



**Recovery and Development Agency Procurement
Handbook**

**PROCUREMENT POLICY AND GENERAL
PROCUREMENT PROCEDURES
(Volume 1)**

10 October 2018

This Procurement Policy applies to all procurement carried out by the Recovery and Development Agency throughout its function.

| Version | Date | Approved by | Change Made |
|----------------|------------------|--------------------|--|
| 1 | 5 October 2018 | Premier's Office | First draft based on approved RDA Law (2018/1) |
| 2 | 10 October 2018 | Cabinet | Increase threshold for international tenders from US\$1M to US\$2M |
| 3 | 12 December 2019 | RDA Board | Added a threshold for small expenditure purchases at or exceeding US\$2,000.00 |

Recovery and Development Agency
First Floor, Ritter House
Wickham's Cay II,
Tortola VG 1110
British Virgin Islands

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EXECUTIVE SUMMARY

The Recovery and Development Agency (RDA) will conduct a significant amount of procurement throughout its life. It is essential that the procurement process is conducted in a fair and transparent manner that is in line with international best practice. A strong and clear policy for procurement will support the RDA in ensuring value for money and in attracting funding and investment to support the British Virgin Islands (BVI) to build back *stronger, greener, smarter and better*.

The biggest asset to the BVI is its people and this is the foundation that a better BVI will be built upon. Investment in people through capacity building of BVI Islanders and professional development of the BVI private sector is the common thread behind the procurement handbook. Success in this will be galvanized by an effective partnership between the RDA, Government Ministries and the private sector.

There is a real opportunity to shape and structure each procurement process to deliver social and economic benefit, and in doing so, growing a stronger BVI. There are a number of mechanisms that the RDA will use to achieve this:

1. The contracting thresholds have been structured to **expedite the procurement process without compromising fair competition**. This is done to allow for small contracts (up to US\$70,000) to be tendered in a matter of days, if required. Larger contracts (up to US\$1,000,000) will be advertised widely and subsequently tendered from the Contractor Registration Classification System that is designed to favour BVI businesses. For contracts over US\$1,000,000, which is a threshold for international tenders, there is a requirement for the contractor to provide a minimum of 1% of the contract value for capacity building. This will be achieved through but not limited to, apprenticeship schemes, training and education.
2. In all of these cases, the use of technical evaluation criteria and the “local content” clause will be used, as appropriate, to shape the tender process to **ensure the maximum number of BVI people and firms benefit from RDA contracts**. Local content may take into consideration, but not be limited to, elements such as use of local subcontractors and employees, and purchases of locally sourced goods and services.
3. The RDA intends to use the procurement process to support government to **build a professional construction industry that is capable of competing at the highest international level**. This will be done through managing the scale, size and complexity of contracts over time, building local competence and labour, only using international expertise where required. Joint ventures and partnerships, both local and between internationals and local businesses, will be encouraged and used to increase the participation of BVI businesses. The use of the technical and commercial evaluation process will be used to strengthen the level of ‘local content’.
4. The tender evaluation criteria and procurement strategy will be explicit in the business case process, where the merits of the commercial and financial value will be analysed at length to **ensure there is the appropriate economic and social benefit** from the procurement processes. The level of ‘local content’ will form part of the monthly reports sent to the Minister to provide suitable reassurance that the RDA is meeting its social responsibility to support local labour and business markets.

The procurement process will be guided by this handbook and operationalised through the use of standard procurement templates and forms that will be developed by the RDA. These will evolve and change in complexity in line with the capacity development of the local construction industry and local expertise in allied services.

LIST OF ABBREVIATIONS

| | | |
|------|---|--|
| AGO | - | Auditor General's Office |
| BVI | - | British Virgin Islands |
| CFO | - | Chief Finance Officer |
| CMS | - | Contract Management System |
| CQS | - | Consultants Qualifications |
| CRCS | - | Contractors Registration and Classification System |
| DC | - | Direct Contracting |
| EOI | - | Expression of Interest |
| FBS | - | Fixed Budget Selection |
| GOVI | - | Government of the Virgin Islands |
| ICB | - | International Competitive Bidding |
| ITC | - | Instructions to Consultants |
| LCDB | - | Limited Competitive Domestic Bidding |
| LCS | - | Least Cost Selection |
| NCB | - | National (Domestic) Competitive Bidding |
| NGO | - | Non-Governmental Organisation |
| NPO | - | Not-for-Profit Organisation |
| QBS | - | Quality Based Selection |
| QCBS | - | Quality and Cost-Based Selection |
| REOI | - | Request for Expressions of Interest |
| RFP | - | Request for Proposals |
| SSS | - | Single Source Selection |
| STD | - | Standard Tender Documents |
| TEC | - | Technical Evaluation Committee |
| TOR | - | Terms of Reference |
| VfM | - | Value for Money |
| VI | - | Virgin Islands |

SECTION A: RECOVERY AND DEVELOPMENT AGENCY PROCUREMENT POLICY

1. INTRODUCTION

1.01 This policy is to provide guidance and support to the procurement of goods, works and services for the recovery of the British Virgin Islands (BVI) since hurricanes IRMA and MARIA. The policy has been built upon a foundation of the Public Sector Procurement Policy of the Government of the Virgin Islands (GOVI) and represents International best practice. This policy will be used as the hand-rail for all procurement by the Recovery and Development Agency (RDA). Wherever used herein, a pronoun in the masculine gender shall be considered as including the feminine gender unless the context clearly indicates otherwise.

2. PURPOSE

2.01 The purpose of having a procurement policy is to provide a framework which clearly establishes a commitment to ensuring that RDA Staff, public administrators, contractors, suppliers, consultants and other providers of goods, works or services to the RDA know and understand the management and operations of the RDA procurement system. It also serves to ensure the objectives to achieve transparency and best practice in a fair and efficient procurement system that meets internationally acceptable standards.

3. RATIONALE

3.01 For the RDA to be able to attract investment and to ensure that the maximum value is extracted from every invested resource, the RDA requires their own procurement regulations. In accordance with the Virgin Islands Recovery and Development Agency Act, 2018 section 26.(2)(c) the RDA is to provide guidelines and procedures for procurement of services and goods under the Plan. This document is designed to set out the mechanisms by which the Agency will conduct procurement. The need to conduct capacity building will form a key principle behind all procurement by the RDA. Improperly practiced procurement retards development, inflates the costs of goods and services, increases business costs and reduces profitability thereby increasing the cost of capital investment and discouraging foreign investment. The need for a transparent and efficient procurement system which provides value for money and allows the RDA to provide more services, within its limited financial resources. A balanced, transparent and efficient procurement system will also encourage the participation of domestic contractors, suppliers and consultants thereby contributing to their sustained growth and long-term development.

4. APPLICATION

4.01 Except as provided for in paragraph 4.03 below, this Procurement Policy applies to all procurement carried out by the Recovery and Development Agency throughout its function. The application of this policy may be used as an example of best practice across the region for Procurement in the context of recovery and development.

4.03 The biggest asset to the BVI is its people, they must be the foundation that a better BVI is built upon. Investment in people through capacity building and professional development of the BVI private sector is the common thread behind the procurement handbook. The investment that is made needs to be reinvested back into the BVI economy and not lost into the international ether through ill-conceived procurement. Success in this will be galvanised by an effective partnership between the RDA, GOVI Ministries and the private sector.

4.02 The procurement of goods, services and works under bilateral, multi-lateral and other agreements are subject to the terms of those agreements and are therefore excluded from mandatory compliance with the provisions contained in this Handbook. This will be by exception and will likely be tied to conditionality

of grants and loans associated with donor organisations outside of the GOVI. The RDA Board will approve all agreements that pertain to this requirement before any procurement decision is made.

5. CORE COMMITMENTS AND PRINCIPLES

5.01 Eleven (11) Core Commitments and Principles guide the management and operation of the RDA procurement system. These are:

- 1) **Accountability** in procurement holds all participants responsible for abiding by the rules. The system ensures that all participants are subject to investigation and to sanction, if appropriate, for breaching those rules.
- 2) **Competition:** Potential providers (suppliers, contractors and consultants) compete in an environment that allows all eligible providers of goods, works and services to participate in the procurement process.
- 3) **Economy** in procurement ensures that the purchaser/buyer receives the best value for money. Effective procurement will support continued economic growth within the Virgin Islands.
- 4) **Efficiency** in procurement practice means that the most favourable results for the purchaser are achieved with the least effort and resources. This is achieved by having clear and unambiguous procedures which are understood and practiced by all participants in the process thereby ensuring that they understand the need to maximise results with the least expenditure.
- 5) **Fairness** in procurement means that all suppliers, contractors and consultants are provided with the same information to compete. It also means that decisions which are taken regarding the award of contracts are impartial, unbiased, consistent and able to stand up to public scrutiny. All interested providers compete on a “level playing field”. This ensures the continuing interest of providers in participating in RDA’s procurement opportunities.
- 6) **Integrity** of the RDA procurement system is ensured when all participants adhere to established codes of conduct, values and ethics.
- 7) **Transparency** in RDA’s procurement process means that the process is subject to public scrutiny and that opportunities are built into the process to allow aggrieved providers due process through a complaints and appeals mechanism.
- 8) **Value for Money (VFM)** is defined in this context as a measure of economy and efficiency where financial resources are converted to obtain the maximum benefit from the least possible investment. Therefore, VFM presents the optimum combination of life-cycle costs and benefits of the item being procured. VFM means that GOVI will obtain the best available outcome considering all relevant costs and benefits over the life of the purchased product.
- 9) **Capacity Building** is a key tenet to the recovery from the devastating natural disasters of 2017. All procurement decisions should ensure that they will build capability and capacity within the Virgin Islands to promote economic growth and sustainability delivering a more resilient community capable of dealing with the unforeseen disruptive shocks of the future.
- 10) **Innovation** will support the growth of the BVI economy assisting in diversification and professionalising of the industry. Welcoming and encouraging innovation in tendering and construction throughout the procurement process will maximise the opportunity created by the devastating 2017 storm season.

