The use of funds for procurement must be conducted in a transparent and open manner, allowing stakeholders access to information on procurement actions by IGAD.

IGAD requires that:

- i. All Officers involved in procurement proceedings from initiation to completion shall be held accountable and responsible for their actions; all suppliers, contractors and consultants will be treated fairly and given equal opportunity to obtain contracts with IGAD;
- ii. Procurement shall be carried out in the most efficient manner, upholding the principles of value for money, transparency and fairness;
- iii. Funds will be used solely for the purposes for which they have been entrusted;
- iv. All transactions are properly authorised and fully supported by written records;
- v. Value for money can be demonstrated by comparison with market rates;
- vi. All Officers involved in the procurement process must adhere to the Code of Ethics detailed below.

2.4 ETHICAL CONDUCTS AND CODE OF ETHICS

2.4.1 Ethical Conducts

All participants in procurement process under IGAD shall never use their authority of office for personal gain and shall seek to uphold and enhance the standing of the Purchasing and Supply profession by:

- Maintaining an unimpeachable standard of integrity in all their business
- Maintaining relationships both inside and outside IGAD in which they are employed,
- Fostering the highest possible standards of professional competence amongst those for whom there responsible,
- Optimizing the use of resources for which they are responsible to provide the maximum benefit to their employing Government.
- Rejecting any business practice which might reasonably be deemed improper.

2.4.2 Ethical Principles

An Officer of IGAD shall not use his or her authority or office for personal gain. Personal gain includes accepting or requesting anything of value, material or otherwise, from bidders, prospective bidders or suppliers for the Officer, his or her spouse, parents, children or other close relatives or for other persons from whom the Officer might gain direct or indirect benefit.

This includes gifts, money, property or other assets; transactional favours arrangements. An Officer shall seek to maintain and enhance the reputation of IGAD by:

- i. Maintaining the highest standards of honesty and integrity in all relationships both inside and outside IGAD;
- ii. Developing the highest possible standards of professional competence;
- iii. Using funds and other resources for which he or she is responsible to provide the maximum benefit to IGAD;

2.4.3 Mis-Procurement

Mis-procurement occurs when the procurement of goods, services or works are not done in accordance with the procurement procedures and regulations prescribed in this manual. Employees engaged in procurement activities should perform their duties and responsibilities with due care and must protect themselves from being involved in such Mis-procurement activities which would damage the reputation of IGAD.

2.4.4 Corrupt, Fraudulent and Unethical Practices

Following the principles of ethics in procurement reduces three major risks.

- i. Performance measures carry a risk of poor performance due to corruption;
- ii. Fiduciary risk is the risk that funds entrusted to the organization will be misdirected; and
- iii. Reputational risk is the possibility that the perception of an institution will be damaged due to scandal.

Following the procedures laid out in this Manual will reduce risk in all three themes.

For the purposes of this Manual, the following definitions apply, as aligned with international standards:

- i. A corrupt practice is the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party.
- ii. A fraudulent practice is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation.

- iii. A coercive practice is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party.
- iv. A collusive practice is an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party.

Corrupt, fraudulent, coercive and collusive practices are strictly prohibited in IGAD procurement process.

Bid rigging is a common form of corruption in procurement. The impacts of bid rigging, or collusion in pricing in competitive procedures, are extreme: it raises costs of procurement, destroys competitive markets, undermines the reputation of the procuring agency, and sharply increases the risks of corruption. An Officer shall in no way contribute to an activity that could be considered bid rigging and should proactively support a strong competitive process that is carried out in an ethical manner.

IGAD will take administrative measures including but not limited to the following.

- i. reject a proposal for award if it determines that the bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices for the contract in question;
- ii. sanction a firm, including declaring a firm ineligible, either indefinitely or for a stated period of time, to be awarded an IGAD-financed or IGAD's financed contract if at any time determines that the firm has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices.

2.4.5 Conflict of interest

The appearance or perception by others of a conflict of interest can often be as detrimental as a conflict itself. Therefore, it is important that Officers be conscientious to situations that could lead to real, potential, or apparent conflicts of interest in the course of their work. Promptly disclosing and dealing with any conflict is critical to avoiding potentially serious consequences for the effectiveness and integrity of IGAD.

As soon as an officer is aware of a personal interest, he shall immediately declare the interest that may affect or might reasonably be deemed by others to affect impartiality in any matter relevant to his duties.

In instances in which an Officer has a real or potential conflict of interest, financial or otherwise, the Officer must disclose the conflict immediately in writing and formally abstain from any procurement process or decision-making involved in suppliers' selection or contract management. This involves interactions with former or future employers and disclosure and use of non-public information.

Any activities the Officer is engaged in, such as self-employment or concurrent employment, that may at a future point post a perceived or real conflict of interest need to be disclosed immediately in writing, including a description of the activity, the Officer's involvement and any involved potential bidders.

An Officer shall not use knowledge gained from their role for private gain, financial or otherwise; nor shall an Officer use their role for personal reasons to impact the positions of those they favour or do not favour.

2.4.6 Confidentiality and accuracy of information

All Officers involved in the procurement activities shall respect the confidentiality of information gained in the course of duty and shall not use such information for personal gain or for the unfair benefit of any bidder or supplier.

Any non-public information is considered confidential and internal to Procurement. An Officer shall not furnish information to bidders or suppliers that could provide an unfair advantage or disadvantage to a bidder.

Information given by an Officer in the course of his or her duty shall be true, fair and not designed to mislead.

An Officer shall not intentionally misrepresent his/her functions, official title or the nature of their duties to any entities external to IGAD.

2.4.7 Competition

An Officer shall treat all bidders and suppliers with fairness and impartiality. The following actions may impair fair competition and hence should be prohibited.

- i. Business arrangement with vendors;
- ii. Providing confidential information which are not officially disclosed to all bidders;
- iii. Unfair evaluation of bid documents in favor of one bidder at the expense of the others;
- iv. Unlawful agreements among bidders.

2.4.8 Gifts and hospitality

An Officer involved in any aspects of procurement shall not accept gifts, favours, or any such remuneration from current or potential IGAD suppliers regardless of the value and regardless of whether the outside source is or is not soliciting business with IGAD. Any items other than agenda book, calendar, yearly book etc. with a value that can influence the decision of the officers involved in the procurement activities must be avoided.

An Officer shall refrain from accepting any business hospitality that might be viewed by others as having an influence on making an IGAD beneficiary decision as a result of accepting that hospitality.

2.4.9 Reporting

An Officer has a duty to report any unethical conduct by a colleague, a bidder or a supplier to the relevant IGAD authorities.

Any officer who discovers or suspects a fraudulent activity shall immediately contact or inform his direct manager. The manager shall report this suspicion to the Internal Audit function immediately and validate it within 24 hours from the time of discovery. IGAD offers the following channels for reporting any actual or suspected incident of fraud

- i. In case the person suspected is member of management then the officer should report to the IGAD Executive Secretary and the Internal Audit function
- ii. In case the person suspected is at a lower structure of IGAD than stated above the officer may report to his immediate supervisor. The supervisor is expected to act immediately and inform the case to the internal audit function.
- iii. The reporting officer or individual shall not under any circumstances contact or alert the suspected individual for gathering of any information or confirming his/her suspicions.
- iv. The reporting individual shall not disclose any information or discuss the suspected fraudulent activity with anyone other than the concerned authority or the Internal Audit function unless specifically asked by the Legal Service.

- v. If any external fraud comes to the attention of a staff member, he/she must immediately report to concerned body in IGAD in the same manner above.
- vi. All enquiries or documents regarding suspicious activities or suspected fraudulent activities shall be communicated to the Internal Audit function and IGAD Executive Secretary, as the case may be, through telephone, email or face to face meeting.
- vii. Complete protection will be given to the person who has reported in good faith a suspected or alleged incident of fraud against any unfair practice like retaliation, threat or intimidation of termination/suspension of service, disciplinary action, transfer, demotion, refusal of promotion, etc.
- viii. The identity of the person who has reported the suspected or alleged incident of fraud shall be kept confidential to the extent possible and permitted under the law.
- ix. However, any abuse of this protection (for example, any false or bogus allegations made by a person knowing them to be false or bogus) will warrant appropriate disciplinary action.

2.5 PROCUREMENT ETHICS AND PROFESSIONAL RESPONSIBILITY

2.5.1 Procurement Officials' Ethics and Professional Responsibility

The Procuring Entity and/or the IGAD Secretariat staff engaged in the procurement activities such as but not limited to: requisitioning, planning, preparing, and conducting procurement proceedings, and administering the implementation of procurement contracts, or authorizing or effecting payments under the contracts shall:

- i. Discharge their duties impartially so as to assure fair competitive access to procurement by bidders;
- ii. Always act in the IGAD Secretariat's and or the Procuring Entity's interest, and in accordance with the objectives and procedures set forth in the Procurement Policy and these Manual;
- iii. At all times avoid conflicts of interest, and the appearance of impropriety, in carrying out their duties and conducting themselves, and shall not interfere in the work of internal oversight bodies, and
- iv. Not commit or abet corrupt or fraudulent practices, including the solicitation or acceptance of improper inducements.

If a Procuring Entity and/or the IGAD Secretariat staff engaged in the procurement activities benefits any pecuniary interest, direct or indirect, in any matter to be determined by him or any committee to which he is a member, he is required to declare the interest in accordance with the procedures set forth in the regulations, and is required to recuse himself from acting in any way in that matter and is required not take part in the consideration or discussion of, or vote on any question with respect to the matter.

2.5.2 Applicants, Bidders and Contractors' Ethics

The IGAD Secretariat Procurement Policy requires that economic operators (contractors) in relation with the Institution to act in a professional, objective and impartial manner in the mutual interest of the two parties.

Any attempt by an economic operator to obtain confidential information, enter into unlawful agreements with competitors or influence, or try to, the members of the evaluation committee or the Procuring Entity or the IGAD Secretariat staff during the process of examining, clarifying, evaluating and comparing bids, applications or proposals will lead to the rejection of its candidacy, proposal or bid.

A contractor and its staff or any other economic operator associated or linked with the contractor shall not, even on an ancillary or subcontracting basis, bid or be allowed to provide services, goods or works if this will raise a conflict of interest.

When putting forward a bid or application the economic operator or individual shall declare that it is not affected by any potential conflict of interest, and that has no commercial relationship with other bidders, applicants, the Procuring Entity or the IGAD Secretariat staff or contractors involved in the same procurement process. Should such a situation arise during the performance of the contract, the contractor shall immediately inform the Procuring Entity.

For the duration of the contract, the contractor and its staff shall respect human rights and undertake not to offend the political, cultural and religious morals of the beneficiary state. In particular and in accordance with the legal basic act concerned, the contractor shall respect core labour standards as defined in the relevant International Labour Institution conventions (such as the Conventions on freedom of association and collective bargaining; Elimination of forced and compulsory labour; Abolition of child labour).

The contractor may not accept any payment connected with the contract other than that provided for therein. The contractor and its staff shall not exercise any activity or receive any advantage inconsistent with their obligations to the Procuring Entity or the IGAD Secretariat as laid down in their contract with the Institution.

The contractor and its staff are bound to maintain confidentiality for the entire duration of the contract and after its completion, as specified in the contract. All reports and documents drawn up or received by the contractor during the performance of the contract are confidential and remain property of the Procuring Entity.

The contractor shall refrain from any relationship likely to compromise its independence or of its staff. If the contractor ceases to be independent, the Procuring Entity or the IGAD Secretariat may, regardless of any damage complaints, terminate the contract without further notice and without the contractor having any right to complaint for compensation.

The contractor shall make an undertaking to supply on request to the Procuring Entity or the IGAD Secretariat and any relevant national authority or investigator representing the Procuring Entity or the IGAD Secretariat with all the supporting documents relating to the conditions of the contract's execution. The Procuring Entity or the IGAD Secretariat may carry out whatever documentary or on-the-spot checks it deems necessary to find evidence in cases of suspected or unusual commercial expenses.

2.5.3 Debarment of economic operators

Procuring Entity shall have the right to debar economic operators which are found guilty of Fraud, Corruption and Conflict of Interest or are not upholding their ethical and professional responsibilities.

The debarment shall be for minimum two (2) years or permanent depending on the gravity of the offense committed.

The decision on the debarment shall be taken by the Tender Committee at the recommendations made by the Procuring Entity. The decision shall need to be authorised by IGAD Secretary.

The decision of debarment shall be communicated by the Procuring Entity to the debarred economic operator in writing and shall give specific details on the reasons leading to debarment.

The economic operator shall have the right to appeal the decision of the Procuring Entity in accordance with the provision included in this manual.

2.5.4 Actions on IGAD Officers who violates the ethical requirements

IGAD shall take administrative measures against those employees who do not behave professionally and engaged in unethical conduct for the sake of gaining personal advantage.

Measures may range from written warning to suspension and termination of employment contract with IGAD.

2.6 ELIGIBILITY RULES

2.6.1 Rules of Nationality, Origin and IGAD Regional preference

IGAD tenders can be restricted to national companies and providers of IGAD Member States in good standing at the time of bidding. They may also be opened up to any tenderer/bidder of the donor or any other country, as the case may be.

IGAD tenders for goods can be restricted to products manufactured in IGAD Member States and the donor country. IGAD may, however, put in place restrictions on the nationality of the experts in service tenders. Any restrictions through nationality or origin has to be in line with multilateral trade arrangements under the World Trade Organization (WTO), the International trade arrangements under the Economic Partnership Agreement (EPA) between the East and Southern African (ESA) countries and the European Union (EU) or any other international trade agreement signed by IGAD.

IGAD will encourage the participation of bidders of IGAD Member States in order to develop both local contractors and foreign contractors resident and domiciled in its territory. For this purpose the managing authority may include one or more of the following preference clauses:

- i. Works contracts: the Contracting Authority may include one or both of the following clauses:
 - a. Clause 1: “If two bids are acknowledged to be equivalent, preference shall be given to the bidder with the nationality of an IGAD Member State. In case none of the bidders are IGAD nationals the preference clause will apply to the bidder who nominates subcontractors from IGAD Member States. In case both bidders nominate subcontractors from IGAD Member States the one that gives the IGAD subcontractor the highest percentage of the budget will benefit from the rule of preference. In case there are two consortia and both have in it companies with IGAD nationality, the one having them in bigger share will benefit from the preference”.
 - b. Clause 2: “Bidders from IGAD Member States shall be given a premium. In case the awarding criterion is price, the maximum premium cannot be more than 10% of the total value (e.g. IGAD bidders will be evaluated at their proposed price – 10% of their proposed price). In case of consortium, the premium will be given as long as IGAD nationals hold at least 30% of the share. In case the awarding criterion is best value for money, the maximum premium cannot be more than 10% of the total overall points (whether given on the technical quality or the price)”.
- ii. Goods contracts: the Contracting Authority may include one or both of the following clauses :
 - a. Clause 1: “if two bids acknowledge being equivalent, preference shall be given to the bidder with the nationality of an IGAD Member State. If both bidders are IGAD nationals, the one proposing more percentage of supplies with IGAD origin will benefit from the preference”.
 - b. Clause 2: “Bidders who offer supplies of at least 50% in contract value of IGAD origin will be agreed a 10% price preference, being their price at the evaluation considered as price

offered – 10% of the price offered”. This clause only applies to bidders who are both administratively and technically compliant.