11) **Climate and disaster resilience** must form part of every procurement decision. Investment that has the capability to withstand, prevent, adapt to or rapidly recover from disruptive challenges will deliver a BVI which is stronger in the face of adversity. This will include the 4 approaches to improving systemic resilience:

Resistance. Preventing damage or disruption by strengthening or protecting outputs.

Reliability. Designing assets and programmes to operate under a range of conditions.

Redundancy. Making backup installations or spare capacity available in networks and systems to enable operations to be switched or diverted.

Response and recovery. Understanding the weaknesses in networks and systems and have arrangements in place to respond quickly to restore services.

6. GOAL

6.01 The overarching goal of the RDA policy and procurement system is to ensure that procurement activities achieve the best value for money in supporting the delivery of the goods, works and services required for recovery without compromising ethics, codes of conduct and the principles of good governance.

7. OBJECTIVES

7.01 In order to achieve the stated goal, this Procurement Policy objectives are to ensure:

- (a) that suppliers, contractors and consultants understand the procurement system as well as their responsibilities and obligations in the procurement process;
- (b) that procurement staff members are competent, qualified and equipped;
- (c) that the procurement system is transparent;
- (d) that public procurement activities are conducted fairly, allowing for equal treatment of all eligible suppliers, contractors and consultants;
- (e) that domestic suppliers, contractors and consultants are provided with ample procurement opportunities to encourage and support national development;
- (f) that mechanisms for resolving complaints, appeals and disputes which occur during the procurement process are established and maintained;
- (g) that there is ethical conduct among RDA staff, public officials, suppliers, contractors and consultants during the procurement process;
- (h) that procuring entities (the RDA) and the procurement procedures comply with the provisions of any national policy, law, regulation, guideline or standard related to pollution control and prevention, waste management, recycling and water and energy conservation as well as Occupational Rights and Freedoms; and
- (i) that procurement is properly regulated through laws, rules and procedures to govern the various aspects of procurement operations.

8. STRATEGIES FOR ACHIEVING OBJECTIVES

8.01 The following general strategies have been designed to achieve the objectives listed in Section 7 above:

(a) **Objective 1:** *Suppliers, contractors and consultants understand the procurement system as well as their responsibilities and obligations in the procurement process*

Strategy: Suppliers, contractors and consultants are important participants in the RDA's procurement system. They therefore need to be fully conversant with the system's operations and rules to successfully access RDA's procurement opportunities. The RDA will post procurement information on the RDA website, GOVI website and in the national media (print and electronic) for ease of access to this information by these procurement participants. In addition, the Procurement Team of the RDA will host regular workshops on procurement participation targeted mainly at domestic suppliers, contractors and consultants.

(b) **Objective 2:** *Procurement staff members are competent, qualified and equipped.*

Strategy: In order to build and maintain the capacity of public sector staff involved in the practice of procurement, the RDA will arrange for procurement staff (both RDA and GOVI) to receive regular training facilitated by experts in the field. The main beneficiaries of training will be RDA Staff, GOVI Procurement Unit and selected staff of other Ministries as well as the Auditor General's Office and Internal Audit departments.

(c) **Objective 3:** *Transparency in the procurement system*

Strategy: All procurement information will be published to ensure public scrutiny and accountability. Electronic and print media will be the main channels for information sharing. The Procurement Team will be required to ensure the publicising of procurement opportunities and awards. The RDA will prepare regular reports to its Board indicating progress and procurement decisions which will then be publicly available.

(d) **Objective 4:** *Procurement activities are conducted fairly, allowing for equal treatment of all eligible suppliers, contractors and consultants*

Strategy: The RDA will ensure that suppliers, contractors and consultants will not be discriminated against and that there will be consistency of practice across all procurement activity. This will be supported using standard solicitation documents and standard evaluation methods.

(e) **Objective 5:** *Domestic suppliers, contractors and consultants are provided with ample procurement opportunities to encourage and support recovery and national development*

Strategy: Capacity Building is one of the 11 core commitments and therefore to foster the development of domestic capability in respect of the supply of goods, works and services, some "set asides" must be provided in which only domestic providers compete provided that they are capable of delivering the goods, works and services required under those procurement opportunities. The strategy anticipates that as domestic providers develop and become more capable, they will be able to compete successfully with regional and international providers on larger and more complex contracts.

(f) **Objective 6:** *Establishment and maintenance of mechanisms for resolving complaints, appeals and disputes which occur during the procurement process*

Strategy: There cannot be a situation where bidders are unable to appeal unfair treatment. A complaints and appeals mechanism consisting of a step-by-step procedure to deal with complaints from bidders who are aggrieved by any aspect of the procurement process or the award of a contract for a procurement opportunity in which they participated must be available. All contracts will contain appropriate clauses for the resolution of any dispute that may arise during the execution of a contract.

(g) **Objective 7:** *Ethical conduct among RDA staff, public officials, suppliers, contractors and consultants during the procurement process*

Strategy: The highest ethical standards are expected from those who participate in the procurement process. This includes suppliers, contractors and consultants as well as public officials, public sector staff and RDA Staff who may be involved in any aspect of procurement. Conflicts of interest, unethical behaviour and fraudulent and corrupt practices will not be tolerated and will result in sanctions or prosecution. It is expected that any unethical, fraudulent or corrupt conduct by colleagues, providers or any other person will be reported to superiors, the Chief Finance Officer, the Chief Executive Officer and the Chair of the Board.

(h) **Objective 8:** *Procuring entities and the procurement procedures must ensure that providers comply with the provisions of any national policy, law, regulation, guideline or standard related to pollution control and prevention, waste management, recycling and water and energy conservation as well as Occupational Rights and Freedoms.*

Strategy: GOVI has established and published the “Environmental Guide to Green Procurement” as well as the “Occupational Rights and Freedoms” and requires that the provisions of those publications must be complied with by all procuring entities by inserting appropriate conditions and clauses in all procurement solicitation documents and contracts.

(i) **Objective 9:** *Procurement is properly regulated through laws, rules and procedures to govern the various aspects of procurement operations.*

Strategy: It is anticipated that a Procurement Act/Law will be enacted to strengthen the procurement system and create enforceable and binding obligations for persons involved in procurement. Procurement Regulations will also be revised to increase the effectiveness of the proposed Procurement Act/Law. These actions will provide a complete legal and regulatory framework within which procurement by all procuring entities, including the RDA will be practiced.

9. KEY STAKEHOLDERS AND ROLES

9.01 The following are the key stakeholders and their roles in the RDA Procurement Policy.

(a) **Cabinet**

The Cabinet is responsible for approving the procurement regulations - policy and procedures - that govern the RDA’s procurement process.

(b) **Board**

The RDA Board has the overall responsibility for the procurement system including direct responsibilities for developing and informing procurement policy and procedures and monitoring their implementation. These tasks can be delegated to RDA Staff but the responsibility remains that of the Board.

(c) **Chief Executive Officer (CEO)**

The CEO is the head of the Agency and accountable to the Board for procurement within the Agency. The CEO has a non-executive role in the RDA Board and is responsible for presenting the Business Cases to the Board for approval and making recommendations to the Board on subsequent procurement decisions.

(d) **Chief Finance Officer (CFO)**

The CFO holds the responsibility for overseeing the procurement process within the Agency. He is charged with ensuring that procurement is consistent with the Eleven Core Commitments and that it is aligned with this policy.

(e) **Procurement Team**

The Procurement Team is responsible for carrying out the administrative work necessary to support the Agency in the delivery of its prescribed tasks under the Boards Direction. They will inform the procurement strategy and business case procedure ensuring VfM and efficient contracting. They provide the commercial evaluation of the bidders' submissions. The Procurement Team is an internal arrangement within the RDA to conduct any procurement on behalf of the Agency.

(f) **Evaluation Committee**

This is the committee as directed in the Business Case which will conduct the technical evaluation of the bidders' submissions. It will not have permanent members but will be selected based on project size and technical details.

(g) **Auditor General's Office**

In accordance with the general powers conferred by Section 109 of the Virgin Islands Constitution Order 2007, the Auditor General's Office is inter-alia responsible for auditing the accounts of all public entities inter alia to ascertain whether any payment of public money conforms to the authority which governs it, and has been incurred with due regard to the avoidance of waste and extravagance.

(h) **Procurement Appeals Committee**

When required the Chair of the Board will establish a Procurement Appeals Committee as well as the procedures governing that Board's review of procurement decisions against which aggrieved suppliers, contractors and consultants have formally appealed.

(i) **Internal Auditor**

The Internal Auditor is responsible for conducting Audits on the procurement process and reporting findings to the RDA Board.

10. LEGISLATIVE FRAMEWORK

10.01 It is anticipated that a Public Procurement Act/Law and "stand alone" Procurement Regulations will be enacted to strengthen the public sector procurement system and create enforceable and binding obligations for persons involved in public procurement. In the short term, the legislation establishing the RDA will provide sufficient support for the use of this Policy for procurement under the RDA. The following laws currently have specific applicability to the procurement process:

- Virgin Islands Recovery and Development Agency Act 2018
- Public Finance Management Act, 2004 and subsequent Amendments
- Public Finance Management Regulations, 2005
- Audit Act, 2003

11. APPLICABLE LAWS AND OTHER POLICIES

- Laws of the Virgin Islands
- Protocols for Effective Financial Management

12. REPORTING

12.01 Reporting on the procurement process will be included within the monthly project reports provided to the RDA Board. This will provide information on the tender process and contain recommendations for improvement of the process and its implementation.

SECTION B: GENERAL PROCUREMENT PROCEDURES

1. AUTHORITY AND PURPOSE

1.01 This Handbook is issued under the authority of the Virgin Islands Recovery and Development Act 2018. The Handbook consists of three (3) volumes which outline the procedures and methods to be used by those engaged in planning and managing the procurement of goods, works and services, in accordance with this Procurement Policy as outlined in Section A of Volume 1 of the Handbook.

2. SCOPE AND APPLICATION

2.01 Except for the Exclusions which are listed in Appendix 1 and the circumstances described in Section 7.01, the procedures contained in this Handbook should be followed by all those involved in the procurement of goods, works and services by the RDA.

3. PROCUREMENT RESPONSIBILITIES

Chair of the Board

3.01 The Chair of the Board has overall responsibility for procurement, including direct responsibilities for informing procurement policy and procedures and monitoring their implementation.

Ministry of Finance

3.02 In carrying out responsibility in accordance with the Public Finance Management Act, 2004 the MOF may affect routine investigations of the procurement activities of any procuring entity and must maintain a Public Sector Procurement Reporting System containing information relative to governing documentation and contract awards.

The Chief Finance Officer

3.03 The CFO holds the responsibility for overseeing the procurement process within the Agency. He is charged with ensuring that procurement is consistent with the Eleven Core Commitments and that it is aligned with this policy.

Procurement Team

3.04 The Procurement Team is led by the **Head of Procurement**. The team is responsible for carrying out the administrative work necessary to support the Agency in the delivery of its prescribed tasks under the Boards Direction. The team will inform the procurement strategy and business case procedure ensuring VfM and efficient contracting and conduct the commercial evaluation of the bidders' submissions.

Auditor General's Office

3.05 In accordance with the general powers conferred by the Section 109 of the Virgin Islands Constitution Order 2007, the office of the Auditor General will monitor and, as necessary, investigate at its own discretion, the award and implementation of any government contract, in order to ensure that such contract is awarded impartially and on the basis of merit, that the circumstances under which it is awarded or terminated do not involve impropriety or irregularity, and that the contract is implemented in conformity with its terms and conditions.

4. CONFIDENTIALITY

4.01 The tender process shall be treated confidentially by all RDA and GOVI staff. Except as required by law, information relating to the examination, clarification and evaluation of tenders and proposals and other critical aspects of the process shall not be disclosed to suppliers, contractors or consultants or other persons not officially concerned with the process until a contract is awarded.

4.02 It is unethical and illegal, as well as causing reputational damaging, to allow proprietary information to be leaked to any other Ministry/Department and/or Agency, outside entities and authorities. Disclosure of a Bidder's proprietary or strategic information to unauthorized sources by shall result in sanctions against the individual.

4.03 All files within the Procurement Team are to be maintained in an up-to-date and confidential manner. Access to these files and any other related documentation must be restricted to those authorised by the Head of the Procurement Team.

5. COMPLAINTS, APPEALS AND THEIR REVIEW

5.01 Any potential provider that believes that he/she/it has suffered, or may suffer, loss or injury due to a breach of the procedures presented in this Handbook by the Agency may seek review. Notwithstanding the foregoing, however, the following will not be subject to review:

- (a) the selection of a method of procurement of a contract; or
- (b) a decision by the Procurement Team to reject all tenders, proposals, or offers, prior to acceptance.

5.02 Sections 5.03 to 5.10 below indicate the process which must be followed to hear and review the complaint or appeal of the aggrieved potential provider. There are 4 levels of review. These are reviews by the Head of Procurement, the CFO, the Procurement Appeals Committee and ultimately Judicial Review. All complaints/appeals must initially be submitted to the Head of Procurement for the particular goods, works or services in question. When a complaint has been submitted, the Head of Procurement is to inform the CEO, who may choose to escalate to the Board.

Review by The Procurement Team

5.03 The Procurement Team shall only be required to receive and consider complaints which are submitted by the potential provider within twenty-one (21) calendar days of the date that the circumstances giving rise to the complaint had occurred. Within fourteen (14) calendar days of the receipt of a complaint, the Head of Procurement shall issue a written decision (in favour or against) to the complainant, stating the reasons for the decision and indicating that if dissatisfied with the decision, the complainant may lodge an appeal of the decision in writing to the CFO within fourteen (14) days of the provider's receipt of the Head of Procurement's decision.

5.04 Appeals shall be addressed to the CFO and copied to the Head of the Procurement Team. The decision of the Procurement Team shall be final, unless an appeal has been lodged within the fourteen (14)-day period.

5.05 The Procurement Team shall maintain written or electronic records of all complaints received, decisions taken, and copies of appeals transmitted to the CFO.

Review by CFO

5.06 A provider's appeal against a decision made by the Head of the Procurement Team must be addressed to the CFO and received, in writing, by the CFO within fourteen (14) days of the provider's receipt of the Procurement Team's decision. The appeal shall contain: (a) the complaint addressed to the Procurement Team; (b) the Procurement Team's decision; and (c) the provider's grounds for contesting the validity of the decision against which he/she/it has appealed. The CFO shall, within fourteen (14) days of receipt of the appeal, recommend an appropriate resolution/decision, a copy of which shall be submitted to the Head of the Procurement, the provider and any other person deemed appropriate. Should the Procurement Team fail to comply with the recommendation of the CFO or should the provider be dissatisfied with the resolution proposed by the CFO, the provider may institute proceedings for review by the Procurement Appeals' Committee.

Review by the Procurement Appeals Committee

5.07 A provider may appeal against the resolution/decision proposed by CFO. The appeal must be directed and received in writing by the Chair of the Board within fourteen (14) days of the provider's receipt of the CFO's decision. The appeal shall be addressed to the Chair of the Board and shall contain: (a) the complaint addressed to the CFO; (b) the CFO's proposed resolution/decision; and (c) the provider's grounds for contesting the validity of the proposed resolution/decision against which he/she/it has appealed.

5.08 The Chair of the Board will convene a Procurement Appeals' Committee who shall, within fourteen (14) days of receipt of the appeal, recommend an appropriate resolution, a copy of which should be submitted to the Head of the Procurement Team, the CFO, the provider and any other persons deemed appropriate. Should the CFO and the Procurement Team fail to comply with the recommendations of the Procurement Appeals' Committee, the provider may institute proceedings for a judicial review.

5.09 The Procurement Appeals' Committee should as a minimum consist of at least two (2) members of the Board, a specialist in procurement (external to the Agency) and a member of the lead Ministry for the procurement concerned.

Judicial Review

5.10 In appealing the proposed resolution/decision of the Procurement Appeals Committee, the complainant must follow the requirements of the court.

6. FRAUD AND CORRUPTION

6.01 All participants in RDA's procurement process, including RDA staff, public officers, tenderers, suppliers, contractors and consultants are required to observe the highest standard of honesty, integrity and ethics. Participants in the procurement process must undertake to not participate in fraudulent and corrupt practices. For the purpose of this provision fraudulent and corrupt practices are defined as follows:

- "corrupt practice" which means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a GOVI or RDA official in the procurement process or in contract execution;
- "fraudulent practice" which means a misrepresentation or omission of facts to influence a procurement process or the execution of a contract;
- "collusive practice" which means a scheme or an arrangement between two or more bidders which is designed to establish bid prices at artificial, non-competitive levels; and

- “coercive practice” which means harming or threatening to harm, directly or indirectly, persons, their relatives, or their property to influence their participation in a procurement process, or affect the execution of a contract.

6.02 Any proposal for award will be rejected if it is determined that the provider has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the contract in question.

6.03 Participants in RDA’s procurement process must note that all solicitation documents for RDA-financed contracts will include an undertaking that tenderers and proposers observe, in competing for and executing a contract, the laws of Virgin Islands against fraud and corruption (including bribery), as listed in the bidding documents.