- iii. Service contracts: the Contracting Authority may include one or both of the following clauses:
 - a. Clause 1: “if two bids acknowledge being equivalent, preference shall be given to the bidder with the nationality of an IGAD Member State. In case both bidders are from an IGAD Member State, preference should be given to the offer which allocates a larger budget of human resources to IGAD nationals (in case of time based contracts)”.
 - b. Clause 2: “bidders which are IGAD nationals or consortia in which the leader or other members upholding at least 35% of the share of the consortium are IGAD nationals, can obtain an increase of maximum 10% of their overall score”. This clause only applies to bidders who are both administratively and technically compliant.

Any of these preference clauses must be clearly stated in the Tender Documents.

Individuals with the nationality of any IGAD Member State or those companies or institutions legally established, domiciled and registered in any IGAD Member States according to the law of the country are considered as IGAD nationals.

2.7 GROUNDS FOR EXCLUSION

Companies, institutions or individuals under the following situations are excluded from participating and being awarded contracts in tenders if:

- i. They have been declared in bankruptcy or insolvent under their national law, are under court administration, have entered into an arrangement procedure with creditors, have suspended, voluntarily or not, their main activities or are under any similar situation under their national regulation. This does not apply in the situation of purchase of goods on particularly advantageous terms from either a supplier which is winding up its business activities or the receivers or liquidators of a bankruptcy through an arrangement with creditors or similar procedures.
- ii. They have been convicted by a competent court of a criminal offence related to their professional activity, or related to fraud, corruption or involvement in a criminal or terrorist organization. The court ruling must not be subject of appeal.
- iii. They are being prosecuted for not currently fulfilling their obligations related to the payment of social security contributions or other taxes in accordance with the legal provisions of the country where they are established or any of the IGAD countries.
- iv. IGAD can prove that they are guilty of grave misconduct in previous tendering procedures or unethical behavior has been discovered at any stage of the tendering procedure or in any other previous dealings with IGAD.
- v. Any bidder whose owner, director or member of senior management would be excluded under paragraphs i-iv above (convicted of participation in a criminal organization, corruption, bribery or fraud).

All bidders, when presenting their bids, must present a declaration of not being in such situations specified in i – v above. In case of a consortium of bidders, the declaration must be signed by all the members of the consortium.

Bids should not be excluded on formal elements (documents with errors or incomplete). Formal errors can be fixed by a request for clarification. Requests for clarifications cannot be for new documents but have to be based on documents already provided as long as such clarifications do not change the original price.

2.8 VISIBILITY RULES

All contracts/activities funded by IGAD or through IGAD will bear its logo and will be conveniently identified as such to the public. The activities of the contract should respect the visibility rules of IGAD. In case there is an external donor, its visibility rules will also be respected.

3 AUTHORITIES, RESPONSIBILITIES AND ORGANIZATION OF PROCUREMENT FUNCTION

3.1 IGAD EXECUTIVE SECRETARY

The IGAD Executive Secretary shall have ultimate authority and responsibility for all procurements of IGAD. These includes but not limited to:

- i. Appointing and substituting members of the IGAD Tender committee;
- ii. Reviewing and approving recommendations for debarment;
- iii. Ensuring the implementation of these Rules;
- iv. Approving amendments and revisions to the procurement rules ;
- v. Oversee the Procurement activities of the Specialized /Regional Offices;
- vi. Approval of annual procurement plan.

3.2 IGAD ACCOUNTING OFFICER

Accounting Officer – the Executive Secretary, who is the Accounting Officer of IGAD, shall have ultimate authority and responsibility for all procurements made in IGAD.

The Accounting Officer can delegate Directors of Specialized Offices to appoint and substitute members of their respective LPC.

3.3 IGAD TENDER COMMITTEE

The IGAD Secretariat Tender Committee shall be appointed by the IGAD Executive Secretary to deal with all procurements of the IGAD with values exceeding the limits contained in the categories of each LPC. This includes responsibility for:

- Reviewing, evaluating and recommending for contract awards under the Secretariat;
- Reviewing the evaluation work done by ad hoc committees and approving/rejecting their recommendation for contract award and other submissions within its threshold of the procuring entities;
- Proposing to management the revision/amendment of the Procurement Rules;
- Referring suspected procurement violations to the Office of Internal Audit for investigation.
- Referring matters of suspected engagement in corrupt practices to the relevant committee for investigation.

The composition of the IGAD Secretariat Tender Committee shall be 5. These shall include:

- i. **Chairman:** He will be the one calling the members to the committee meetings and will chair the committee. He will ensure that the procurement principles (especially those with reference to transparency and impartiality) are respected both in the discussions and the final decisions. The chairman of the committee must be familiar with IGAD public procurement rules and principles. The chairman will be a voting member of the tender committee.
- ii. **Secretary:** The officer in charge of the procurement unit of IGAD shall serve as Secretary and provide secretarial and technical services to the Tender Committee. The responsibilities of the Secretary are mentioned below under section 3.5.1.

The secretary of the tender committee is a voting member.

- iii. **Other members appointed by IGAD secretariat or his/her delegate:** These must be three. Where possible these are experts in the field who will recommend, according to the selection criteria and the public procurement principles which are the most suitable bids to pass on to the next stage. The relevant individual comments will be registered in the minutes drafted by the secretary. Members of the tender committee will give the necessary technical support to the secretary to undertake his/her tasks.
- iv. A Chairperson shall be selected from amongst the members and all members are voting members.
- v. Members shall be appointed in their individual capacities and not more than two committee members shall be selected from the same division.
- vi. Members of Internal Audit, Legal Office, and members of other pertinent Secretariat Departments may also observe. Other observers will be according to donor agreements. Observers are **non-voting** members of the committee.

The decisions in the tender committee will be taken on majority basis.

The Tender Committee may invite experts to attend its proceedings without a right to vote. Similarly, an employee from the requisition unit may also attend the proceedings of the tender committee as a technical person without vote.

The head of the procurement unit shall not be chairperson of the Tender Committee.

The tenure for membership of the Tender Committee shall be one year subject to reappointment for the second year.

3.4 LOCAL PROCUREMENT COMMITTEE (LPC) IN IGAD SPECIALISED OFFICES

LPC shall be established for each specialized office or one common LPC for regional office as directed by the Executive Secretary.

The composition of the LPC shall be three (3) Members depending on the number of staff at the specialized offices including:

- i. Finance and Administration Officer, or Planning head
- ii. Other professional staff appointed by the Director of the specialized office
- iii. Procurement Officer

The Officer in charge of Procurement shall provide secretarial and technical services to the LPC.

A Chairperson shall be selected from amongst the members and all members are voting members.

The head or an employee from the requisition unit / beneficiary may attend the meeting of the LPC as a technical person without vote.

Members shall be appointed in their individual capacities and alternates may be appointed for each member.

The tenure for membership of the LPC shall be one year subject to reappointment for the second year.

3.5 CRITERIA TO BE USED IN THE SELECTION OF COMMITTEE MEMBERS

The following points shall be considered while selecting members of the Tender Committee, LPC and Procurement Appeals Review Committee. Accordingly, a member need to:

- i. Have full understanding of IGAD’s procurement manual and a capacity to implement it;
- ii. Be knowledgeable in the operational, technical and financial aspects of procurement activities;
- iii. Be known for their high level of integrity, honesty and committed to work impartially and independently;
- iv. Have first degree and above;
- v. Have management and communication skills;
- vi. Have a negotiation and bargaining skills;
- vii. Have prior experience in bid evaluation and contract administration.
- viii. Any other specific criteria considered to be relevant.

3.6 PROCEDURES FOR THE FUNCTIONING OF IGAD TENDER AND LPC

The following shall constitute the rules of procedure that govern the functioning of the Tender and LPC’s in the discharging of their duties and responsibilities:

- i. A quorum for meetings shall be 3 Members for IGAD Tender Committee and 2 members for the LPC, including the Chairperson.
- ii. Decisions shall be by consensus; failing which, by 2/3 majority of members present. A dissenting member may request that his/her dissent be recorded in the minutes of the meeting;
- iii. The Tender Committee/LPC , shall meet as and when required;
- iv. At the commencement of each meeting, the members must sign a Declaration of Confidentiality and Impartiality which covers all matters arising from the meeting. This Declaration shall be attached to the final minutes of the committee;
- v. Matters of substance requiring the Tender Committee/LPC to take a decision shall not be discussed during a meeting under “Any Other Business”;
- vi. The Secretary of the Tender Committee/LPC shall circulate to the members who attended the said meeting, copies of a draft minute for their comments or amendments. Such comments or amendments shall be sent to the Secretary within 48 hours upon receipt of the draft report. If no comment or amendment is received within the deadline, the Secretary shall proceed with the finalization of the minute. No amendment to the minute shall be allowed after members have signed it;
- vii. Deliberations and minutes of the Tender Committee/LPC shall be classified and be treated with confidentiality and shall not be disclosed to suppliers and other parties external to the IGAD procurement process.
- viii. The Tender Committee/LPC members shall sign the minute and initial all the pages;
- ix. Specific recommendations of the Tender Committee/LPC meetings shall be approved by the respective business units;
- x. The Tender Committee/LPC may invite technical or resources persons to provide expert advice. The experts shall not have voting powers.

Where a member of the Tender Committee/LPC has a direct or indirect interest in any matter, he or she shall declare his or her interest in the matter and shall not participate in the deliberations or decision-making process of the Tender Committee/LPC in relation to that particular matter.

Recommendations of the Tender Committee/LPC shall be communicated to the Beneficiary unit for approval.

Where it is not practical to convene a meeting of the Tender Committee/LPC for matters on which a decision is needed urgently, approving an award by circulation is permitted.

- i. A draft recommendation may be circulated to the Members together with the necessary supporting documents for seeking their approval, physically or electronically through email or fax.
- ii. Due consideration shall be taken to ensure that the decision is circulated to all members where possible or as minimum, the number of members who form a quorum.
- iii. The decision is approved when it is endorsed by majority of the Members.
- iv. Decisions approved by Circulation should be presented at the next Tender Committee/LPC meeting and recoded in the minutes of that meeting.

3.6.1 Responsibilities of the Chairman of Tender Committee/LPC

The Chairman is responsible for the following:

- i. The chairman will call members to the committee meetings;
- ii. He/she will ensure the quorum of the meeting and chair the committee meeting;
- iii. He/she will ensure that the committee meeting is underway in a transparent way and decisions are made impartially;
- iv. He/she will ensure that all procurement principles are respected both in the discussions and the final decision;
- v. He/she will ensure that final decisions are made by consensus or by majority decision and proper records are kept.
- vi. He/she will carry out other related duties.

3.6.2 Responsibilities of the Secretary of the Tender Committee/LPC

The Secretary is responsible for the following:

- i. Advising and guiding the Tender Committee/LPC on technical and specific procurement provisions, policies, rules and regulations.
- ii. Arranging and coordinating Tender Committee/LPC meetings;
- iii. Ensuring the timely and efficient distribution of relevant documents to the concerned unit;
- iv. Drafting of minutes of meetings and the Tender Committee/LPC recommendations;
- v. Preparing Tender Committee/LPC related correspondence;
- vi. Circulate submissions for consideration and approved by head of entity by circulation method.
- vii. Maintaining a permanent record of all Tender Committee/LPC minutes and recommendations;
- viii. Ensuring that decisions given are implemented.

3.6.3 Responsibilities of the Committee Members

The responsibilities of the other Committee members include but not limited to the following:

- i. They are responsible to evaluate the procurement documents ethically in a transparent way;

- ii. They will sign declaration of confidentiality and impartiality;
- iii. They will declare and refrain from being a committee member whenever they find conflict of interest in their role as a member of procurement committee;
- iv. They will provide expert advice which would enable other members to make better decisions;
- v. They will not be involved on any unethical practices which would compromise the interest of IGAD.
- vi. They will carry out other related duties.

3.7 DUTIES AND RESPONSIBILITIES OF THE PROCUREMENT UNIT

The Procurement Unit at IGAD and its specialized offices has the responsibility for the coordination of the procurement function in a professional manner by ensuring efficiency, accountability, value for money and transparency in the requisition, recording, accounting for, or any form of management of suppliers. The functions of the procurement unit at IGAD Secretariat are to:

- Advise IGAD Organs and Institutions on procurement policy issues;
- Plan and manage all procurement activities.
- Prepare, consolidate and update the annual procurement plan from all units, projects, programmes and specialized offices.
- Support the functioning of IGAD Tender Committee/LPC.
- Review and assist all units, projects, programmes and specialized offices in the preparation of specifications, terms of reference and scope of work;
- Prepare bidding documents and advertise bid opportunities and shortlisting of suppliers, as appropriate.
- Arrange for publication of notices of contract award on the website of the entity;
- Notifying award of contract to the winning bidder and status of their bid to unsuccessful bidders;
- Maintain a register of prequalified suppliers;
- Receive procurement requisitions with detailed specifications from Beneficiary units, projects, programmes and specialized offices;
- Recommend the appropriate procurement method;
- Coordinate the receiving, storage and opening of tender documents;
- Maintain, safeguard and archive records of the procurement process;
- Coordinate the evaluation of tenders, quotations, and proposals;
- Compile the evaluation reports;
- Prepare and issue rejection and debriefing letters;
- Prepare contract amendments;
- Perform market surveys and procurement research;
- Implement the decisions of the Tender Committee/LPC;
- Prepare periodic procurement reports;
- Act as secretariat to the Tender Committee/LPC to provide general secretarial and technical support and advice to meetings which include preparation of correspondence, notices, agendas, minutes of meetings, and communication of the decisions or queries of the meeting;
- Monitor contract management by Business units to ensure implementation of contracts in accordance with the terms and conditions of the contracts and notifying the supplier

immediately in writing of any failings in performance of their obligations including discrepancies and pursue appropriate follow up measures;

- Co-ordinate internal monitoring and evaluation of the procurement functions;
- Manage and safeguard the tender box;
- Respond in writing to any requests for clarifications from bidders where permitted within the bidding documents;
- Registering and securing bid guarantees or performance guarantees, and taking appropriate action on any claims against securities or retentions.
- Advising and ensuring prompt release and returning all securities as soon as they are no longer required for protection of the interest of IGAD;
- Preparing a detailed Annual Report on procurement activities;
- Coordinate all tender opening meetings in the presence of members of Tender Committee/LPC or an ad hoc committee established for opening of bids.
- Maintaining detailed records for each procurement;
- Ensuring the effective management of contracts, including the initiation of advance payments, that all contractual obligations of IGAD are performed promptly and efficiently;
- Monitoring delivery schedules and the inspection and certification of delivery or performance;
- Undertake any other duties or tasks as directed by the Tender Committee/LPC.