7. WAIVERS OF THE COMPETITIVE PROCESS

7.01 In the majority of cases, open competition provides the most efficient and cost-effective method of acquiring the goods, works and services required by the RDA. However, there are certain situations and circumstances in which direct contracting (without competition) with a single provider yields the best value for money and/or the best value to the state. As a result, the following are stipulated as circumstances in which, with justification and the prior approval of the RDA Board, the competitive process to procure goods, works or services may be waived.

7.02 Emergency situations resulting from natural or man-made disasters (eg: hurricanes, storms, earthquakes, extreme drought, extreme flooding). This is for the immediate response to such situations and although it is scale dependent, it may be relevant for the first month or two after an event. This would allow for the rapid and effective post-disaster response to assist in the economic, social and economic recovery.

7.03 Extension of an existing contract for additional goods, works or services of a similar nature, when the original contract had been awarded under a competitive process and no advantage could be gained by further competition and the prices of the extended portion of the contract are reasonable.

7.04 Procurement of proprietary equipment, software or services to ensure functionality especially in a process.

7.05 The need to standardise equipment/spare parts or ensure compatibility with existing equipment which is functioning by purchasing directly from the original supplier. In the case of equipment, for such purchases to be justified, the number of new items should be less than the number of existing items.

7.06 Situations where matters of state security are paramount (eg: police and defence equipment).

7.07 Special emergency purchases where the timing of delivery is critical. In such cases, a written justification has to be provided to prove that the timing of the proposed purchase is not a result of poor procurement planning.

7.08 Situations in which it can be established that the provider (company or individual) is uniquely qualified to provide the required service(s).

7.09 When working with a Non-Governmental Organisation (NGO) or Not-for-Profit Organisation (NPO) and a competitive process would not be a fair mechanism against the commercial sector. A written justification demonstrating VfM must be approved by the Board for this to be allowed.

7.10 When waiving the competitive process and if it is approved by the Board, the need for value thresholds and tendering timelines can also be waived.

8. PROCUREMENT APPROVAL THRESHOLDS

8.01 All procurement will be approved by the Board. The task may be delegated down to the Agency Staff, but the responsibility and accountability remains at the Board level. The delegated approval thresholds and authority for contract awards can be found at the Appendixes to Volumes 2 and 3 of the Handbook.

Contracts shall not be artificially split in order to meet prescribed thresholds and approval-authority levels. The approving authority will have the responsibility to confirm that procedures have been correctly followed and that contract splitting has not been undertaken.

9. PROCUREMENT PLANNING

9.01 The RDA Procurement Team, in consultation with other technical and operations teams within the Agency as well as relevant GOVI Ministries, must plan well in advance for the procurement of goods, works and services in order to ensure that the needs are met in the most effective, economical and timely manner. Procurement plans must coincide with budgets and targets to be achieved. Plans must address the technical, operational, management, budget and other significant considerations.

a) A Procurement Plan should contain all the activities to be undertaken during the procurement process. The plan should:

- Identify at an early stage, all goods, works and services for the particular project as well as their proposed method of procurement.
- Include an overall procurement timetable/implementation schedule showing the various activities and their timing.
- Include all required procurement solicitation notices and the timing for these to be issued.
- Identify all pre-qualification requirements and the timing for document preparation.
- Identify appropriate tender and request-for-proposal documents and the timing for their preparation.
- Indicate whether any pre-tender conferences are required and if so, their timing.

The Procurement Plan should contain in tabular form, a “Summary of Procurement Arrangements” with the following column headings: Description of Contract; Estimated Cost; Procurement Method; Pre-Qualification/Short-listing; Expected Submission Dates; and Comments. The summary should be prepared even if the “project” under consideration consists of one contract.

b) An Implementation Schedule should be prepared for the project and should, to the best extent possible, identify with the tabulation of the elements/activities detailed in the Summary of Procurement Arrangements. In addition, the Implementation Schedule should include realistic periods for preparation of solicitation documents; advertising; prequalification (if required); tendering; evaluation; approval; acceptance; and implementation.

c) A Procurement Plan must be contained within the Business Case before submission to the Board.

10. CONTRACTOR REGISTRATION AND CLASSIFICATION

10.01 Part 27 of the Public Finance Management Regulations, 2005 governs the procurement of stores and services. Regulations 177 and 181 require the pre-qualification of contractors and the maintenance of a list of pre-qualified contractors for the procurement of services including works. Regulation 188 requires that a contract register recording seventeen (17) separate sets of information/data in respect of each public sector contract is to be maintained.

10.02 The Contractor Registration and Classification System (CRCS) will score providers against a number of categories that allow for their capability and competence to be logged. This will ensure that they are invited to tender against projects of appropriate complexity and size, consistent with their experience and capability. The CRCS will form a critical component of the capacity building and professionalisation of the industry. Paragraph 10.05 details the criteria and experience fields that companies will be scored against.

Contract Management System

10.03 A Contract Management System (CMS) has therefore been created by the RDA to address the requirements of Regulations 177, 181 and 188. CMS includes an electronic CRCS which, based on various qualification criteria, grades and classifies contractors and consultants to undertake work of varying types, levels of cost, and complexity.

10.04 Except for works and services being undertaken in circumstances described in Section A4.2 and Section B8 of Volume 1 of this Handbook as well as for works for which costs are estimated to exceed US\$1 million (where a separate pre-qualification process applies), public sector procurement opportunities for contractors and consultants will only be accessible to those which are registered in the CRCS.

10.05 The CRCS is administered by the Procurement Team. Qualification criteria include general and specific experience, organisation and staffing, financial capability, past performance. In addition, there are mandatory requirements which include a certificate of incorporation, possession of a trade licence and “Certificates of Good Standing” with VI’s Financial Services Commission, Inland Revenue Department and Social Security Board. Applicants will be classified into categories which reflect their principal area of competence. The categories include General Construction, Landscaping, Heating Ventilation and Air Conditioning (HVAC), Electrical Work, Plumbing, Furniture Manufacturing, Furniture Installation. The CRCS will be an evolving system that will be mapped against the competence of the industry.

10.06 The Procurement Team is required to utilise the services of contractors who are registered in the CRCS except in circumstances where there are no contractors registered in that category, there has been no response to an invitation to tender or when the circumstances indicated in Section B10.04 of this Handbook apply.

Debarment, Suspension and Ineligibility

10.07 A contractor may be disqualified and/or removed from the CRCS, without liability, if it is found, at any time, that the information submitted concerning the qualifications of the contractor was deliberately false.

10.08 A contractor may be disqualified, suspended or removed from the CRCS, without liability, for reasons of poor performance, pursuant to the contract documents.

11. PUBLICATION REQUIREMENTS

Disclosure of Information to the Public

11.01 Except when ordered to do so by a competent court, and subject to the conditions of such an order, the Agency may not disclose:

- a) information if its disclosure would be contrary to law, would impede law enforcement, would not be in the public interest, would prejudice legitimate commercial interests of the parties or would inhibit fair competition; or
- b) information relating to the examination, evaluation and comparison of tenders, proposals, offers or quotations, and tender, proposal, offer or quotation prices, other than a summary of the evaluation and comparison of tenders, proposals, offers or quotations and the contract award information.

Accessibility to Procurement Documentation

11.02 All solicitation notices, standard tender documents, standard pre-qualification documents, standard requests for proposals and the RDA Procurement Handbook are published (in adobe format) on the website of the RDA and are therefore accessible to the general public for inspection and information.

Publication of Procurement Opportunities

11.03 All procurement opportunities will be published so as to be accessible to the public in a timely manner. However, the publication notice requirements vary for different levels of cost, complexity and method of procuring the contract. Consequently the specific advertising and publication requirements are detailed in Volumes 2 and 3 of this Handbook.

Contract Award Information

11.04 Within two (2) weeks of the granting of approval for the award of a contract, the following information resulting from the solicitation procedure will be published on the website of the RDA and that of the Government of the Virgin Islands and in the newspaper of widest circulation in the Virgin Islands:

- Name and description and scope of contract
- The name of each tenderer who submitted a tender/proposal
- Name of the successful tenderer/proposer, price as well as the duration of the contract awarded

12. SUSTAINABLE DEVELOPMENT

Green Procurement

12.01 Procuring Entities shall take environmental issues into account when tendering for goods or services. The goal is to reduce the impact of the procurement in human health and the environment. Procuring Entities shall, as far as is practicable, pursue Green Procurement by selecting products and services that minimize environmental impacts. Green products:

- use fewer natural resources in their production and/or use;
- contain fewer hazardous or toxic materials;
- have a longer life span;
- consume less energy or water in production or use; and

- can be reused, recycled or can be easily and safely disposed of.

Occupational Rights and Freedoms

12.02 It is required that, in the execution of a contract, a contractor must:

- a) pay rates of wages and observe hours and conditions of labour not less favourable than those established for the trade or industry in the area where the work is carried out;
- b) in respect of all persons employed by him (whether in execution of the contract or otherwise) in every workshop or place occupied or used by him for the execution of the contract, comply with the general conditions required by the Virgin Islands Labour Code Ordinance, 2010 thereunder;
- c) be responsible for the observance of these Conditions by sub-contractors employed in the execution of the contract, and must notify the Agency of the names and addresses of all such sub-contractors;
- d) recognise the freedom of his employees to be members of trade unions and must at all times during the continuance of the contract display for the information of his workers in every factory, or workshop or place occupied or used by him for the execution of this contract, a copy of this condition; and
- e) pay all wages earned by workers directly to them and not to a foreman or any other person supervising or taking part in the operations upon which the workers are engaged.

13. RECORD OF PROCUREMENT PROCEEDINGS

Minimum Standard of Recorded Information

13.01 Without prejudice to the method of storage, the Agency must maintain records of each contract action for a minimum period of 5 years. Procurement process and expenditure records, once audited will become the property of the GOVI. The minimum information which must be recorded are:

- Brief description of the works, goods or services procured;
- Names and addresses of contractors/proposers;
- Procurement procedure used and authorisation reference;
- Name of successful contractor/proposer;
- Date of approval;
- Accepted Contract Amount and actual completion cost;
- Contract duration (forecast and actual);
- Information relative to the qualifications of contractors;
- Summary of the evaluation and comparison of quotations/proposals and/or tenders;
- Any offsets applied and the corresponding authorisation reference pursuant to the Handbook;

- Reason(s) for rejection of any or all quotations/proposals/tenders;
- Summary of requests for clarification/verification of solicitation documents and any modifications thereof;
- Information relative to the successful contractor's performance on the contract; and
- Information relative to complaints, disputes and resolution decisions and appeals.

Rejection of all Tenders, Proposals, Offers or Quotations

13.02 The Procurement Team may reject all tenders, proposals, offers or quotations at any time prior to the acceptance of a tender, proposal, offer or quotation, without incurring liability to tenderers/proposers. The Procurement Team must, upon request, state the grounds for any such rejection, but is not obliged to justify those grounds.

Limitations of Liability

13.03 The RDA shall incur no external or third party liabilities solely by failure to maintain a record of the procurement proceedings. However, responsible individuals may face disciplinary action if procurement records do not justify procurement expenditure.

14. CODE OF CONDUCT, CONFLICT OF INTEREST AND UNETHICAL CONDUCT

14.01 This section provides guidance to all personnel engaged in any aspect of the procurement function in order to enable individuals to avoid conflict of interest and unethical conduct situations.

Conflict of Interest

14.02 All individuals involved in handling a procurement process are expected to observe the RDA Code of Conduct and to be free of interests or relationships that are actually or potentially detrimental to the best interests of the people of the BVI and shall not engage or participate in any transaction involving a company, its affiliates, divisions or subsidiaries in which they have even minor interests. Any individual involved in a procurement process that has assumed, or is about to assume, a financial or other outside business relationship that might involve a conflict of interest, must immediately inform their supervisors in writing of the circumstances involved. This information is to be reviewed at an appropriate level for a decision whether a conflict of interest is present, and if so, what course of action will be taken.

14.03 A conflict of interest exists when an individual involved in a procurement process:

- has an outside interest that materially encroaches on time or attention that should be devoted to the affairs of the Agency;
- has a direct or indirect interest in or relationship with an outsider that is inherently unethical or that might be implied or construed to be, or make possible personal gain due to the officer's ability to influence dealings, render the officer partial toward the outsider for personal reasons or otherwise inhibit the impartiality of the officer's judgment;
- takes personal advantage of an opportunity that properly belongs to GOVI, or the Agency; and
- uses GOVI or Agency property without approval;

14.04 It is the duty of all RDA and GOVI staff and any other employee directly or indirectly involved with the procurement process, especially in the preparation of solicitation documents, evaluation, contract negotiations, contract management and payments to declare any potential conflicts of interest. A conflict of interest will arise when the individual has a direct or indirect relationship with tenderer, consultant, contractor or supplier.

14.05 All individuals involved in the RDA procurement process, found to be in violation of this policy will be subject to sanctions.

Unethical Conduct

14.06 All individuals involved in RDA procurement process must comply with the RDA Code of Conduct and maintain the highest levels of integrity.

14.07 No individual shall use his authority or office for personal gain. Personal gain includes accepting or requesting anything of material value from bidders, prospective bidders or suppliers for the individual, his or her spouse, parents, children or other close relatives, or for other persons from whom the individual might gain direct or indirect benefit of the gift.

14.08 An individual shall seek to maintain and enhance their reputation and that of the Agency by:

- a) Maintaining the highest standards of honesty and integrity in all relationships both inside and outside the Team in which he/she works;
- b) Developing the highest possible standards of professional competence;
- c) Using funds and other resources for which he/she is responsible to provide the maximum VfM;
- d) Complying both with the letter and the spirit of the Laws of the VI, accepted professional ethics and contractual obligations;
- e) Declaring any personal interest that may be a conflict of interest or may affect or might reasonably be deemed by others to affect impartiality in any matter relevant to their duties;
- f) Disclosing any relationship with a tenderer, supplier, contractor or consultant which may be construed as a conflict of interest and taking no part in either the decision-making process or the implementation of any contract where such a relationship exists. Disclosure may be made in writing or, in the context of a meeting, verbally. However, having made the disclosure the individual shall not sit in the meeting while deliberations on the subject matter are being conducted.
- g) Respecting the confidentiality of information gained in the course of duty and not using such information for personal gain or for the unfair benefit of any tenderer, supplier, contractor or consultant;
- h) Providing information in the course of their duty which is true, fair and not designed to mislead;
- i) Treating all tenderers, suppliers, contractors and consultants with fairness and impartiality, and avoiding any business arrangement that might prevent the effective operation of fair competition;
- j) Not accepting business gifts from current or potential Agency or GOVI providers;

- k) Avoiding any business hospitality that would be viewed by others as having an influence in making a RDA business decision as a result of accepting that hospitality;

14.09 All individuals have a moral and ethical responsibility to report an unethical conduct by a colleague, a bidder or a supplier to their superiors.

14.10 Examples of Unethical Conduct - The following are examples of the type of conduct prohibited by this Code of Conduct:

- a) Revealing confidential or “inside information” either directly or indirectly to any provider or prospective provider;
- b) Discussing procurement with any provider or prospective provider outside the official rules and procedures for conducting procurements;
- c) Favouring or discriminating against any provider or prospective bidder in the preparation of technical specifications, terms of reference or standards or the evaluation of tenders and proposals;
- d) Destroying, damaging, hiding, removing, or improperly changing any formal procurement document;
- e) Accepting or requesting money, travel, meals, entertainment, gifts, favours, discounts or anything of material value from providers or prospective providers, suppliers, contractors or consultants;
- f) Discussing or accepting future employment with a provider or prospective provider, suppliers, contractors or consultants;
- g) Requesting any other person to violate the public procurement rules or procedures;
- h) Ignoring evidence that the Code of Conduct has been violated;
- i) Ignoring illegal or unethical activity by providers or prospective providers, suppliers, contractors or consultants including any offer of personal inducements or rewards.

15. APPLICABLE LAW AND DISPUTE RESOLUTION

15.01 All procurement contracts shall include provisions for dealing with the law which is applicable to the contract and the mechanism for settlement of disputes. Depending on the type of contract and the contract documents, these provisions will include procedures for any or all of the following:

- Dispute Adjudication,
- Amicable Settlement and
- Arbitration (must be through the International Arbitration Centre in the BVI).

16. LEGAL FRAMEWORK

16.01 The legal framework which governs RDA Procurement consists of:

- The Public Finance Management Act, 2004 and subsequent Amendments;
- The Public Finance Management Regulations, 2005 and subsequent Amendments; and

- Virgin Islands Constitution Order 2007

It is anticipated that the GOVI will enact a stand-alone Public Procurement Law and separate Public Procurement Regulations.

APPENDIX 1: LIST OF EXCLUSIONS

Procurement of the following is not subject to the procedures of the Handbook of RDA Procurement and they are therefore treated as exclusions. Other methods of acquisition apply.

1. **Items and Services** of a sensitive nature for use in national security or defence.
2. **Services for:**
 - Advertising
 - Cultural Events
 - Employment in the RDA
 - Financial Management
 - Medical work or facilities
 - Pension Funds
 - Travel and Accommodation
3. **Items**
 - Artwork
 - Existing Buildings (purchase and rental)
 - International commodities
 - Land



Recovery and Development Agency Procurement Handbook

PROCEDURES FOR THE PROCUREMENT OF GOODS, WORKS AND NON-CONSULTING SERVICES (Volume 2)

10 October 2018

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APPENDICES

Appendix 1A: Summary of Procurement Requirements – Works and Non-Consulting Services

Appendix 1B: Summary of Procurement Requirements – Goods

LIST OF ABBREVIATIONS

| | | |
|------|---|--|
| AGO | - | Auditor General's Office |
| CFO | - | Chief Finance Officer |
| CMS | - | Contract Management System |
| CQS | - | Consultants Qualifications |
| CRCS | - | Contractors Registration and Classification System |
| DC | - | Direct Contracting |
| EOI | - | Expression of Interest |
| FBS | - | Fixed Budget Selection |
| GOVI | - | Government of the Virgin Islands |
| ICB | - | International Competitive Bidding |
| ITC | - | Instructions to Consultants |
| LCDB | - | Limited Competitive Domestic Bidding |
| LCS | - | Least Cost Selection |
| NCB | - | National (Domestic) Competitive Bidding |
| QBS | - | Quality Based Selection |
| QCBS | - | Quality and Cost-Based Selection |
| REOI | - | Request for Expressions of Interest |
| RFP | - | Request for Proposals |
| SSS | - | Single Source Selection |
| STD | - | Standard Tender Documents |
| TEC | - | Technical Evaluation Committee |
| TOR | - | Terms of Reference |
| VI | - | Virgin Islands |

1. GENERAL

1.1 Types and Categories of Contract

Framework contracts, Concession (Public Private Partnership) contracts and Leasing arrangements into which the RDA may enter are not addressed in this Handbook and are dealt with under separate procedures.