The functions of the procurement unit at Specialized Offices are to:

- Plan and manage all procurement activities in the specialized offices;
- Prepare the annual procurement plan of the specialized office and submit it to the main procurement office for consolidation;
- Coordinate the overall procurement activities of the LPC;
- Prepare periodic procurement reports;
- Act as secretariat to the LPC to provide general secretarial and technical support and advice to meetings which include preparation of correspondence, notices, agendas, minutes of meetings, and communication of the decisions or queries of the meeting;
- Respond in writing to any requests for clarifications from bidders in consultation with the main procurement committee at IGAD;
- Coordinate all tender opening meetings in the presence of members of LPC or an ad hoc committee established for opening of bids.
- Carry out other related duties

3.8 THE BENEFICIARY UNIT

Beneficiary unit in IGAD represents Departments, Projects, Programmes, Specialized offices and any other offices with a responsibility to initiate procurement. The functions of the beneficiary unit are to;

- i. Identify all procurement requirements for goods, works and services for the next Financial Year for inclusion in the Annual Procurement Plan;
- ii. Liaise with the Procurement unit to develop an annual procurement plan;
- iii. Initiate and prepare statement of requirements, specifications, terms of reference, and scope of works, Bills of Quantities and forward them to the procurement unit;
- iv. Certify good/services/works and recommend invoices for payments to suppliers ;

- v. Implement and monitor contracts in collaboration with Procurement Unit;
- vi. Be part of the ad hoc committee that will be assigned to conduct evaluation and assessment tasks;
- vii. Propose amendments for awarded contracts;

3.9 AD HOC COMMITTEE

The ad hoc committee shall be established by the tender committee of IGAD as and when the need arises to carry out such duties as opening of bids, evaluation of technical proposals that require special knowhow and any other tasks that the tender committee may need to sub-delegate. Individual officers may be appointed based on their technical (subject matter) expertise to assess a procurement assignment in question.

Representatives from user departments are recommended to participate. Once the work is done, the ad hoc committee shall be dissolved.

3.10 LEGAL UNIT

The Legal Unit shall be responsible for the vetting (examination) of all contracts issued by IGAD and for the provision of legal advices to Tender Committee/LPC and Procurement Units on contractual issues and disputes. It also provides standard templates for routine contracts.

The Legal Unit has the right to observe any bid opening or evaluation or any procurement process without having voting right.

3.11 THE INTERNAL AUDIT

The Internal Audit shall ensure all provisions in the Procurement Manuals are properly implemented and shall also conduct any investigation as and when requested. To this end, the prevention and identification of corrupt, fraudulent, coercive and collusive practices are included.

Internal Audit has the right to observe any bid opening or evaluation or any procurement process without having voting right.

3.12 PROCUREMENT APPEALS REVIEW COMMITTEE

The IGAD Procurement Appeals Review Committee shall be appointed by IGAD Executive Secretary with the role and responsibility in handling the procurement appeals procedures in accordance with section 7.9.3 of this Manual.

The Complaints Handling Office shall receive, adjudicate (settle or resolve) and recommend a course of action regarding complaints on the procurement processes.

The IGAD Procurement Appeals Review Committee shall consist of three members from IGAD management group with equal voting rights, no subordination relationships among themselves with the structure of the Institution and with no conflict of interest. The IGAD Procurement Appeals Committee will be supported by an officer from the Legal department.

The tenure for membership of the Procurement Appeals Review Committee shall be one year subject to reappointment for the second year.

4 PROCUREMENT PROCESSES

4.1 PROCUREMENT PLANNING

4.1.1 General

Procurement planning is essential for the effective and timely launching of the procurement processes, award of contracts and delivery of the required services, goods and/or works.

Procurement planning also enables the Procuring Unit to better manage its resources to obtain value for money, by identifying the appropriate procurement category and method for the acquisition of the necessary services, goods and/or works. Clearly, the procurement planning is a vital and mandatory function of the IGAD Secretariat procurement system.

Forecasting of future procurement requirement shall be the responsibility of the Beneficiary units. The Coordination of the procurement planning functioning shall be the responsibility of the Beneficiary/ and Procurement units.

4.1.2 The role of The Procurement Unit

The role of the procurement unit in the procurement planning process is to:

- i. Compile the Overall Procurement Plan of the IGAD Secretariat based on the annual procurement plans provided by the Beneficiary units; get the Annual Procurement Plan authorised by IGAD Executive Secretary or his delegate.
- ii. Identify and formulate the strategy for procurement of the services, goods and works needed by the business entities, by recognizing synergies among the needs of the various Beneficiary units and selecting the most suitable procurement processes to acquire the needed services, goods and works.
- iii. Monitor the performance of the implementation plan and take action to remedy the deviations from the set objectives on a periodic (quarterly or biannually basis).

4.1.3 Types of procurement planning

a. Short-term planning

Procurement Units in conjunction with the Beneficiary units shall perform short term planning, which focuses on the then-current budgetary period. In order to ensure that IGAD obtains high quality goods, services and works at competitive prices within the time frame required. Procurement Units shall ensure the optimal use of funds through the budgetary period.

Beneficiary units shall, to the extent possible, avoid last minute requisitions as this may hamper the ability of the Procurement Unit to ensure a transparent, open, efficient and timely procurement process.

b. Long-term planning

Procurement Units shall perform long-term planning, covering the forthcoming budgetary period. Long term planning demonstrates that the Organisation manages its funds in a professional manner and in the best interests of the IGAD.

c. Time table for submission of Annual Procurement plans

Each Procurement Unit, at IGAD head quarter and in different specialised offices, is responsible for the compilation and coordination of their Annual Procurement Plan.

Accordingly, they shall submit their plans for the forthcoming year (1 January – 31 December) to the procurement unit at IGAD HQ as per the time table shown below.

The officer in charge of the procurement unit at IGAD shall issue appropriate instructions in advance of this date.

The annual procurement plan can be revised quarterly or biannually as may be required.

Time table for preparation for Annual Procurement Plan	
Tasks to be done	Due date
Beneficiary units submit their Annual Procurement Plan to the procurement unit at IGAD HQ and Specialized offices	Oct. 31
Consolidation finalized at Specialized offices and report submitted to IGAD HQ Procurement Unit.	Nov. 30
Final consolidation done at IGAD level and approval obtained from IGAD Executive Secretary	Dec. 15
Implementation period	From 1 Jan. up to 31 Dec. of the following year

4.1.4 Initiate Procurement Requirement

a. Goods

A requirement may originate from the Beneficiary unit that need to have either or a combination of goods, services or works.

The requirement must contain a technical specification for the procurement of goods and straightforward quantifiable services. The requirement document should also contain the following minimum information:

- A detailed description of the goods and works being procured ;
- Confirmation of funds availability and indicate source of fund;
- Quantity to be procured;
- Required delivery date or start-up/completion date;
- Delivery location or location of works/services to be performed;
- Estimated price;
- Technical Specification;
- Any additional information;

Requirements must be generic and should not include brand names, model numbers, catalogue numbers or trademarks except where these are essential for standardisation purposes.

Standardisation is acceptable when identical goods, equipment, technology or works have recently been purchased from a supplier and it is determined that either a quantity of additional supplies must be procured or compatibility with existing goods, equipment or works is required.

b. Services

A requirement may originate from the Beneficiary unit that need to have either or a combination of Consultancy and Non-consultancy Service.

A Terms of Reference (TOR) is a description of the scope of work for services indicating the work that is to be performed, the level of quality and effort, the timeline and the deliverables. They are most commonly used to define the requirements for consultancy services. A clear TOR without any contradictions will allow the supplier to prepare a clear and detailed proposal. A TOR should include as a minimum:

- Background for requesting the service
- Objective of the service
- Clearly defined outputs of the service
- Qualification and Experience
- Evaluation Criteria
- Social and environmental requirements, if any
- Inputs required to deliver the service
- Deliverables
- Timelines and deadlines.

Works

A Statement of Work (SOW) is a requirement specification/bill of quantity for works contracts outlining the specific services or works the contractor is expected to perform. The SOW should include detailed requirements and pricing requirements, such as a Bill of Quantities (BoQ), technical drawings and any other relevant documentation.

4.1.5 Modification and updating of the Annual Procurement Plan

During project execution, the original procurement plans shall be regularly monitored and updated to compare the actual performance with the planned activities, and to make changes or necessary adjustments in the plan. The need for changes simply demonstrates that planning is a dynamic process rather than a static picture.

The Procurement Unit shall review the procurement performance on a periodic (quarterly or biannually) basis. The objective of the review is not fault finding but rather to:

- i. Gain better understanding of the causes and reasons for delays or changes in plans,
- ii. Maintain efficiency in the procurement operations, and
- iii. Improve forecasting and planning for similar operations.

If slippage occurs in the award or execution of one major contract, it may require rescheduling of other related contract awards and deliveries of products.

4.2 CATEGORIES OF PROCUREMENT

As much as possible procurement requirements shall not combine in the same contract services of goods and works unless they cannot be technically or economically separated from the main contract without becoming a serious inconvenience for the performance of the contract.

It shall be reasonable to determine the category of procurement applicable to the procurement processes by considering the nature of the contract outcome (service, goods and works).

4.2.1 Goods

The term “Goods” refers to all commodities (including books and journals), raw material, machinery, equipment, and industrial plant including the related services to be provided by the vendor along them, such as transportation, insurance, installation, commissioning, training and initial maintenance.

4.2.2 Services - Consulting

“Consulting Services” refers to wide variety of services such as advisory services; research/investigation , management; engineering; construction supervision; design and architectural services, training/training like education services, audit, financial (other than banking operation); legal and procurement services. It also includes feasibility studies, social and environmental studies; identification, preparation, and implementation of projects services, etc. or any other services in which the “human factor” is determinant for the output of the contract.

The Consultant shall be employed for activities not being part of the day to day function of the IGAD Secretariat or Procuring Entity, unless the Institution in accordance with existing authorisation roles takes the decision to externalize such activities. Hence, part time, temporary and/or permanent employment of staff for the IGAD Secretariat or Procuring Entity shall not be considered “Consulting Services”. No employment of staff at the IGAD Secretariat or the Procuring Entity shall be hidden as Consulting Services.

4.2.3 Services - General / Non-Consultancy

The term “General Services /Non-Consultancy” refers to services bid and contracted on the basis of performance of a measurable physical output. They may include: transport services, conference venues, interpretation, accommodation services, printing, editing, broadcasting, cleaning services, security services, insurance services, medical services and others.

4.2.4 Works

The term “Works” refers to any works such as:

- i. Construction, refurbishment or maintenance of buildings or civil infrastructure (roads, bridges, ports, channels, dams, sewage systems, etc.);
- ii. Land reclamation (such as earthworks, drainage, flooding, etc.) and
- iii. Civil installations (waste treatment plants, irrigation systems, electricity lines, etc.).

4.3 PROCUREMENT METHODS (TYPES OF COMPETITION)

The selection of the appropriate procurement method and type of competition is based on:

- i. The value of the procurement
- ii. The technical considerations of the goods, services or works being procured
- iii. The market conditions
- iv. The specific operational environment
- v. The type of contract to be awarded
- vi. Requirements specific to the donor/funding source

The procurement methods should be indicated in the Procurement Plan. The Procurement Officer must examine each of the criteria above to use the methods indicated select the method of procurement and type of competition that will fulfill all of the deliverables of the contract when required. Besides, reference should be made to the procurement threshold limits stated under 4.5 below.

4.3.1 Open Tender

This is a process where the invitation to tender is advertised and all interested suppliers can submit their bids. This approach would be used to ensure fair competition when there is a developed market and a good chance of attracting lots of potential providers.

Open competition by public advertisement is the preferred method of IGAD procurement with equal access to all eligible and qualified suppliers without discrimination. Open competition is important in order to promote the IGAD's procurement principles of fairness, integrity, transparency, effective competition and value for money.

The tender shall be advertised on IGAD's website, in the official journal of the donor when needed or at least one publication available in all IGAD Member States. It shall also be sent to IGAD's Specialized Offices and published on their websites. The minimum publication is one time.

The tender documents should be made available to anyone eligible willing to participate or who has lodged an expression of interest in the tender. The contract will be awarded according to the awarding criteria of the tender, no negotiation being allowed.

4.3.2 Pre-qualification Tender

Under this procurement method there will be a public pre-qualification according to certain selection criteria. Only bidders/tenderers passing this pre-qualification will be able to submit an offer/bid.

The pre-qualification procedure must be announced on IGAD's website, in the official journal of the donor or their website when needed in at least one national daily or weekly publications of each IGAD Member State or at least one publication available in all IGAD Member States. It should also be sent to the IGAD Specialized Offices and published on its websites.

IGAD will prepare a long list with all the pre-qualification offers received in due time in order to proceed to the selection of those which will be invited to tender in the next stage. IGAD will elaborate a short list of 3-7 bidders that passed the pre-qualification and will send them a letter for invitation to tender with the tender documents and the short-list attached. IGAD must inform by letter those bidders that did not qualify.

Pre-qualification shall be based only on objective criteria, which will demonstrate the capacity of the bidder (economic, financial, professional and/or technical) to undertake the contract successfully in case of being awarded. These elements are:

- Technical capacity: proven by having carried out contracts of similar technical complexity and having access to experts with the profile needed.
- Financial and economic capacity: proven by yearly turnover of the candidate or the consortium as a whole, which should be over the total estimated value of the contract for the last three years up to three times the total estimated value of the contract of the last three years. Moreover, the tenderer will not have losses in their last three financial years.
- Professional capacity: the contracting authority may request from the bidders a minimum number of permanent employees in the last three years dedicated to the specific field of activity of the contract.

Pre-qualification criteria should not unnecessarily restrict competition; they have to be related and proportionate to the tasks to be undertaken.

In case less than three economic operators present a pre-qualification offer, IGAD must cancel the tender and embark on a new process using the open tender method.

4.3.3 National Tender

In certain circumstances, it may be preferable to encourage national as detailed below:

- i. Where from a total cost perspective it is beneficial to obtain the goods/services/ works locally;
- ii. If the requirements is in a geographical location or with a delivery time frame that may not be of interest to international suppliers;
- iii. Where it has been determined that obtaining goods, services or works locally would have a positive impact to sustainable local development;
- iv. Where contracting with a local company would reduce the environmental impact or increase national ownership;
- v. If expert knowledge of the region is required

However, in order to ensure effective competition national tender should only be used where there are enough capable suppliers to participate in a tender process. Further, care must be taken to reduce the risk of potential fraud in the form of collusion or the formation of cartels.

4.3.4 Restricted /Limited Tender

The Limited Bidding method is essentially the Restricted Bidding method with the exception that the shortlist is established by the Procuring Entity without open advertisement.

Under this method, the Procuring entity restricts the issue of bidding documents to a limited number of economic operators when:

- i) An open competition would have negative security implications or the subject matter of the tender is otherwise sensitive and cannot be advertised.
- ii) the goods, works, or services required are of a specialized nature or can be obtained from a limited number of specialized contractors, service providers or reputable sources, all of whom are known to the procuring entity; or
- iii) the time and cost of considering a large number of tenders is disproportionate to the value of the procurement; or
- iv) The requirement has been identified as an emergency procurement or there is an urgent need for the goods, works or services such that there would be insufficient time for the Procuring Entity to engage in open tendering.

4.3.5 Selective Tender

Under selective tendering, IGAD invites a minimum of three and a maximum of seven candidates of its choice to present offers. In the absence of data base /list of service providers, IGAD invites for expression of Interest and short list to present offers. The invitation letter must contain the tender documents or Request for Proposal.

This procedure does not require any open advertisement. The list of participants will be broad enough to ensure effective competition. The evaluation and awarding procedure are the same as for open and pre-qualification tenders and should be communicated in the invitation to tenderers.

4.3.6 Single Source

This is not a competitive tender and does not respect the general principles of procurement; therefore it can only be authorized by the Executive Secretary or by a delegated body or Director of the Specialized Offices according to IGAD internal regulation, under exceptional circumstances:

- i. For tasks that are a natural continuation of previous work carried out by the firm;

- ii. Where There is an extreme urgency brought about by unforeseen events not attributed to IGAD/ the Contracting Authority
- iii. For very low value assignments;
- iv. When only one firm is qualified or has the necessary experience for the assignment.

In these exceptional cases, the Procurement Committee has to draw up a report justifying all the grounds for reliance on this procedure and have it approved by the Executive Secretary or delegated body before entering into any negotiation. IGAD must be satisfied in such cases that no advantage could be obtained by further competition.

Once the procedure is approved by IGAD, the Procurement Committee will proceed with the negotiation with the potential contractor. The criteria will always be clearly stated in the TOR or Specification or drawn up by the Procurement Committee before the negotiation starts.

Payment for the services and supplies of less than USD 500.00 can be made against invoice without tendering process.

Other Procurement Methods

4.3.7 Use of Procurement Agents

The use of Procurement Agents is a method of procurement that should only be applied in very exceptional circumstances and subject to formal approval by the relevant IGAD authority, when:

- The entity lacks the necessary organization, resources, and experience. It may employ, as its agent, a firm specialising in handling procurement. The agent shall follow all the procurement procedures and guidelines provided for in the contract Agreement. This also applies in cases where specialized agencies/firms act as procurement agents.
- Management contractors may be employed in a similar manner for a fee to contract for miscellaneous works involving reconstruction, repairs, rehabilitation, and new construction in emergency situations, or where large numbers of small contracts are involved.

4.3.8 Procurement from UN Agencies or specialized Agencies

There may be situations in which procurement directly from UN Agencies or Specialized Agencies, acting as suppliers, may be the most appropriate way of procuring:

- Small quantities of off-the-shelf goods, primarily in the fields of education and health; and
- Specialized products or services where the number of suppliers is limited such as for vaccines or drugs.

4.3.9 Procurement under disaster and emergency situations

Procurement of goods, services and works, under disaster and emergency assistance, shall incorporate greater flexibility. Open competition shall be relaxed in favour of limited competition as appropriate, with an abbreviated bidding period. Direct Contracting to contractors and suppliers, with unit rates negotiated around those in effect for the existing contracts, and adjustments, as required, for inflation and physical factors.

IGAD shall develop specific guidelines of procurement to be used in such disaster and emergency situations.

4.3.10 Frame Work Contract

Framework (or “call-off”) Contracts shall be used, wherever practical in IGAD to provide an efficient, cost effective and flexible means to procure goods, works or services that are required continuously or repeatedly by the IGAD over a set period of time.

A framework agreement is a long term agreement with a supplier (or multiple suppliers) which sets out the terms and conditions and agreed pricing under which specific procurements (call-offs) can be made throughout the duration of the agreement.

Framework contracts are particularly useful for goods, works and services items that are readily available in the market or are for goods of relatively short shelf life.

Vehicle maintenance, cleaning services, on-call routine maintenance and minor repair works, office supplies and medical supplies are examples of the types of procurement that may be efficiently purchased under a framework contract.

The objective of framework contracts is to minimize the cost and effort wasted in preparation of multiple similar small procurement processes by agreeing fixed item prices with a supplier for a set period of time. The aggregation of requirements will result in greater price competition among providers to win the right to supply all requirements of the IGAD for the subject of the framework contract.

Readily available of common supplies direct from the supplier will also minimize the requirement for stock-holding within the IGAD Stores.

If a framework agreement exists for the types of goods or services to be procured, orders can be placed against the agreement without further competitive bidding. A framework agreement can only be used to procure the exact goods or services specified in the agreement, if other goods or services are required from the supplier, then normal procurement procedures must be followed.

Where a call-off has been made against an existing framework agreement, no further approval is required from the relevant authority prior to placing the order.

Establishment of Framework Contracts

The following issues shall be considered when establishing Framework contract agreements.

- (a) Where aggregation of requirements for more than one Beneficiary unit is anticipated to bring additional benefit in procurement costs, or administrative effort, the Procurement Unit shall coordinate the needs of the Beneficiary units;
- (b) Open tendering procedures shall be used for the establishment of framework contracts and use a standard bidding document and contract format provided for the purchase.
- (c) Under a framework contract, a bidder shall indicate the unit rate for each item.
- (d) The Entity shall indicate the estimated quantity or value of the procurement where this is possible or necessary to obtain competitive bids, but shall not make a commitment to purchase any quantity or value.
- (e) A framework contract shall state the arrangements for obtaining specific requirements during the period of the contract, using placement of “call-off” or delivery orders where appropriate.
- (f) Payment shall be made on the basis of the works, services or supplies actually delivered or performed.
- (g) A framework contract shall include fixed prices and/or a clause for price adjustment.
- (h) The Procurement Unit in consultation with the Beneficiary unit will:
 - Identify specific procurements that would benefit from framework contracts by examining annual values and numbers of orders for related procurements;
 - Prepare detailed specifications of requirements, a bidding document and draft advertisement;

- Issue an open tender for each annual requirement, subdivided into lots as appropriate and subject to an indefinite quantities clause; and
 - Follow standard procedures for the opening, evaluation and award of contract.
 - The duration of the contract shall be determined in the bidding document but shall usually be for 3 year but should never exceed 5 years, after which a new procurement process shall be launched/ advertised.
 - Subject to performance, the contract may be renewed once for a period not exceeding 2 years.
- (i) Following completion of the award, call-off or delivery orders will be issued as a simple Purchase Order for specific requirements as and when needed during the period of the framework contract.
- (j) For the procurement of items subject to framework contracts, the Procurement Unit shall not be permitted to purchase the same items by any other process except in cases where the contractor cannot deliver within the specified times.

4.3.11 Exceptions to procurement processes

The procurement of the following will be exempted from the current procurement rules and be acquired based on the specific procedures set in the IGAD Secretariat's Financial Rules and Regulation, or any similar internal document of the Institution.

- i. Public utilities services: water, electricity, gas, and waste disposal;
- ii. Public transportation for persons (including railway and water transportation but excluding air transportation);
- iii. Landline communication services (if the landline communication provider is a national monopoly);
- iv. National postal services: stamps, telex, registered mail, etc ;
- v. Acquisition of land, buildings or similar facilities;
- vi. Artistic services of any kind, artworks and other similar goods and services;
- vii. Education services other than training like services;
- viii. Procurement of any employment benefit related services (health insurance, pension fund, rental of house, etc.;
- ix. Memberships and Journal subscriptions

4.3.12 Publicity requisites

Publicity is one of the main aspects of public procurement. Different procurement methods have different publicity requisites.

In open tenders and prequalification tenders, all potential bidders must be informed of the procedure through official journals, websites and press/media as may be required.

In case of restricted procedures the publicity/communication required only applies to the invited bidders.

4.4 SELECTION METHODS

The following selection methods are available dependent on the value and complexity of the requirement;

4.4.1 Request for Quotation (RFQ)

RFQ is a least cost competitive selection method based on the comparison of technical and financial quotations obtained from no less than three (3) suppliers. It is appropriate in the following circumstances;

- i. Where the value of the requirements is very low (**See Procurement Threshold in 4.5**)
- ii. Where the requirement is a readily available, off-the-shelf product or service.
- iii. Where the requirement is clear and specific and the goods or services are straightforward and easily specified.

Where RFQ is used, the successful supplier is issued with a purchase order (PO).

It is mandatory that each RFQ specifies a submission deadline, which must be communicated to all prospective bidders.

Quotations received in response to an RFQ must be received in writing, either by mail, fax or email, and where resources permit segregation of duties should be applied.

The contract shall be awarded to the bidder who submits the best value for money, demonstrating an acceptable level of compliance with the specification and evaluation criteria as set out in the RFQ document.

4.4.2 Request for Bids (RFB)

RFB is considered to be a formal least cost selection method (evaluated technically and financially) where suppliers are requested to submit a bid for the provision of goods, services or straightforward works.

RFBs as a selection method are commonly used for open and limited competition.

It is used when requirements can be clearly and completely specified and the evaluation can be conducted on a pass/fail quantitative basis, without the requirement for the bidder to submit subjective information that would require a more flexible evaluation methodology.

RFBs require a defined deadline for receipt of bids, which must be communicated to all bidders in writing. Bid receipt and opening procedures must be followed when a RFB has been selected as the procurement method.

The contract is awarded to the bidder who submits the lowest priced offer that complies with all of the requirements as set out in the bidding documents, including technical specification, eligibility and award criteria.

4.4.3 Direct Selection

Direct selection methods shall be appropriate where;

- i. Award for identical requirements have been approved within a reasonable period of six (6) months and the conditions and prices offered remain unchanged.
- ii. Where a former procurement process conducted within one year time has failed to bring an award of contract.
- iii. The requirement is for standardization of equipment, spare parts or proprietary equipment,
- iv. Specialized non-consulting services that can be restricted to national administration or in some cases State Owned Enterprises;
- v. For tasks that are a natural continuation of previous work carried out by the firm;

- vi. For emergency situation and natural disasters;
- vii. For very low value assignments as prescribed in the thresholds under this manual (See 4.5);
- viii. When only one firm is qualified or has the necessary experience for the assignment.

All requests for direct procurement shall be fully justified and approved by the IGAD Tender/Local procurement committee prior to engagement with the supplier.

Where the use of direct procurement has been approved, the supplier must submit a written offer based on the requirements provided by IGAD including standard bidding documents, specifications and applicable terms and conditions of contract. In the case of direct contracting, Procurement Officials may conduct negotiations with the supplier to obtain best value for money and best terms and conditions of contract.

An evaluation report must be completed and approved by the relevant authority (dependent on the value of the award), prior to the issuance of the final contract to the supplier.

4.4.4 Request for Proposal (RFP)

RFP is considered to be a quality and cost based selection method. It is used for procurements where the requirements cannot be quantitatively or qualitatively expressed in the specification, and the award is dependent on a combination of quality and price factors that cannot be determined on a pass/fail basis. This is known as the cumulative analysis evaluation methodology.

The RFP selection method is sometimes used where the requirements are complex; cannot be clearly or completely specified, where detailed technical evaluations are to be performed, and/or where pricing is either not the basis or not the sole basis of award.

A RFP should request a technical proposal in response to the requirements set out in the specification and separately sealed financial proposal including all of the pricing components relevant to the proposal.

RFPs require a defined deadline for receipt of bids which must be communicated to all bidders in writing. Bid receipt and opening procedures prescribed in this manual must be followed when RFP has been chosen as the selection method. However, the pricing envelope should not be opened at the initial bid opening, and should be kept sealed until the technical evaluation is complete.

The evaluation methodology and weighing should be set out in the bidding documents and should clearly state the key areas of importance and respective percentage weighing for each of the identified criteria. A RFP should generally be weighted more heavily in terms of quality (80% - 20% is considered standard), however this must be determined on a case by case basis to determine best overall value. But the weight to be given to the financial shouldn't exceed the technical in any circumstance.

4.4.5 Quality Based Selection (QBS)

QBS is appropriate for the following types of assignments:

- i. Complex or highly specialized assignments for which it is difficult to define precise TOR and the required input from the consultants, and for which the client expects the consultants to demonstrate innovation in their proposals (for example, country economic or sector studies, multi-sector feasibility studies, design of a hazardous waste remediation plant or of an urban master plan, financial sector reforms);
- ii. Assignments that have a high downstream impact and in which the objective is to have the best experts (for example, feasibility and structural engineering design of such major infrastructure

as large dams, policy studies of national significance, management studies of large government agencies); and

- iii. Assignments that can be carried out in substantially different ways, such that proposals will not be comparable (for example, management advice, and sector and policy studies in which the value of the services depends on the quality of the analysis).

In QBS, the RFP may request submission of a technical proposal only without the financial proposal. After evaluating the technical proposals, the Tender Committee shall ask the consultant with the highest ranked technical proposal to submit a detailed financial proposal. The Committee and the consultant shall then negotiate the financial proposal and the contract.

Selection may also be made based on Consultants' qualification which is more appropriate for very small assignments where the need for submission and evaluation of detailed competitive proposals is not justified.

Expressions of interest and information on the consultants' experience and competence relevant to the assignment are requested.

The firm with the most appropriate qualifications and references is selected.

The selected firm is invited to submit a combined technical and financial proposal, and then invited to negotiate the proposal and the contract.

4.4.6 Quality and Cost Based Selection

Quality and Cost Based Selection (QCBS) is the standard method of selecting consultants through competition between pre-qualified short-listed firms. Selection is based on the technical quality of the consultants, the quality of the proposal, and on the cost of the services to be provided.

The relative weights given to the technical quality and cost of each proposal are determined for each case depending on the nature of the assignment.

The procedures and guidelines below are based on the standard QCBS process of selection although other selection methods are available for use in appropriate circumstances.

4.4.7 Single-Source Selection

Single-source selection of consultants lacks the benefit of competition in regard to quality and cost, is not transparent in selection, and may encourage unacceptable practices. Therefore, single-source selection should only be used in exceptional circumstances. The justification for single-source selection must be examined carefully to ensure economy and efficiency.

Single-source selection is only appropriate if there is a clear advantage over competitive selection:

- i. for tasks that are a natural continuation of previous work carried out by the firm;
- ii. where rapid selection is essential (for example, in an emergency situation);
- iii. for very low value assignments;
- iv. when only one firm is qualified or has the necessary experience for the assignment.

4.5 PROCUREMENT THRESHOLDS

4.5.1 Authority Limit for LPC

LPC in IGAD specialized offices shall have authority to process and finalize procurement up to a value of USD 50,000.- (USD Fifty Thousand).

However, any procurement requirement in excess of value of USD 50,000.- shall still be processed by LPC but final approval shall be obtained from the IGAD Executive Secretary as required by IGAD Financial Rules and Regulations.