The types of contracts which are considered in this Handbook are Petty Contracts, Intermediate Contracts and Large Contracts. For the purpose of application of the procedures contained herein, each of these is sub-divided into categories. The categories are distinguished by monetary threshold values and the procedures which apply to each category are consistent with the extent of exposure to financial risk.

Petty Contracts are categorised as small Petty Contracts, Intermediate Petty Contracts and Large Petty Contracts.

Intermediate Contracts are categorised into two (2) levels for procurement of works and one (1) level for the procurement of goods.

Large Contracts are categorised into two (2) levels for the procurement of works and two (2) levels for the procurement of goods.

The monetary threshold values which distinguish the various levels are indicated in the Summary of Procurement Requirements in Appendices 1A and 1B.

1.2 Methods of Procurement

Procuring Entities must select appropriate methods of procuring goods, works and non-consulting services depending on the type, size, complexity and cost of the deliverable. They must also consider whether the participation of foreign providers will enhance the quality of the deliverable while adding value in an economic, efficient and transparent manner. One of the following 5 methods should be appropriate for the procurement of most goods, works or non-consulting services. Each method has specific tender thresholds and tender times associated with them that is detailed in Appendices 1A and 1B.

1.2.1 International Competitive Bidding (ICB). The ICB method of procurement usually provides the best value-for-money provided that the goods, works or services being solicited are of sufficient value to interest foreign providers. This is the most open procurement method. It provides the widest competition and therefore usually results in the realisation of the best prices. In view of the fact that the cost of bid preparation to foreign providers seeking to participate in a foreign country is high, ICB is usually only used when the estimated value of the contract is relatively high and /or in-country capability to address the scope and complexity is limited or non-existent. Considerations which would distinguish ICB from other procurement methods include contract provisions for dispute resolution/arbitration, currencies of payment, advertising requirements, terms and methods of payment (goods) and time for preparation of bids. Robust and comprehensive tender documents which include internationally accepted Conditions of Contract must be used. When ICB has been used there will be an expectation of the successful bidder to provide support to local capacity building. It is expected that a minimum of 1% of the contract value should be provided as capacity building through activities such as apprenticeship, training and education. The circumstances in which ICB should be used are indicated in Appendices 1A and 1B.

1.2.2 National (Domestic) Competitive Bidding (NCB). NCB method of procurement is limited to national/local/domestic providers. It should be used in circumstances where the capability and competitiveness of local providers make it unattractive to foreign providers to compete for contracts, especially those which are estimated to cost below a certain value.

Other circumstances in which NCB would be appropriate are for contracts which require a high local transportation component, are labour intensive, are scattered geographically or spread over time in a manner which will upset any economies of scale and where the cost of using ICB are disproportionately high relative to the value of the contract.

Comprehensive tender documents with appropriate conditions of contract must be used and payments are made in local currency. If foreign, providers wish to tender, they should not be prohibited from doing so. All potential Providers (including foreign providers) must be registered and classified under the Contractors Registration and Classification System (CRCS) and the procurement opportunity must be advertised as indicated in Section 2.1.2. The circumstances in which NCB should be used are indicated in Appendices 1A and 1B.

1.2.3 Limited Competitive Domestic Bidding (LCDB). LCDB method of procurement is appropriate for contracts of relatively small value (petty contracts) and participation is limited to local providers. The procurement opportunity is competitive and open to all providers on an invitation basis which are appropriately registered and classified under CRCS for the type and complexity of the contract. The GOVI Petty Contract Form or similar is an appropriate solicitation document. The procurement opportunity must be advertised as indicated in Section 2.1.1. The circumstances in which LCDB should be used are indicated in Appendices 1A and 1B.

1.2.4 Shopping. Shopping is a method of procurement which is based on comparing price quotations. These are obtained from contractors in the case of works and from suppliers in the case of goods. The method is appropriate for simple civil works of small value and for goods which are readily available off-the-shelf. In order to ensure that competitive prices are obtained, a minimum of three quotations must be compared. Requests for quotations must indicate the description, timing and specification of the works or the description, specification, quantity and delivery requirements for the goods. The procurement opportunity is open to all providers which are appropriately registered and classified under CRCS. Simple purchase orders or petty contract forms may be used. The circumstances in which Shopping should be used are indicated in Appendices 1A and 1B.

1.2.5 Direct Contracting (DC). Direct contracting is defined as contracting with a single source without any competition. Sub-section 7 of Section B of Volume 1 of the Handbook indicates the circumstances in which direct contracting is an acceptable procurement method. In addition, when the estimated value of the contract is very small as indicated in Appendices 1A and 1B, direct contracting is also an acceptable procurement method.

1.3 Eligibility and Qualification Requirements

Providers seeking to participate in RDA procurement opportunities must meet eligibility and qualification requirements.

1.3.1 Contractors Registration and Classification System. The Contract Management System (CMS) has been set up by the RDA, in line with Public Finance Management Regulations requirements for the pre-qualification of contractors and the maintenance of a list of pre-qualified contractors for the procurement of services including works. CMS includes an electronic CRCS which based on various qualification criteria, grades and classifies contractors to undertake work of varying types, levels of cost and complexity.

CRCS is administered by the Procurement Team of the RDA. Qualification criteria include general and specific experience, organization and staffing, financial capability, past performance. In addition, there are mandatory requirements which include a certificate of incorporation, possession

of a trade license and “Certificates of Good Standing” with the Virgin Island’s (VI) Financial Services Commission, Inland Revenue Department and Social Security Board.

Applicants are classified into categories which reflect their principal area of competence. The Procurement Team will utilise the services of contractors/suppliers which are registered in the CRCS except in circumstances where there are no contractors/suppliers registered in that category, there has been no response to an invitation to tender or where the estimated value of the contract exceeds the threshold value which defines a Large Contract and therefore utilises a separate pre-qualification exercise as indicated in Appendices 1A and 1B.

1.3.2 Pre-Qualification and Post Qualification. Pre-qualification of contractors is usually necessary for large or complex works. This ensures that invitations to tender are extended only to those which are capable and adequately resourced. Large contracts require a pre-qualification process. In pre-qualification, the criteria which are usually examined are experience, past performance, personnel capability, equipment capability and financial resources. In certain circumstances it may be useful to examine the providers’ history in respect of litigation.

A Standard Pre-Qualification Form must be used in the procurement of Large Contracts. In special circumstances with the approval of the CFO, post-qualification of contractors may be permitted where tenders and qualification information are submitted simultaneously in separate sealed envelopes. Providers which are listed in the CRCS must still undergo the prescribed pre-qualification/post qualification process in order to compete for Large Contracts.

1.4 Types of Pricing and Contract Payments

There are different methods of pricing and payment under contracts for the provision of goods, works or services provided. The most common types are Unit Price, Lump Sum and Reimbursable Cost - Plus Fees.

Care must be taken to ensure that in the preparation of tender documents, the appropriate method of pricing and payment is selected and included.

1.4.1 Unit Price. A unit price contract is also known as a re-measurement contract where the quantity of each work item is estimated for pricing per unit by tenderers. When each work item has been completed, the actual measured quantity is paid at the tenderer’s price per unit of quantity. The estimated quantities of all work items are recorded in Bills of Quantities which are an integral element of the tender document. In this type of contract, the final cost upon completion is not necessarily the same as the accepted contract amount at the commencement of the contract. Unit price contracts are the most common type of contract used for construction of works and supply of goods.

1.4.2 Lump Sum. In a lump sum contract, bills of quantities are not provided, and each tenderer must estimate the total cost of the contract and submit same as his tender price. Interim payments are made under a schedule of payments to the contractor/supplier at pre-defined milestones as work progresses until the contract is completed. In a lump sum contract, the contract price is fixed and can only fluctuate if a change in the laws of the country results in a change in the price of a Government-controlled item which forms a part of the deliverable.

1.4.3 Reimbursable Cost Plus Fees. In this type of contract, the contractor charges the Client for the actual cost which the contractor has incurred in completing the work of the contract plus a pre-determined fee which is usually a percentage of the actual cost. It should not be used except in exceptional circumstances such as conditions of high risk or where costs cannot be determined in advance with sufficient accuracy. If used, such contracts should include appropriate incentives to limit cost.