4.5.2 Threshold limits, Type of competition and Method of Selection for Goods and Works

The procurement threshold under which various procurement and selection methods shall apply is shown below.

Procurement of services, goods and works with a value of less than One Hundred (100) USD, shall be considered as petty cash transaction. This threshold is subject to provision of the IGAD Secretariat Financial Regulations. The contracts shall not be split artificially to circumvent the procurement thresholds.

The following table shows the threshold limits, Type of competition and Method of Selection for Goods, Services and Works

Threshold limits

Procurement Threshold				
Items to be procured	Type of Tendering			
	Open Tender	Selective	RFQ/RFP	Single
Goods	National			
	≥ \$100,000.00	≥ \$20,000.00	≥ \$500.00	< 500.00
	<\$200,000.00	<\$100,000.00	< 20,000.00	
	International			
	≥ \$200,000.00			
Services	Open Tender or Pre-qualification	Selective	RFQ/RFP	Single
	National			
	≥ \$250,000.00	≥ \$20,000.00	≥ \$500.00	< 500.00
	< \$350,000.00	<\$250,000.00	< 20,000.00	
	International			
	≥ \$350,000.00			
Works	Open Tender or Pre-qualification	Selective	RFQ/RFP	Single
	National			
	≥ \$350,000.00	≥ \$20,000.00	≥ \$500.00	<500.00
	< \$500,000.00	<\$350,000.00	< 20,000.00	
	International			
	≥ \$500,000.00			

5.1 COMPONENTS OF BIDDING DOCUMENTS

IGAD's standard bidding documents must be used when soliciting for offers from suppliers. Whilst the nature and complexity of bidding documents may vary, all bidding documents must contain all information and appropriate provisions that are necessary for bidders to understand the IGAD's needs and to prepare a meaningful offer. No new requirements may be introduced and existing ones may not be changed after the bidding process has commenced. Therefore it is imperative that all crucial information is presented in the bidding documents.

All bidding documents shall consist of the following components:

- i. Letter of Invitation (LOI) and Instructions to bidders/consultants
- ii. Requirements definition (Terms of Reference or Specification or Bill of quantity)
- iii. Bid Data Sheet
- iv. Contractual information (Draft Contract Agreement and Special Conditions with annexes)
- v. Bid Forms

5.1.1 Letter of Invitation (LOI)

The information below should be included in all IGAD LOI:

- i. Invitation to Offer: this must include a unique reference to the specific procurement activity (title and tracking number) and list of all the supporting documents issued
- ii. Deadline for submission of bids - the time, date and place for submissions must be clearly stated, together with the date, time and place for opening of bids (if public).
- iii. Instructions for preparation and submission: the instruction must include a list of documents that the bidder must submit in order to form a complete bid. Suppliers should be informed that non-compliant offers may be rejected. A compliant offer is one that substantially conforms to all terms and conditions and specifications in the bidding documents. Further the instructions should always include:
 - Mode of submission (electronic, hand-delivered, mail or fax)
 - Address, fax number or email to which bids must be submitted
 - Instructions on offer packaging e.g. sealed, number of copies, two-envelope system
- iv. Description of the procurement activity: this should include the background and context to the procurement and the intended purpose or outcome of the activity.
- v. Pre-bid conference or site visit: if such visits are required for the tender, the date, time and place of pre-bid conference or site visits should be included here. In addition, it should state if attendance is mandatory or optional. The pre-bid conference is an open forum in which questions from potential bidders are addressed. Minutes from the forum must be prepared and issued to all suppliers for the record. The necessity for pre-bid conference or site visits should be decided after discussion and agreement between the Beneficiary unit and the Procurement Unit.
- vi. Currency of offer and payment: The instructions shall indicate in what currency the prices of the offer must be quoted. Further, the letter should state that the contract will be issued in the currency stated in the bidding documents.
- vii. Language: The instructions should state the language in which bidders should respond. The contract signed with the selected supplier must be written in the same language as the bidding documents, and this language shall govern contractual relations between parties.
- viii. Instructions on offer validity: Suppliers are requested to keep their offers valid for a specific number of days (typically 60 or 90), allowing time for evaluation of offers and award of contract.

- ix. Method of evaluation and evaluation criteria: It must be clearly stated in the bidding documents how offers will be evaluated, including the relevant weight of each major factor and how it will be applied. The evaluation must be carried out pursuant to the criteria specified.
- x. Discrepancies and errors in the price component: the instructions shall define how discrepancies and errors in the price component will be handled.
- xi. Payment terms: the bidding documents must specify the payment terms that are applicable upon receipt of invoice as well as receipt and acceptance of goods or services, or upon receipt of required shipping document dependant on the INCOTERM used.
- xii. Modifications: the bidding documents must stipulate that any additional information, clarification, correction or errors or modifications will be collated and distributed in a written notification to all suppliers prior to the deadline for receipt of offers to enable suppliers to take appropriate action.
- xiii. Amendments of contract terms: the bidding documents must explicitly state that bidders should confirm acceptance to the contract terms, included as part of the bidding documents. The document should state if minor deviations to the terms will be accepted and that these should be documented as part of the suppliers bid. Any reservations not stated will be deemed as acceptance.
- xiv. Bid security/performance securities: The purpose of a bid/performance security is to discourage insincere offers that would have a negative impact on the procurement process. When used, the bid security shall be in the amount and form specified in the bidding documents and shall remain valid for a period that provides sufficient time for the IGAD to conduct the evaluation. A bid security must always be stated in a specific lump sum and should be dependent on the complexity and cost of the procurement process. However, care should be taken to ensure that the value of the bid security does not discourage participation in the procurement process. Any requirement for a bid security shall be indicated in the bid document as a fixed sum only, based on a varying percentage of between 1% and 5%.
- xv. Advance payments and performance security: A guarantee for advance payment or performance security can be requested by IGAD from the supplier when the suppliers request an advance payment to cover its mobilisation costs (typically in case of works or services contracts). If a performance guarantee or advance payment guarantees is requested at the time of contract signature, this must be specified in the bidding documents.
- xvi. Contact information: The bidding documents should list who to contact in the event of queries or clarifications.

5.1.2 Requirements Definition

It is necessary to clearly and unambiguously describe the performance expected from the supplier in order to avoid disputes with the supplier at the time of contract execution. Depending on the nature of the requirement, the requirements are stated in the technical specifications, TORs, SOWs, design documents, requirements for design and build contracts. In addition the following requirements should be stated in the bidding documents:

- i. Delivery dates for goods, or standing/completion dates for services or works
- ii. The destinations and mode of transport
- iii. Delivery terms: The prevailing INCOTERMS shall be used to specify the delivery for IGAD procurements.

The requirement definition may take the form of terms of reference (TOR) in the case of consultancy services.

A statement of work (SOW) shall be prepared to define the requirement for works.

5.1.3 Bid Data Sheet

Bid Data Sheet shall be used to specify the parameters of the Instructions to Bidders for the particular procurement. It includes the following important information:

- the source of funds,
- eligibility requirements,
- procedure for clarification,
- bid preparation form,
- number of copies to be submitted,
- language of the bids,
- pricing,
- instructions on modification and withdrawal of bids,
- bid submission procedures,
- closing date,
- bid validity period,
- opening, evaluation and award criteria,
- procedure for correction of mathematical discrepancies in bids;
- notification of award and
- procedures for signing of contracts.

5.1.4 Contractual Information

A copy of IGAD's terms and conditions applicable to the procurement must be included as part of the bidding documents. The terms and conditions clarify which conditions suppliers are expected to accept upon contract signature.

Special terms and conditions are always an addition to the general terms and conditions and must be approved by IGAD's Legal adviser prior to the issuance of contract.

For contracting for services or works a copy of the relevant model contract must be included. The model contract allows suppliers to familiarise themselves with the specific agreement before submitting an offer.

When purchasing goods, a copy of the relevant packing and shipping instructions must be included with the bidding documents, including marking and numbering of the shipments, notification of shipment, documentation required for customs clearance and payment purposes and invoicing.

Price and payment information, such as whether the contract will be signed based on a fixed price/lump sum or cost reimbursement must be included.

5.1.5 Bid Forms

A duly authorised signatory must sign the suppliers' offer in order for it to be legally binding. Bidding documents shall contain a standard bid submission form to be signed and returned with the suppliers offer.

5.2 ISSUANCE OF BIDDING DOCUMENTS

The bidding documents shall be issued to all bidders who expressed interest to participate in a bidding process by post, by fax, courier, e-mail, or electronically. They must also be available to all interested bidders upon request in writing.

In a limited or non-competitive competition, where only selected suppliers may participate in the procurement, the bidding documents should be made solely available to the shortlisted suppliers. The shortlist should be approved in conjunction with the approvals for the bidding documents, specifications and method of procurement. In order to safeguard the principle of fairness, integrity and transparency, the names of any short-listed companies should not be disclosed.

5.2.1 Advertisements for Open Competition

Where the type of competition is open, public advertisements should be issued providing equal access to the bidding documents for all interested suppliers.

Publication of the advertisement should allow sufficient time before the deadline to enable prospective suppliers to obtain the bidding documents and to prepare and submit their bids. The period allowed should be a minimum of one-month following the date of the first advertisement, but longer periods may be necessary for more complex requirements.

5.2.2 Content of the Advertisement

The advertisement must clearly explain how bidders may submit a bid and provide sufficient information to enable potential bidders to decide whether to participate. The information contained in the advertisement must correspond with the information in the Bidding Document. Where there is a discrepancy, information in Bid Data Sheet shall prevail. (See Annex AA.23).

The advertisement should include as a minimum, brief information on:

- i. the goods, works or services to be procured;
- ii. any qualification requirements for bidders (e.g. a requirement for a minimum level of experience in the subject of the procurement);
- iii. the procedure for obtaining the bidding documents;
- iv. the place and deadline for submission of bids;
- v. the value of any bid security required.

5.3 TENDER PERIOD

The time period from the issuance of the bidding documents to the submission deadline is referred to as the tender period. During the tender period, no communication regarding the contents of the bidding documents is permitted between bidders and the Procurement Unit, except through the cases mentioned in item 5.3.1 to 5.3.5 below.

5.3.1 Amendment to Bid documents

At any time, prior to the deadline for the submission of bids, IGAD, may for any reason modify the bidding documents. Amendments to the bidding documents must be made within a reasonable time before the deadline for submission of offers in order to allow suppliers sufficient time to address any changes. In certain cases, amendments may justify an extension to the submission deadline.

In order to ensure that suppliers receive the same information at the same time, amendments to the bidding documents must:

- i. In the case of RFQ/RFB or Limited Competition, be sent simultaneously to all short-listed suppliers.
- ii. In the case of Open Competition, be uploaded to the IGAD website, along with any other sources where the advertisement had been placed and to all bidders who have requested for the bid document.

5.3.2 Bid Clarifications

A bidder may request clarification regarding the contents of the bidding documents. The period during which bid clarifications can be requested must be defined in the bidding documents. Requests for clarifications received after this period may be rejected unless they draw attention to a serious flaw in the bidding documents.

Each request for clarification must be received in writing by the Procurement Unit, which shall develop a response in consultation with the Beneficiary unit/requiring unit.

A written response shall be issued, detailing the clarifications and the relevant responses (without identifying the source of the query) to all bidders simultaneously.

Where possible, in the event that multiple clarifications have been received, these should be compiled into a single response document to be issued to all bidders simultaneously in order to reduce the administrative tasks required.

5.3.3 Extension of Bid Closing Date

The closing date for submission of bids may be extended at the discretion of the relevant office of IGAD for any practical or justifiable reason. Such reasons may include:

- i. Modification to the bidding documents after issue, requiring additional research or effort by bidders to submit a responsive bid;
- ii. Request for a time extension by two or more bidders; and
- iii. Unforeseen administrative issues which force a postponement of the proposed bid opening.

Where a decision has been made to extend the bid closing date, all bidders should be notified in writing, or through the IGAD concerned websites of the revised date for submission of bids.

5.3.4 Cancellation of Bidding Process before Bid Opening

A bidding process may be cancelled at any time before the deadline for receipt of bids with the approval of the person in charge of the Procurement Unit or Tender Committee. Justifications for cancellation may include:

- i. the procurement need has ceased to exist or changed significantly;
- ii. insufficient funding for the procurement to proceed;
- iii. there is a significant change in the required technical details, bidding conditions, conditions of contract or other details, such that the re-commencement of proceedings is necessary;
- iv. there is evidence of collusion among bidders; or
- v. cancellation is deemed to be in the best interest of the IGAD

All bidders who have received the bidding documents must be simultaneously notified of the cancellation.

Bids which have already been submitted must be returned, unopened to the supplier.

5.3.5 Modification and withdrawal of submissions

Bidders may modify their offers at any time prior to the submission deadline. Modified offers shall be treated as any other offer.

Withdrawal of submissions by suppliers can be accepted if the concerned office of IGAD is notified in writing prior to the deadline for submission.

A request to withdraw a submission after the submission deadline shall in principle not be accepted, and the withdrawn bid should be evaluated together with other offers received, and if a bid security has been requested it should be withheld. If the supplier is able to justify the withdrawal of its submission, IGAD may accept withdrawal after the deadline, and this should be decided on a case-by-case basis, however, the bidder shall forfeit the bid security if it was a requirement.

Withdrawal of an offer after the submission deadline is a serious matter. Therefore, suppliers should be given a written warning that this is unacceptable and that it may exclude the supplier from future IGAD tenders.

5.4 THE TIME TABLE

The following table shows tender submission deadlines for Goods/Supplies, Services and Work contracts in IGAD in calendar days.

Tender submission deadlines in Calendar days				
Item to be Procured	Types of Competition			
	Open Tender	Pre-Qualification	Selective	RFQ/P And Single source
Goods/Supplies	30	-	30	15
Services	30	First 20 And then 30	30	15
Works	60	First 20 And then 40	-	15

5.5 RECEIPT OF SUBMISSIONS

It is the responsibility of bidders to ensure that tenders are submitted in accordance with the provisions in the bidding documents. Submissions can be received by mail, courier, fax and dedicated email.

The bidding documents will have provided clear instructions to bidders on the marking and sealing of their bids and the procedures to be followed for submission.

All hardcopy tenders received shall be stamped with the date and time of receipt and deposited in the designated locked tender box or secured place in the case of bulky tenders until the tender opening.

A Bid Receipt Register should be kept to record all submissions received by post, courier, fax or email and the information contained within should correspond to the date and time stamp which is included on each hardcopy receipt.

The closing time for submission of bids shall be at the time and date set in the bidding documents. Public bid opening shall commence immediately after this time and the opening should be completed within the same session.

All bidders' representatives delivering bids by hand shall be directed to the tender box so that they may place their envelopes directly in the tender box.

Any tenders or samples received, which are too large to fit in the tender box, shall be registered and securely retained in a locked and safe place until the tender opening.

The tender box shall be closed and sealed immediately following the deadline for submission of bids.

Late tenders will not be accepted and shall be returned unopened to the bidder.