2. TENDERING PROCEDURES

The following procedures apply to all tenders for goods, works and non-consulting services except for those which are acquired under Small and Intermediate Petty Contracts.

2.1 Pre-Tender Actions

2.1.1. Notification and Advertising. All procurement opportunities must be advertised. Intermediate Contracts and Large Contracts must be advertised on the website of the Government of the Virgin Islands and RDA website as well as in a newspaper of wide circulation in the VI. The use of online media outlets should be used to support the opportunities for companies to see the tender advertisements. In addition, Large Contracts must be advertised in at least one international publication such as the United Nations Development Business Online.

2.1.2. Qualification of Tenderers. All tenderers must be registered in the RDA contractor database (CRCS). Tenderers participating in the procurement of Large Contracts are subject to an additional pre-qualification or post qualification procedure.

2.1.3. Contents of Invitation to Tender. An Invitation to Tender must contain the following information:

- Name and address of Procurement Team
- How to obtain tender documents
- Description of the required goods, works or services
- Place(s) of Delivery (goods)
- Eligibility and Qualification Requirements
- Closing date, time and place of submission of tenders
- Information on marking and sealing of tenders
- Date, time and place of opening of tenders
- Name, telephone number and email address of contact person in Procurement Team for providing clarifications
- Whether a tender security is required.

2.1.4. Electronic Issue of Tender Documents. In certain circumstances, tender documents may be issued electronically.

2.2 Tender Actions

2.2.1 Tender Document Issue Form. A Tender Document Issue Form must be used to record the names and addresses of tenderers that have collected the documents by hand and the times of collection. In the case of electronic issue, each tenderer will be required to respond electronically indicating that the documents have been received in good order. The sent e-mail and tenderers response must be kept as part of the project documentation to

ensure that the document has not been tampered with. The Tender Document Issue Form must be closed at the deadline for receipt of Tenders and signed by a member of the Procurement Team.

2.2.2 Queries, Clarifications, Confidentiality and Addenda Before Submission. During the period of preparation, tenderers must be permitted to raise queries or seek clarifications regarding the contents of the documents. The tender documents must specify that the submission of any queries must be made in writing. Clarifications or answers to any query must be issued to all who received tender documents by providing the text of the query and clarifications or answers issued in the form of written numbered addenda without identifying the source of the query.

The tender document should also stipulate a date during the tender preparation period, before which all clarifications should be sought. The stipulated date should be sufficiently in advance of the tender closing date to allow clarifications/answers to be provided and to allow tenderers to make any necessary adjustments as a result of the information provided in the clarifying addendum.

For Large Contracts (works), tenderers may be invited to attend a pre-tender conference during the tender preparation period. Written minutes of such a meeting must be prepared and provided to all tenderers sufficiently in advance of the closing date for the submission of tenders to enable tenderers to take appropriate actions.

If necessary, the deadline for submission of tenders shall be extended to allow tenderers sufficient time to make necessary adjustments resulting from Addenda or the minutes of the pre-tender meeting.

2.2.3 Pre-Tender Estimate. A pre-tender estimate of the cost of the contract must be prepared in advance of the tender closing date for comparison with the tenders submitted.

2.3 Tender Documents

2.3.1 Use of Standard Tender Documents. The Procurement Team shall use Standard Tender Documents (STD) agreed by the Board, CEO and CFO with minimum changes as necessary to address contract-specific conditions. Any such changes shall be introduced only through the tender data or the contract data sheets, or through Particular (Special) Conditions of Contract. Where no relevant STDs have been issued, the Procurement Team shall use internationally recognised standard conditions of contract and contract forms.

2.3.2 Charges for Tender/Pre-Qualification Documents. Procuring Entities are permitted to charge a fee for each set of tender documents or pre-qualification documents. However, the cost of should not be exorbitant and should be calculated on the basis of the cost to produce and issue each set.

2.3.3 Completeness of Tender Document. Tender documents shall be complete and so worded as to permit and encourage competition and shall set forth clearly and precisely the work to be carried out, the location of the work, the goods to be supplied, the place of delivery or installation, the schedule for delivery or completion, minimum performance requirements, and the warranty and maintenance requirements, as well as any other pertinent terms and conditions.

2.3.4 Basis for Evaluation and Selection. The tender documents shall specify any factors, in addition to price, which will be taken into account in evaluating bids, and how

such factors will be quantified or otherwise evaluated. If tenders based on alternative designs, materials, completion schedules, payment terms, etc., are permitted, conditions for their acceptability and the method of their evaluation shall be expressly stated in the tender documents.

2.3.5 Structure of Tender Documents. All tender documents should at a minimum contain the following sections:

- Information for Tenderers
- Instructions to Tenderers
- Tender Data Sheet
- Evaluation and Qualification
- Tender Forms
- Works/Supply Requirements (including Specifications and Drawings)
- General Conditions of Contract
- Particular Conditions of Contract
- Contract Forms

2.4 Preparation of Tenders

2.4.1 Time for Preparation of Tenders. The time allowed for the preparation and submission of tenders shall be determined with due consideration of the particular circumstances and the magnitude and complexity of the contract. Generally, not less than six (6) weeks from the date of the invitation to tender or the date of availability of tender documents, whichever is later, shall be allowed for ICB. Electronic systems permitting the submission of tenders by electronic means are allowed for Large Contracts where such approval is specified in the tender documents. Where electronic submission of tenders is allowed, the system must be secure, maintain the confidentiality and authenticity of the tenders submitted, and use an electronic signature system or equivalent to keep tenderers bound to their bids. When electronic submission is permitted, tenderers shall continue to have the option to submit their tenders in hard copy by mail or by hand. The deadline and place for receipt of tenders shall be specified in the invitation to bid.

For NCB, not less than 4 weeks from the date of the invitation to tender or the date of availability of tender documents, whichever is later, shall be allowed.

For LCDB, not less than two (2) weeks from the date of the invitation to tender for or the date of availability of tender documents, whichever is later, shall be allowed. In all cases, tenderers shall be permitted to submit tenders by mail or by hand.

2.4.2 Tender Validity. Tender documents must specify the period for which submitted tenders must remain valid. The tender validity period commences on the day of closing of tenders and the period shall be calculated to be sufficient to enable the Agency to complete the comparison and evaluation of bids and obtain all the necessary approvals so that the contract can be awarded within the period of tender validity.

2.4.3 Tender Security. Procuring Entities have the option of requiring a tender security. The inclusion of a tender security is strongly recommended for all categories of contract higher than Petty Contracts and is mandatory for all Large Contracts. When used, the tender security shall be in the amount and form specified in the tender documents and shall remain valid for a period of four (4) weeks beyond the validity period for the tenders, in order to provide reasonable time for the Agency to act if the security is to be called. Tender security shall be released to unsuccessful tenderers once the contract has been signed with the winning tenderer.

2.4.4 Language. Prequalification documents, tender documents and the tenders shall be prepared in English. The contract signed with the winning tenderer shall also be written in English. English shall govern the contractual relations for all procurement.

2.4.5 Clarity of Tender Documents. Tender documents shall be clearly written and where appropriate, shall define the tests, standards, and methods that will be employed to judge the conformity of equipment as delivered, or works as performed, with the specifications. Drawings shall be consistent with the text of the specifications, and an order of precedence between the two (as well as all other documents comprising each tender document) shall be specified (See sub-section 2.13 below).

2.4.6 Standards. Standards and technical specifications quoted in tender documents shall promote the broadest possible competition, while assuring the critical performance or other requirements for the goods and/or works being procured. As far as possible, internationally accepted standards shall be specified such as those issued by the International Standards Organisation with which the equipment or materials or workmanship shall comply. Where such international standards are unavailable or are inappropriate, regional or national standards may be specified. In all cases, the tender documents shall state that equipment, material, or workmanship meeting other standards, which promise at least substantial equivalence, will also be accepted.

2.4.7 Use of Brand Names. References to brand names, catalogue numbers, or similar classifications shall be avoided. Specifications shall be based on relevant characteristics, acceptable standards and/or performance requirements. If it becomes necessary to quote a brand name or catalogue number of a particular manufacturer to clarify an otherwise incomplete specification, the words “or equivalent” shall be added after such reference. Only in exceptional circumstances for proprietary items would a particular manufacturer be specified.

2.4.8 Price Adjustment. Tender documents must state that either:

- (a) tendered prices will be fixed; or
- (b) price adjustments will be made to reflect any changes (upwards or downwards) in major cost components of the contract, such as labour, equipment, materials, and fuel.

Price adjustment provisions are usually not necessary in simple contracts involving delivery of goods or for completion of works with contract periods of eighteen (18) months or less, but it is strongly recommended for contracts which extend beyond eighteen (18) months. However, it is normal commercial practice to obtain firm prices for some types of equipment regardless of the delivery time and, in such cases, price adjustment provisions are not needed. If price adjustments are permitted, the tender documents must provide clear details regarding the methodology for adjustment.