Bidders are not permitted to amend their bid in any way during the tender opening nor submit any additional documents during the process once the deadline for submissions has passed.

5.5.1 Opening of Tenders

The opening of tenders must be handled in a transparent manner in order to ensure that all suppliers are treated in a fair and non-discriminatory manner. The Tender Committee or an ad hoc committee established to carry out the opening of the tender document shall control and direct the tender opening exercise.

Bids shall be opened at the place and time stated in the bid document except in unforeseen circumstances, where the Procurement Unit shall set a convenient date and time.

It is the responsibility of the Tender Committee to ensure the security of documents and bids at all times during the tender opening procedure to prevent any unauthorised interference with the documents and process.

The Procurement Unit shall provide the Tender Committee with a summary of the tendering requirements, which shall include the tender closing date, tender reference and title, procurement method, advertising method and the Bid Received Register.

The Tender Committee shall compile all unopened bids and samples received which have been removed from the tender box or could not be accommodated in the tender box along with the Bids Received Register.

Upon opening the tender box the Tender Committee shall check that the writing on each envelope or sample inside confirms that it is for the correct tender and complies with the wording and sealing required in the bidding documents. For each bid received the following details shall be recorded in the Tender Opening Report:

- i. Number and name of bidders;
- ii. Date of invitation and deadline;
- iii. Any bid modifications or withdrawals;
- iv. The number allocated to the bid by the Tender Committee or an ad hoc committee;
- v. The country of the bidder;

- vi. The title and lot where applicable of the goods, works and/or services offered if the tender is for more than one Lot;
- vii. The total bid price and the currency of the bid;
- viii. Any discounts offered where applicable;
- ix. The presence or absence of any required bid security; and
- x. Any other appropriate information.

All bid securities, where requested shall be kept in a secure place

Any obvious failure to provide a responsive bid, such as no bid security or inadequate bid security, shall be recorded in the Bid Opening Report.

All Members of the Tender Committee shall initial the original of each bid and all attachments thereto including any samples provided by the bidder.

The Tender Opening Report shall be prepared by the Tender Committee or an ad hoc committee and signed by all members of the Committee.

5.5.2 Public Tender Openings

The Procurement Unit may decide prior to the issuance of the tender documents whether a public bid opening is in the best interests of the IGAD. If so, the time and place of the public bid opening should be stated in the tender documents.

Only suppliers who have submitted bids may attend a public bid opening; however bidders may authorise a local agent to attend on their behalf. In order to be permitted to attend the bid opening, agents representing bidders must provide evidence confirming the bidder(s) they represent.

Regardless of whether a bid opening is public or not, the Tender Opening Report shall be made available to all bidders upon their request. Disclosure of any other information regarding the procurement process, other than that contained within the Tender Opening Report is strictly prohibited.

5.5.3 Extension of Bid Validity

The duration of bid validity is specified in the bidding documents and should be confirmed in the signed Bid Form submitted by each bidder. If circumstances occur in which award of contract cannot be made within the original bid validity period, extensions in writing should be requested and extended in accordance with the bidding documents.

The evaluation and award of contract should be completed within the period set for the validity of bids. The date for expiry of bid validity set in bidding documents must be monitored by the Procurement Unit and attention must be drawn to this deadline.

If, due to unforeseen circumstances, the award process cannot be completed within the set period, the Procurement Unit shall contact bidders in writing to seek their agreement to an extension of the bid validity.

Bidders have the right to refuse to grant an extension of bid validity without forfeiting their bid security (where applicable). If a bidder refuses to extend the validity of his bid, then on expiry of the original bid validity period, any bid security submitted shall be returned to the bidder and the bid not considered further.

Only bidders who respond confirming their unconditional acceptance and enclosing any required extension to their bid security may be considered for further evaluation and award of contract.

6 ELIGIBILITY, QUALIFICATION, EVALUATION & AWARD CRITERIA

6.1 ELIGIBILITY CRITERIA

Except for those tenders that are restricted to IGAD member states (See 2.6.1), and those restricted due to donor requirements, all other tenders are open to all economic operators and individual consultants irrespective of their nationality.

As a minimum, bidders will be excluded from participation in all IGAD procurement procedures if:

- i. They are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- ii. They have been convicted, by a final judgment, of any crime or offence concerning their professional conduct;
- iii. They have been previously removed from the IGAD Supplier Register or debarred from previous procurement activities for any of the reasons given above or any other reasons which IGAD can justify.
- iv. Legal proceedings have been instituted against them involving an order suspending payments and which may result, in accordance with their national laws, in a declaration of bankruptcy or in any other situation entailing the total or partial loss of the right to administer and dispose of their property;
 - i. They have been the subject of a judgment which is related to fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to IGAD's financial interests;
- v. They are guilty of serious misrepresentation with regard to information required for participation in an invitation to tender;
 - ii. They have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or those of the country where the contract is to be performed;

6.2 QUALIFICATION CRITERIA

The qualification criteria are a set of requirements that applicants or bidders shall fulfil in order to demonstrate their capability to execute the contract in question.

The criteria shall be objective and not discriminatory. Both, the criteria and the documents needed to prove the compliance with the qualification criteria shall be clearly stated in the bidding document. Once announced, the criteria cannot be changed during the evaluation process.

Depending on the category of procurement, the qualification criteria are the following:

6.2.1 Experience in implementing similar contracts (Technical Capacity):

The bidder/applicant is requested to demonstrate experience in the implementation of specific number of similar contracts, in at least last three to five years. By similar contracts, it should be understood that contracts of a same nature as the contract for which the bidding process was launched, not necessarily contracts with exactly the same specifications.

6.2.2 Financial Resources (Economic Capacity):

The bidder/applicant is requested to demonstrate the availability of the financial means to fully finance the estimated contract cash flow for twelve months, net of requirements for other known commitments over the period of implementation of the contract.

A range of financial ratios can then be applied to determine the suppliers’ financial capacity as below.

Financial ratio	Formula	Description	Warning signals
Net profit margin	$\frac{\textit{Net profit}}{\textit{Total revenues}}$	Shows how much pricing power the supplier has for its product and how well it minimizes costs	A net profit above 0.1 indicates that the supplier is less likely to commit fraud. A net profit below 0 means a net loss.
Return on assets	$\frac{\textit{Net profit}}{\textit{Total assets}}$	Assesses the return the company can generate for each dollar of its assets	A low ratio in comparison with industry averages indicates an inefficient use of business assets. A common reference for the ROA is 5% or above.
Return on equity	$\frac{\textit{Net profit}}{\textit{Stockholder's equity}}$	Measures the return for each dollar invested in the company	A low ratio in comparison with industry average indicates ineffective use of financial leverage.
Quick ratio / Acid-test	$\frac{\textit{Cash+Marketable securities+Receivables}}{\textit{Total current liability}}$	Indicates whether a company can cover its liabilities as they come due immediately	A quick ratio below one is a warning signal, as the company may not be able to cover its bills in the short run.
Debt-to-equity	$\frac{\textit{Total debt}}{\textit{Total equity}}$	Shows the indebtedness of the supplier by comparing creditor with owner financing	If the ratio is greater than 0.5 the supplier is highly leveraged increasing the supplier’s likelihood of bankruptcy and creating an incentive factor for fraud.

It should be noted that the ratios above are best practice guidance. A supplier should not be excluded based on any single ratio; rather, all should be applied to determine an overall picture of financial health.

6.2.3 Personnel Resources (Experience/Professional Capacity):

The bidder/applicant may be requested to demonstrate availability of a pool of experienced staff, capable of performing the key functions required for the contract. The requirements concerning this criterion shall list the essential functions, and the number of years of relevant experience of the personnel needed by the bidder to prove compliance with this criterion.

The Procuring Entity shall avoid using words such as “qualified” or “licensed” as well as “Master or PhD degrees”, unless they are essential for implementation of the contract. This request shall be proved by presenting a list of the available personnel and highlighting the compliance with the requirement. The list shall be accompanied by the Curricula Vitae of the proposed personnel.

6.2.4 Facilities Resources:

- This is additional criteria which might be requested for bidders competing for general services, goods and/or works. In such instance, bidders or applicants are requested to demonstrate the availability of specialized equipment, essential for the execution of the contract, or facilities to provide maintenance or technical support at the site where the general services, goods or works will be delivered.
- The list of such requirements should be limited to highly specialized or heavy equipment, as well to service facilities critical to the execution of the contract, which cannot be easily purchased, hired or leased in the market, or readily manufactured. To prove compliance with this criterion, the economic operator shall provide documents demonstrating the ownership of the equipment or facility, or any binding agreement with a local supplier to lease or rent the equipment and/or facility, or to provide technical support for maintenance and troubleshooting.

All the documents presented by the bidder/applicant to demonstrate the compliance with the aforementioned criteria shall be certified copies (by a public notary or Commissioner of Oath) and be in any of the IGAD Secretariat official languages. When the documents are not written in an IGAD Secretariat official language, they shall be accompanied by the original certified translation into one of the IGAD Secretariat official languages.

The Procuring Entity reserves the right to request the bidders to provide additional information. Procuring Entity may also contact any of the references mentioned in the supporting documents.

6.3 EVALUATION CRITERIA

The evaluation criteria are meant to determine the compliance of the services, goods and works offered by the bidders with the Procuring Entity requirements stated in the Terms of References or Technical Specifications.

The evaluation criteria shall be clearly stated in the Bidding Documents. It shall be precise, non-discriminatory and not prejudicial to fair competition. The evaluation criteria shall not be changed during the evaluation process.

The Procuring procedure allows the use of two methods of evaluation:

6.3.1 Evaluation on the compliance with the requirements and price (Best technically compliant)

This method of evaluation implies the comparison of the bids against the requirements. If a bid fails to comply with any critical requirement, it is automatically rejected. The technical compliant bids are ranked based on the price. This system shall be used for general services, goods and works with technical requirements clearly defined and widely available on the market.

6.3.2 Evaluation using the merit point system (Best value for money)

This method of evaluation entails that merit points or weightings are assigned for each relevant or critical aspect or sub-criteria, being evaluated and compared with the requirement. The method has a combination of technical and financial evaluation usually at a ratio of 80% and 20% respectively. The offer having more points will be awarded the contract.

This method shall be used for Consulting Services as well as for those complex general services, goods and works for which exact requirements cannot be clearly defined and where the bidders are allowed to propose variant solutions (e.g.: custom made services, goods and works).

6.3.3 Evaluation report

The Evaluation Report is an essential document to demonstrate a record of transparency in the procurement process, and must be compiled with care and attention to detail.

The tender Committee/LPC established for evaluation of bids may recommend that all of the bids be rejected if:

- i. None of the bids are found to be responsive;
- ii. All of the bids are unreasonably high in price compared to the cost estimate;
- iii. None of the bidders are qualified;
- iv. There is deemed to be an absence of competition, where the numbers of bidders are less than three. (However lack of competition is not usually decided solely on the basis of the number of bidders).

The amount of the recommended contract award is the bid price as submitted by the winning bidder after adjustment as described in the bidding documents for corrections, any discounts (including domestic preference) and acceptance of alternative offers from the bidder (if alternative offers are permitted in the bidding documents).

Further adjustments to the final price and scope of the contract to correct for acceptable omissions and quantity variations in the bid may still need to be agreed with the winning bidder.

The Evaluation Report shall contain a summary of the procurement and evaluation process and will include:

- i. The recommendations;
- ii. Justification of any decisions reached by the Committee on rejection of bidders and the recommendation for award of contract, or for essential negotiations with winning bidder, or rejection of all bids;
- iii. Clearly establishing the actual amount of the contract award.
- iv. A summary of important evaluation criteria, with evidence of how it affected the outcome of the evaluation;
- v. Explanation of any inconsistencies between prices and modifications to prices established at bid opening.
- vi. Details of any bids rejected during the examination.
- vii. Explanation of any substantial corrections for arithmetic errors which may affect the ranking of bidders.
- viii. Explanation of any domestic preference not read out and recorded at the bid opening.
- ix. Evidence of any other related contracts recommended for award to the same bidder at the same time.
- x. Justification of any reasons for not recommending award of contract to the lowest evaluated cost bidder (for an RFB or RFQ)
- xi. Details of any clarifications, and responses by the Procurement Unit, and bid clarifications requested by the Procurement Unit and bidder responses.
- xii. All required Tables and supporting documents.

6.4 AWARD CRITERIA

Contracts are awarded on the basis of the award criteria established in the Bidding Documents in one of the following two ways:

- i. **Price**, in this case the contract is awarded to the bidder which, while satisfying the eligibility, qualification and evaluation criteria, quotes the lowest price;
- ii. **Quality and cost** (i.e. the most economically advantageous bid). This award procedure entails the successful bid to be determined by applying a formula including the evaluation points and the offered price.

7 CONTRACT AWARD AND COMPLAINTS HANDLING

7.1 NOTIFYING THE SUCCESSFUL BIDDER

Before the period of validity of bids expires, and on the basis of the approved evaluations report, the Procurement unit notifies the successful bidder/applicant in writing that its bids has been accepted, draws attention to any arithmetical errors corrected during the evaluation process and requesting the bidder to accept such correction and invites the bidder to negotiate the contract.

7.2 NEGOTIATION OF THE CONTRACT WITH THE SUCCESSFUL BIDDER

Once a supplier has been notified of the IGAD's intention to award the contract to them, it is possible to discuss with the successful bidder any matters which are essential for the implementation of the contract (Ex. payment milestones). Contractual discussions after the intention to award have been sent, cannot amend any of the provisions which would have affected the outcome of the evaluation.

Negotiations are undertaken after selection and before the award of contract, with the purpose of ensuring best value for money for the IGAD whilst maintaining fairness, integrity and transparency.

Negotiations should not normally be conducted, except where there is a reasonable justification, this may include:

- i. Where the Non-competitive procurement process has been utilised or where there is only one possible bidder due to justified single-source requirements.
- ii. Negotiations (including price) may be undertaken in selection of consultant services where price is not an evaluation criteria. This will apply only to the Quality-Based Selection (QBS), Selection Based on Qualifications, or the Single-Source Selection methods and will follow the procedures specified in the Request for Proposals.
- iii. Negotiations with the lowest evaluated cost bidder may be undertaken where reservations or restrictions on the specifications or conditions are contained in the bid. These negotiations are for the sole purpose of persuading the bidder to waive these restrictions so that the bid is in accordance with the specifications, terms and conditions of the original tender; and
- iv. Negotiations with the lowest evaluated cost bidder may be undertaken to agree a satisfactory contract through a reduction in the scope or quantities and/or a reallocation of risk and responsibility, to reduce the contract price when prices quoted are substantially higher than the estimated cost. However, any substantial reduction in the scope or modification to the contract documents may require re-bidding to ensure transparency.

In no circumstances shall negotiations be conducted with two bidders simultaneously.

Negotiations must be approved by the relevant authority prior to commencement and must involve two (2) IGAD personnel as a minimum.

All negotiation minutes should be fully documented.

7.3 CONTRACT PREPARATION

After a decision has been made to award the contract to the successful bidder, it is the responsibility of the Procurement unit for the preparation of the contract documents.

Once the contract is drawn up by the procurement unit it is subject to financial and legal regulatory clearances prior to its signature by the Executive Secretary or any other person with proper delegated authority.

The contract shall be issued in three (3) originals, be signed on each page and stamped with the Procuring Entity official stamp. The contract should be sent to bidder for signature no later than fifteen (15) days from that date of notification of the recommendation for the award of the contract. The contract form and the Special Conditions of Contract shall be initialled on each page by the signatories of the contract.

The successful bidder shall be given fifteen (15) days to sign the contract and return two (2) originals to Procurement unit. If the successful bidder fails to do so, Procurement unit may consider cancelling the award of the contract to the successful bidder and the second best qualified bidder shall be awarded.

Signed contract by IGAD can be scanned and sent to service provider or contractor to colour scan, sign, stamp, scan and send it back to Procurement Unit in case of urgency and the originals will be signed as stated in presiding paragraph above.

The Procurement unit shall verify the power of representation of the natural person signing the contract on behalf of the legal entity awarded the contract.

The contract takes effect on the date of the latter signature.

On receipt of the two (2) signed originals from the contractor, the Procurement unit shall keep one original and send the remaining one to financial service.

7.4 PUBLICIZING THE AWARD OF THE CONTRACT

Once the contract has been signed, the Procurement unit shall prepare Contract Award Notice using the standard template and publish it on IGAD Secretariat's website.

The award notice shall be published within maximum five (5) days from the signing of the contract.

The award notice shall be maintained on the IGAD Secretariat's website during the implementation of the contract.

7.5 MODIFYING CONTRACTS

Contracts may be subject to modification during implementation provided that the following principles are observed:

- i. There shall be justified reasons for modifying a contract. Contract modifications shall be formalized through an addendum to the contract in accordance with the provisions of the General Conditions of the Contract and accepted by contracting parties.
- ii. No modification to the contract may alter the award conditions prevailing at the time the contract was awarded. Any fundamental alteration of the Terms of Reference/Technical Specifications shall not be allowed.

- iii. Requests for contract modifications shall be made (by one contracting party to the other) well in advance to allow for the addendum to be signed by both parties before the expiry of the execution period of the contract.
- iv. The value of the initial contract may only be increased by an aggregate amount of up to twenty five percent (25%).
- v. The duration of the contract may only be increased by an aggregate of maximum hundred percent (100%) of the duration of the initial contract.
- vi. All modification shall be signed by parties prior to the expiration of the contract.

7.6 ADVANCE PAYMENTS

In general, advance payments for mobilisation of contractors or consultants are accepted as a standard. The use of advance payments in other cases shall be actively discouraged wherever possible throughout IGAD procurement processes.

7.6.1 Advance Payment for Goods

The offering of advance payment for goods in the bidding documents may be appropriate when items are specifically manufactured to the specifications of the IGAD. Advance payment shall not be offered as a standard condition in any other bidding document for the procurement of goods.

The normal practice shall be to offer full payment following delivery or payment by Letter of Credit for international purchases.

7.6.2 Advance Payments for Works and Consultant Services

The provision of advance payments for mobilisation of contractors and consultants shall be subject to the terms stated in the bidding document. Any such advance payments may be initiated on receipt of an advance payment security in a form acceptable to the IGAD.

The provision and methodology for repayment of any advance shall be fully defined within the contract document, including a provision for deductions to be made from approved certificates or stage payments to the contractor or consultant.

7.7 TERMS OF PAYMENTS

Whenever it is appropriate, IGAD may pay an advance payment up to 30% of the contract price.

Progress payments can be paid to contractors depending on the degree of completion and deliverables which are included in the contract agreement.

Final payment shall be made to contractor up on successful completion of the contract agreement and fulfilment of the required documentation.

7.8 SECURITIES

7.8.1 Bid security

A bid security of 1% (usually for open or international tender) or 2% (for others) of the estimated cost of the contract shall be required. The bid security may be in cash or in the form of a guarantee from a Financial Institution approved by the National Bank of the concerned IGAD member state. The validity period will be as specified in the bidding documents.

Bidders shall be required to submit bids valid for a period specified in the bidding document which shall be sufficient to enable IGAD to complete the evaluation of bids.

Failure to submit bids securities in the prescribed format is considered as a major deviation and sufficient grounds for rejection of bids.

If the amount of the bid security submitted is less than the amount stated in the bid, it shall be rejected.

Bid securities shall be released to unsuccessful bidders once the contract has been signed with the winning bidder.

7.8.2 Performance Securities

For every contract, except those resulting from requests for quotations and leases, IGAD shall receive a performance security. Within 15 days of receipt of notification that his bid has been accepted, the successful bidder shall sign the contract and furnish a security in any of the formats of bid security equal to 10% -12% of the price.

The performance security will be used to compensate the damages suffered by IGAD due to failure of the supplier to perform the contract. If the damage exceeds the amount of the performance security IGAD has the right to claim the difference from the supplier. If the damage is below the amount of the performance security the balance shall be returned to the supplier.

The IGAD Entity shall confiscate the bid security, if the supplier fails to submit a performance security within 15 days of the date of receipt of the letter of award or in case where a complaint has been filed 15 days from the date a decision is given on the complaint.

If the successful bidder fails to sign the contract, the IGAD after evaluating the advantages to be gained, may award the contract to the second successful bidder or rebid.

7.8.3 Advance Payment Securities

Where advance payments of USD 10,000 or above are made, an advance payment security shall be required from the supplier or contractor to cover the full amount of the advance payment. Advance payment securities shall normally be in the form of a bank guarantee specifying the specific conditionality under which the IGAD may call for payment.

7.8.4 Retentions

Retentions of 5% are normally usually applicable to works projects or occasionally to the supply of machinery and equipment.

The rates of retention to be withheld from all certificates or stage payments for works contracts shall be specified in the contract. Following interim takeover of the works, a further payment may be made to the contractor under the terms of the contract to reduce the retention to a lower percentage of the contract price.

The balance of any Retention monies are only released to the supplier or contractor on satisfactory completion of the guarantee or warranty period stated in the contract.

7.9 COMPLAINTS HANDLING

7.9.1 Request for clarifications

The Appeal Review process is a time consuming and costly process, therefore the IGAD Secretariat request applicants and bidders, to seek firstly written clarifications from the Procuring Unit for the respective procurement process on any decision considered unjust by the bidder.

To be considered valid, the request for clarification or notification of breaching of IGAD Secretariat procurement procedure shall be sent by the bidder within seven (7) days from the notification of the Procurement unit of the decision which is challenged by the bidder.

The contact points for submission of request for clarifications shall be sent to the Procurement Unit at the address indicated in the tender document. The Procurement unit shall have seven (7) days to respond to the bidder's request for clarification.

If following the receipt of clarification or notification of a breach of IGAD Secretariat procurement procedure from a bidder and applicant, the Procurement Unit becomes aware of a breach of IGAD Secretariat procurement procedure, it shall promptly notify the Tender Committee and request the suspension of the procurement process until corrective measures are taken by the Procurement Unit to remedy such event. In such instance, the Tender Committee shall promptly review the procurement decision and decide on the matter brought into their attention.

7.9.2 Submission of a procurement complaint

If, after Five (5) days from the receipt of the Procurement Unit's response to the request for clarification, the bidder is still not satisfied with the answer received, he/she shall escalate the matter to the Tender Committee.

The contact points for submission of a complaint to the Tender Committee shall be sent to the Procurement Unit at the address indicated in the tender document.

The Tender Committee shall have seven (7) days to respond to the bidder's complaint.

If following the receipt of complaint from a bidder, the Tender Committee becomes aware of a breach of IGAD Secretariat procurement procedures; it shall promptly suspend the procurement process and take corrective measures to remedy the situation noted by the bidder in his complaint.

7.9.3 Procurement Appeals Review Committee

As stated in section 3.11 of this manual, the IGAD Procurement Appeals Review Committee shall be appointed by IGAD Executive Secretary.

The IGAD Procurement Appeals Review Committee shall consist of three members from IGAD management group with equal voting rights, no subordination relationships among themselves with the structure of the Institution and with no conflict of interest. The IGAD Procurement Appeals Committee will be supported by an officer from the Legal department.

The Procurement Appeals Review Committee shall be supported by the Complaints Officer acting as Secretary of the Procurement Appeals Review Committee, with the only role of recording the proceedings, drafting the communications with the involved parties (including the decisions of the Procurement Appeals Review Committee) and be the custodian of the appeal and hearing proceedings records.

The members of the Procurement Appeals Review Committee shall sign a Declaration of Impartiality and Confidentiality using the standard template.

In case a member of the Appeals Review Committee become aware at any time during the appeal proceedings, that she/he might be in a conflict of interest situation, shall notify the Chairperson on the circumstances and request the withdrawal from the Procurement Appeals Review Committee.

When deliberating, the Procurement Appeals Review Committee shall apply the Procurement Principles defined in the IGAD Secretariat Procurement Policy and Guidelines and its annexes, as well as in the procurement documents issued during the procurement processes.

The tenure for membership of the Procurement Appeals Review Committee shall be one year subject to reappointment for the second year.

7.9.4 Filing a Complaint

Any bidder (“the Complainant”) who has experienced or reasonably believes may experience loss or injustice due to a breach of the IGAD Secretariat procurement rules during the course of a procurement process, may file a written complaint (“Complaint”). All Complaints shall be submitted within five (5) working days from the day when the bidder has exhausted the previous steps in clarifying a procurement decision.

The Complaint shall be in one of the IGAD Secretariat official language (or with a certified translation attached) and shall:

- i. include the name, address, telephone and facsimile numbers of the Complainant;
- ii. identify the procurement process in relation to which the Complaint arises;
- iii. describe the nature of the Complaint and the facts supporting such Complaint, including references to the IGAD Secretariat Procurement Policy and/or Guidelines’ violated and the time lines of the Complaint;
- iv. provide justification (grounds) for the Complaint;
- v. provide explanation of the steps taken to request review of the procurement decision with the Procurement Unit (i.e. request for clarification and submission of a complaints to tender committee)
- vi. state the steps in the procurement process (if any) the Complainant is requesting to be revised and/or what other remedies are sought by the Complainant; and
- vii. state expressly whether the Compliant requests a hearing to present the case.

The Complainant shall not pay any fees or charges for submitting Complaints to the IGAD Secretariat and/or for their review and adoption of a decision.

Within three (3) working days from the receipt of the Complaint, it is to be forwarded by the Procurement Unit to Procurement Appeals Review Committee after the compliant is approved by the concerned accounting officers for further investigation.

7.10 INVESTIGATION AND RECOMMENDED ACTION AGAINST MALPRACTICE

Complaints shall be investigated by Procurement Appeals Review Committee. The Committee shall immediately suspend the procurement process and ensure that the bidder has an opportunity to formally present her / his case and to receive an explanation of the decisions made.

Where investigations indicate that the bidder has a valid complaint that may have affected the award of contract:

- i. No award of contract shall be made pending resolution of the dispute. or

- ii. A notice suspending performance of the contract shall be sent to the supplier awarded the contract.

If the supplier awarded the contract is believed to have engaged in fraudulent or corrupt practices in obtaining the award of contract, the supplier shall be invited to explain his defence to the Procurement Appeals Review Committee. If no satisfactory explanation is received within 7 days, the contract shall be terminated and the Procurement Appeals Review Committee recommend to the IGAD Executive Secretary for debarring the supplier from participating in IGAD procurement for a set period of time.

If an award of contract was made incorrectly due to internal failures within IGAD to follow the procedures established in the Manual, the Procurement Appeals Review Committee shall recommend any disciplinary action to be taken against the IGAD Officers, and determine the specific actions necessary to resolve the complaint and award of contract.

7.11 APPEAL RECORDS

The Procurement Appeals Review Committee shall maintain records of the complaints filed by the bidder, investigation conducted, final recommendation and action taken by IGAD Executive Secretary.

After the final decision is made, the parties shall be given a copy of the records within ten (10) working days from the date of issuance of the decision.

The original records shall be kept by the Complainants Officer and copies distributed to the Procurement, Finance, Legal, Internal Audit and Requisition Beneficiary.

8 CONTRACT ADMINISTRATION

Good contract administration ensures that the end users are satisfied with the product, service, or work being performed as per the contract agreement.

8.1 THE NATURE AND EXTENT OF CONTRACT ADMINISTRATION

The specific nature and extent of contract administration varies from contract to contract. It can range from the minimum acceptance of a delivery and payment to the contractor to extensive involvement by program, audit and procurement officials throughout the contract term.

Factors influencing the degree of contract administration include the nature of the work, the type of contract, and the experience and commitment of the personnel involved. Contract administration starts with developing clear, concise SOWs (performance-based to the extent possible), and preparing a contract administration plan that measures the contractor's performance and provides documentation to pay according to the deliverables specified in the contract.

8.2 PERFORMANCE MEASUREMENT

The user unit represented by IGAD person has the responsibility to monitor contractor performance through meetings, reports, and inspection so that swift remedial action can be taken when problems arise, or preventative action taken when problems are foreseen.

The assigned IGAD person shall also require deliverables for all contracts and document contractor's performance.

8.3 CONTRACT SUPERVISION AND ADMINISTRATION – GOODS

Supervision and administration is straightforward in most procurement of goods but monitoring delivery schedules, processing of documents and the inspection of goods are essential to ensure that the right goods are delivered on time.

Contract supervision and administration for goods will be undertaken by the Procurement Unit in conjunction with the Beneficiary unit, as appropriate. In this connection, supervision shall entail the following:

- i. Monitoring the delivery schedules of all purchases to ensure that they are dispatched, delivered or collected on time including partial shipment.
- ii. Receiving reports on any pre-shipment inspection of goods and contact the supplier in writing requesting rectification of any discrepancies or deficiencies.
- iii. Contacting the supplier or shipper to identify the causes of any delay in delivery;
- iv. Initiating and supervising any process for claims against insurance or the supplier.
- v. Reporting to the relevant authority where appropriate any failure by the Supplier in his contractual obligations.

8.3.1 Receipt of goods

The Stores Unit is responsible for the receipt of goods except under works contracts where construction materials are delivered directly to the site.

On delivery by a supplier, the Stores Unit shall:

- i. Receive the goods into temporary storage.

- ii. Examine the apparent condition of the goods and packing.
- iii. The receiver shall sign on the delivery note/shipment documents to acknowledge receipt.
- iv. Receive and register the invoices, and other documentation from the supplier or shipper.

8.3.2 Inspection of Goods

The Inspection of goods shall be performed by store employees and specifically:

- i. Examine the documentation and packaging for compliance with the contract.
- ii. Ask the Supplier to open the packages (or arrange opening of the packages at the Supplier's expense).
- iii. Examine and analyse the goods for conformity with the contract specifications and/or the samples provided.
- iv. Reject all goods that are damaged or do not conform to the required specifications or samples.
- v. Prepare the Inspection Report, recording the delivery, and descriptions, specifications and quantities of the goods examined, and the reasons for accepting or rejecting the goods.
- vi. Release accepted goods to permanent storage.
- vii. Prepare Goods Received Note (GRN) after ensuring that goods received are in conformity with the specification mentioned in the contract document.

8.3.3 Payment for goods

The Procurement Unit shall forward the following documents to finance for payment.

- i. original invoice from the Supplier;
- ii. the shipping documents or airway bill, or a delivery note, as appropriate;
- iii. original of the Inspection Report, as appropriate;
- iv. original Goods Receipt Note;
- v. results of any laboratory analysis, as appropriate;
- vi. calculation of any penalties for rejected goods not removed by the Supplier
- vii. copies of the contract document, records of approval and financial authorisations.

The Procurement Unit shall keep record of all requests for payment sent to finance.

8.4 CONTRACT SUPERVISION AND ADMINISTRATION – WORKS

8.4.1 Contract supervision

Contract supervision and administration of works contracts is often complex due to factors which could not be foreseen at the start of the work. Due to the nature of work contract it is usual to employ Supervising Engineers to control the day to day activities while the work is progressing.

8.4.2 Payment for Works

Payment for works contracts will normally be made against Payment Certificates issued by the Contractor, reviewed by the Supervising Engineer and Procurement Unit, and Completion Reports of the Committee on provisional or final takeover.

The Procurement Unit will ensure that:

- i. any required retention specified under the contract is deducted from the value of the Certificate before payment;
- ii. agreed deductions in respect of the repayment schedule for any advance payment are deducted from the value of the Certificate before payment;
- iii. on issue of an interim takeover certificate by the Receiving Committee or project Manager, part of any retention monies held may be paid to the contractor if specified in the contract;
- iv. on issue of a final takeover certificate by the Inspection and Receiving Committee, the balance of any retention monies is paid to the contractor.

8.5 CONTRACT SUPERVISION AND ADMINISTRATION - SERVICES CONTRACTS

8.5.1 Contract supervision

Contract supervision and administration for simple routine services such as office cleaning, provision of transport or contract maintenance, will be undertaken by the office in charge of general services.

For consultancy services, the contract will usually nominate a Project Manager (Head of the requisition unit) to coordinate supervision and administration.

The contract may specify payments on the basis of inputs (time) or deliverables and the related administrative and supervision activities must therefore be based on the specific terms of each contract.

The Project Manager (Head of the requisition unit) will:

- i. Monitor the activity and performance in accordance with the contract to ensure levels of service are maintained and that deliverables are submitted or completed on time.
- ii. Ensure that all contractual obligations of IGAD are performed promptly and efficiently.
- iii. Ensure that all deliverables (and especially reports) are reviewed immediately and responded to in writing where necessary.
- iv. Contact the service provider to identify the causes of any failings in performance or failure to meet targets.
- v. Issue a formal letter, except on matters of a legal, contractual or financial nature to the service provider detailing the complaint if the explanation given is unsatisfactory or if performance is not improved within a reasonable period of time.
- vi. Report to the Procurement Unit any continued breach by the service provider of his contractual obligations with copy to the Office of the Legal Counsel.

8.5.2 Payment for Services

Payment for service contracts shall be made according to the specific terms of each contract against invoiced claims by the service provider.

The Project Manager will ensure that:

- i. Advance payments are made as per the contract documents;
- ii. The invoice claim is justified by the evidence of timesheets, submission and acceptance of deliverables, or other criteria as specified in the contract;
- iii. Agreed deductions in respect of the repayment schedule for any advance payment are deducted from the value of the invoice before payment.

- iv. Final payment is made after all requirements including certificate of completion is completed.

8.6 CONTRACT EXPIRATION

Following the contract end-date, the contractual relationship between IGAD and the vendor ceases. Should there be a requirement for the vendor to perform services or deliver goods beyond the stated contract end date; the head of user unit should contact the Procurement unit prior to the contract expiration to obtain clearance to extend the contract and with sufficient time to allow Procurement Officer to process a contract modification.

Contracts cannot be retroactively extended.

8.7 CONTRACT TERMINATION

IGAD may terminate a contract in whole or in part if a contractor defaults under the contract or becomes insolvent, or if the whole or part of the contracted services or goods is no longer needed by IGAD.

Procedures for contract termination are stipulated in each contract and must be strictly adhered to, in order to terminate the contract and to protect the interest of IGAD. The head of user unit should contact the Procurement unit when events that could ultimately lead to a termination have occurred. Termination for default is also cause for suspension and debarment.

8.8 RETENTION MONEY

Where the contract stipulates observance of a guarantee period, part of each payment instalment shall be retained by IGAD as a guarantee for the proper performance of the contractual services. The amount thus retained by IGAD shall be equal to 5% of each instalment paid for execution of works and supplies.

The retention money shall be released when the contractor has discharged all obligations pertaining to the guarantee period, or where so authorised by IGAD upon expiry of the guarantee period or upon final acceptance.

The duration of the guarantee period shall be fixed in the technical specifications in accordance with the nature of the contract.

9 OTHER ISSUES

9.1 MONITORING

9.1.1 Importance of Monitoring

Monitoring is the continuous assessment of the procurement processes implementation in relation to agreed schedules and the use of the procured services, goods, and works by IGAD Secretariat. IGAD Secretariat's overall monitoring and evaluation framework shall also apply to procurement.

Monitoring is an integral part of the good management policy enforced by IGAD Secretariat. Its main objectives are to provide continuous feedback on implementation and to identify actual or potential successes and constrains as early as possible to facilitate timely adjustments to the procurement process.

Continuous monitoring and periodic evaluation of the procurement process can achieve the following issues:

- i. Provide readily available analyses for decision making; and a reliable flow of information during the implementation;
- ii. Provide decision makers with information on procurement progress and adjust operations to take account of significant experiences in the procurement process, undertaking mid-course corrections where needed;
- iii. Help the IGAD Secretariat in identifying targets and objectives for procurement implementation; and
- iv. Assist the IGAD Secretariat to maintain easily retrievable records of procurement implementation that can be later used for evaluation purposes.

Monitoring and evaluation of the procurement processes shall also facilitate the smooth operation of the procurement tasks as it helps IGAD to:

- i. Ensure that procurements are within the annual procurement plan;
- ii. Identify weaknesses and delays in the procurement process;
- iii. compare prices against market standards;
- iv. identify the scale and values of common use items that may benefit from the introduction of framework contracts;
- v. identify regular procurements of identical items which may indicate that requirements have been split to avoid an approval threshold or a procurement procedure;
- vi. assess performance of Procurement Units, Tender Committee, Local Procurement Committee;
- vii. assess performance of suppliers, contractors and consultants; and to
- viii. identify any necessary remedial action.

9.1.2 Source of information

Procurement monitoring and evaluation information can be obtained from:

- i. Annual Reports of Procurement from IGAD procurement unit and specialised offices;
- ii. Monthly status of Purchase Orders;
- iii. Report of Tender Committee;
- iv. Regular meetings with stakeholders;
- v. Reports of the Internal Audit;

- vi. Reports of any specialist external procurement audits;
- vii. Bidder and supplier complaints made to IGAD;
- viii. Routine sampling of Procurement Dossiers for individual procurements;
- ix. Procurement Dossier for any procurement which appears to deviate from compliance with the Regulations.

9.1.3 Reporting

The reporting system attached to the monitoring activities includes Quarterly Procurement Progress Report and Annual Procurement Progress Reports. The reports shall analyze IGAD's procurement activity by categories, volumes and values, and reporting on specific issues, failings and successes in performance.

The Responsibility of producing these Reports rests with the Procurement Unit. However the Procurement Unit can request the input of any other IGAD Secretariat unit or specialized offices which deemed competent for providing relevant technical and other relevant information.

To ensure that full information for all activities can be incorporated into the quarterly and annual Reports, all LPCs are required to submit quarterly and annual summary reports to the Headquarters Procurement Unit, for all contracts entered into during the year.

The report should be sent to the Procurement Unit within 15 and 30 days of the end of each financial quarter and year respectively with the following details.

- i. Reference Number (Purchase Order Number or other reference);
- ii. Subject of Procurement;
- iii. Name of Supplier/Contractor;
- iv. Source of Funds (if other than IGAD);
- v. Date of Contract Award;
- vi. Contract Value in USD.

Upon receiving the reports the Procurement Unit at the IGAD head office shall consolidate the various reports into a single procurement reports. The consolidated report shall also identify any procurement issues which appears to deviate from compliance with the provisions of the Procurement Manual.

9.2 SUPPLIER REGISTER

Effective procurement depends greatly on the quality and delivery performance of suppliers, contractors and consultants, and their products and services. The Procurement Unit is responsible for maintenance and supervision of registers of suppliers, contractors and service providers who are assessed to be of a suitable standard to meet the requirements of IGAD.

9.2.1 Maintenance and management of supplier registers

The Procurement Unit will maintain Registers of Suppliers used at IGAD based on the following principles:

- i. Periodic open advertisement to invite applications;
- ii. Establishment and publication of clear evaluation criteria for acceptance into the defined categories;
- iii. Monitoring and evaluation of the performance of suppliers on contracts awarded and removal from the register of suppliers who fail to perform satisfactorily;
- iv. Sharing of database information among IGAD Procurement Units;
- v. Registration to be subject to periodic formal renewal, or cancellation if a supplier has not undertaken any IGAD contracts or re-registered within a three-year period.

9.2.2 Additions to the Register of Suppliers

To ensure that any new suppliers, contractors or service providers are given the opportunity to join the Register, open advertisement to invite applications shall be published not less than once every year;

Where invitations are issued for expressions of interest or pre-qualification, suppliers and contractors/service providers who respond and are found to be suitably qualified, but are not already on the Register, shall be added to the database accordingly;

In open competition, where IGAD specifies the criteria and supporting information and documentation required by which the capability of bidders to execute a contract will be assessed, bidders who successfully pass this examination shall also be placed on the Register of Suppliers;

Unsolicited application for registration may be accepted after assessment on the basis of the published criteria.

9.2.3 Supplier Performance Monitoring:

The Procurement Unit shall maintain a fair and transparent system for monitoring the performance of suppliers against the specifications or contractual obligations based on the evidence recorded in the Procurement File.

Mitigating factors must be taken into consideration when assessing supplier performance, and especially factors outside the supplier's control, and any contributory acts or omissions on the part of IGAD such as failure to make a payment or to provide required information on time.

Suppliers who fail to fulfil their contractual obligations in a satisfactory manner, in terms of quality, delivery, performance, or customer service, and who fail to improve their performance on being notified of the deficiency, shall be removed from the Register.

Suppliers failing to perform satisfactorily shall be notified in writing, specifying the deficiencies to be addressed, and may be given an opportunity to improve their performance.

Subject to approval by the relevant authority, suppliers who consistently and seriously fail in contract performance or consistently fail to sign contracts after award for no justifiable reason shall be debarred for a specified period of time after which the supplier will be re-evaluated before readmission.

9.2.4 Categories of Registration

Suppliers are to be registered into appropriate categories for the specific goods or services they supply. Some common examples may be:

- i. Type or value of works contracts;
- ii. Office Stationery and Computer Supplies;

- iii. Computer Services;
- iv. Office Equipment;
- v. Medical Equipment;
- vi. Tyres and Batteries;
- vii. Vehicle Repairs;
- viii. Architectural Design;
- ix. Office Cleaning Services: and
- x. Medical supplies.
- xi. Hotels and Catering services

9.2.5 Other provisions

IGAD Procurement Units have overall responsibility for approval of the suppliers that are entered onto or removed from the Register of Suppliers.

Except when open tendering is required, and where no other method of pre-qualification is used or required, suitable bidders for a limited Competition may be selected directly from the Register.

The selection of shortlists of suppliers shall ensure that a rotation of suppliers on the Register is made to ensure transparency rather than using the same suppliers every time.

9.3 ELECTRONIC PROCUREMENT

Where possible, it is encouraged to give bidders the opportunity to submit their offers electronically. This is an effective way to increase efficiency as well as reducing the environmental impact of traditional paper based tendering.

For electronic submissions, a dedicated portal or email address as appropriate must be set up, and the bidding documents must clearly state that documents received to any other address will be rejected. Only individuals who are not involved in the procurement process may have access to the inbox. Bids received electronically should not be printed prior to the bid deadline or official opening in order to ensure that the contents remain confidential.

Bidding documents may also be distributed electronically, as long as all suppliers are treated equally and receive access to the same information at the same time.

When distributing bidding documents electronically, the Procurement Unit must ensure that the contacts of the other shortlisted suppliers are kept confidential.

Electronically received bids are legally binding, and it is not necessary for suppliers to submit a hard copy bid also, unless otherwise legally required.

The deadline stated in the bidding documents, applies equally to hard copy and electronically received submissions, and IGAD will not be responsible for any network problems and format incompatibility. The format for submission shall be specified in the bid document. It is the responsibility of the supplier to ensure that electronically received bids are received on time.

9.4 PROCUREMENT RECORDS MANAGEMENT

9.4.1 Documentary Records

Documentary records, both in print or electronic format, are essential for efficient and effective management of activities, provide evidence in support of decisions and actions taken, and provide an audit trail for verification of transparency, accountability and effectiveness. Efficient records management is essential to ensure effective storage, retrieval and use with due regard to security, integrity and confidentiality.

All Officers shall ensure they obtain, retain and maintain appropriate documentation supporting the activities for which they are responsible.

Officers involved in approval or authorisation shall ensure that any transactions they approve or authorise are backed by appropriate supporting documentation.

9.4.2 Filing/Record Management System

Procurement Unit has a general responsibility for maintaining Procurement Files. Records and files can be kept in electronic and/or paper based format, as long as the information contained within is kept confidential within the Procurement Unit.

Properly maintained procurement files:

- Can easily be accessed by authorities and other parties;
- Co-ordinate management and follow-up actions;
- Provides an audit trail and helps to avoid:
 - i. partial and incomplete records being held by several different sections and individuals;
 - ii. unauthorised access to records; and
 - iii. failure to take any necessary action at the right time.

9.4.3 Checklist of Procurement Document to be filed

All applicable documents related to the following shall be kept in the procurement file.

- All general Procurement Notes and Dates and publication;
- Current Procurement Plan,
- Invitations, Request for expressions of interest, if applicable
- Date and publication
- Short List
- Request for quotation or proposals, including addenda and clarifications issues;
- Report on evaluation of proposals (both technical and final evaluation reports, if applicable), and proposals received from consultants.
- Clarification requested and issued
- Addenda issued
- Letter of acceptance
- Signed contract
- Performance security, advance payment guarantee
- delivery note or “store receipt voucher” or similar document for goods
- Payment certificates, and payments to date

- Claims and disputes if any
- Minutes of negotiations and signed contra
- Complaints and appeals received during the selection process, if applicable.
- Reports related to contract performance, including claims.
- Payment documents, advance payment guarantee, if applicable.