2.4.9 Currency Provisions. Tender documents must state the currency in which prices should be submitted.

For Large Contracts (which are procured by ICB) only, tenderers shall be permitted to submit tender prices in a currency or currencies other than United States Dollars. The procedure for converting prices expressed in different currencies into United States Dollars for the purpose of comparing tenders and the currencies in which the contract price will be paid, must be stated.

For comparison purposes, all tenders shall be expressed in United States Dollars. The exchange rates used for conversion to facilitate comparison in United States Dollars shall be the selling rate of an international monetary agency determined in the contract documentation on the date twenty-eight (28) days prior to the latest date for the submission of tenders.

Payment of the contract price shall be made in the currency or currencies in which the tender price is expressed in the tender of the successful tenderer.

When the tenderer has requested payment in foreign currencies, these must be expressed as a percentage of the tender price and the exchange rates to be used for purposes of payments shall be those specified by the tenderer in the tender, so as to ensure that the values of the foreign currency portions of the tender are maintained without any loss or gain.

2.4.10 Payment Terms. Payment terms shall be in accordance with the international commercial practices applicable to the specific goods, works and non-consulting services.

Contracts for supply of goods shall provide for full payment on the delivery and inspection, if so required, of the contracted goods except for contracts involving installation and commissioning, in which case a portion of the payment may be made after the supplier has complied with all his obligations under the contract.

In cases where the estimated contract price for works exceeds US\$100,000, such Contracts shall provide for the contractor to receive an Advance Payment for mobilisation, regular progress payments, and reasonable retention amounts to be released upon compliance with the contractor's obligations under the contract.

The tender documents shall specify the arrangements for any security required for advance payments.

2.4.11 Conditions of Contract. The contract documents shall clearly define the scope of work to be performed, the goods to be supplied, the rights and obligations of each party and the functions and authority of the engineer, architect, inspector or construction manager, if one is employed in the supervision and administration of the contract. In addition to the general conditions of contract, any special conditions particular to the specific goods or works to be procured shall be included. The conditions of contract should provide a balanced allocation of risks and liabilities.

2.4.12 Alternative Tenders. If Alternative Tenders are permitted, this should be clearly stated in the tender documents. In addition, the documents must indicate how such tenders should be submitted, how the prices should be offered and how such tenders will be evaluated.

2.4.13 Performance Security. Works contract documents shall include a performance security in an amount sufficient to protect the authority (the RDA or relevant authority assigned by the RDA) in case of breach of contract by the contractor. The performance security shall be provided in an appropriate form and amount, as specified in the tender document. A portion of this security shall extend sufficiently beyond the date of completion of the works to cover the defects liability (notification) period up to final acceptance by the authority. Alternatively, contracts may provide for a percentage of each periodic payment to be held as retention money to cover the defects liability (notification) period until final acceptance.

2.4.14 Liquidated (Delay) Damages. Liquidated (delay) damages shall be included in the conditions of contract to cover the costs of delays or loss of revenue or loss of other benefits to the authority, in the delivery of goods, completion of works or failure of the goods or works to meet performance requirements. The amount of liquidated (delay) damages must be based on the value of the loss resulting from the delay and should not be arbitrary or punitive.

2.4.15 Force Majeure. The conditions of contract shall stipulate that failure on the part of the parties to perform their obligations under the contract will not be considered a default if such failure is the result of an event of force majeure as defined in the conditions of contract.

2.4.16 Applicable Law. The law which applies to the contract shall be stated in the tender documents and in the conditions of contract. In most cases, the applicable law will be the Law of VI.

2.4.17 Dispute Resolution. Conditions of contract must include a provision and procedures for the resolution of disputes. Arbitration must be included as the ultimate dispute resolution mechanism but processes such as adjudication, amicable settlement, mediation and dispute review boards should also be included as these processes are designed to permit a speedier dispute resolution, once their rulings are accepted by both parties to the contract. The BVI International Arbitration Centre must be named as the Arbitration Centre.

2.5 Submission and Receipt of Tenders

This sub-section outlines the procedures for the receipt, recording and closing of tenders submitted by mail or by hand. There will be separate and specific procedures for electronic submission of tenders which will be provided in the Invitation to Tender for the particular procurement opportunity in those circumstances. The use of electronic submissions will be encouraged and over the life of the RDA it is intended that all submissions will eventually become electronic however this will need to be project specific.

2.5.1 Tender Box. Tenders must be deposited into a tender box through a posting slot. The posting slot must be lockable so that no tenderer or other person may place a tender or other document into the box without the document being registered by the Procurement Team. The Procurement Team will ensure that there will (at all times when tenders may be received) be a team member to open the slot to allow depositing of tenders and record postings.

The box should also be designed to have a lockable compartment from which the submitted documents may only be removed by the Procurement Team or designated representative.

2.5.2 Location of Tender Box. The tender box must be located in the office of the Agency. The details of the location of the tender box must be clearly indicated in the notice of Invitation to Tender/Pre-Qualify.

2.5.3 Recording of Submissions. All tenders submitted are to be recorded anonymously by a sequential numbering system. The date and time of receipt of each tender is also to be recorded on the outer envelope of each submission and initialled by a member of the Procurement Team or their delegated representative.

2.5.4 Tender Closing. Tenders should only be removed from the box in the presence of the Tender Opening Committee immediately after the time stated in the Instructions to Tenderers for the closing of the tender.

2.6 Tender Opening

Tenders should be opened immediately after the tender closing time. On the date and at the time for opening of tenders, the Tender Opening Committee should be convened.

2.6.1 Tender Opening Committee. The Tender Opening Committee will normally consist of:

- CFO;
- Members of the RDA Procurement Team;
- A member of the RDA Planning Team
- A member of the RDA Operations Team.

2.6.2 Record of Tender Opening. A Tender Receival Form must be prepared, and copies made available to all attending the tender opening.

2.6.3 Pre-Tender Estimate. The amount of the Pre-Tender Estimate must be read out aloud and written into the Tender Receival Form of Record before any tenders are opened.

2.6.4 Tender Opening Procedure. A member of the Procurement Team or delegated representative must open the outer envelopes and extract from the envelopes each Form of Tender with the Appendix attached and each tenderer's tender security as well as any other item prescribed to be inspected and read out at the tender opening.

A member of the Procurement Team or delegated representative must read out the name of each tenderer, their tender prices, each proposed contract period (if this is subject to competition), the absence or presence of tender security and the amount of each.

This information will be recorded on the Tender Receival Form of Record and will be verified by all the members of the Tender Opening Committee who will sign the form to so indicate. The Tender Receival and Opening Form of Record must also list the names of all those present together with their signatures. It must be copied after the meeting and each member of the Committee must be provided with a copy.

Once all tenders have been opened and announced they should be placed in a box or other container to the inside lid of which will be fixed a copy of the Tender Opening Form. This box will then be kept in a secure location by the Procurement Team before and after the tender evaluation.

2.7 Evaluation and Comparison of Tenders

2.7.1 Clarifications of Tenders. Tenderers shall not be requested or permitted to alter their tenders after the deadline for receipt of tenders. The Procurement Team shall ask tenderers for clarification needed to evaluate their tenders but shall not ask or permit tenderers to change the substance or price of their tenders after the tender opening. Requests for clarification and the tenderers' responses shall be made in writing, in hard copy.

2.7.2 Confidentiality. Except as required by law, after the public opening of tenders, information relating to the examination, clarification, and evaluation of tenders and recommendations concerning awards shall not be disclosed to tenderers or other persons not officially concerned with this process until the publication of award of a contract.

2.7.3 Examination of Tenders. The Technical Evaluation Committee (TEC) will be named in the approved Business Case and they are to undertake the evaluation and examination of tenders. The TEC must consist of more than one person or entity.

TEC shall initially examine the tenders to determine whether:

- The tenderers meet eligibility requirements;
- The tenders have been properly signed
- The tenders are accompanied by the required securities
- The tenders are substantially responsive; and
- The tenders are otherwise generally in order.

If a tender is not substantially responsive, that is, it contains material deviations from or reservations to the terms, conditions, and specifications in the tender documents, it shall not be considered further. The tenderer shall not be permitted to correct or withdraw material deviations or reservations once tenders have been opened.

2.7.4 Evaluation and Comparison of Tenders. The purpose of tender evaluation is to determine the VfM of each tender in a manner that permits a comparison on the basis of their evaluated cost and technical compliance. The tender with the lowest evaluated cost, but not necessarily the lowest submitted price, shall be recommended for award.

The tender prices read out at the tender opening shall be adjusted to correct any arithmetical errors. Also, for the purpose of evaluation, monetary adjustments shall be made for any quantifiable non-material deviations or reservations and added to the relevant tender price.

For the supply of imported goods, the evaluation and comparison of tenders shall be on CIP (place of destination) prices or CIF (port of destination).

For the supply of goods manufactured or purchased within the Virgin Islands, the evaluation and comparison of tenders shall be on EXW (ex-works) prices, plus cost of inland transportation and insurance to the place of destination together with prices for any required installation, training, commissioning, and other similar services.

Unless otherwise indicated in the tender documents, contractors are responsible for all duties, taxes, and other levies. Tenderers shall take these factors into account in preparing their tenders as the evaluation and comparison of tenders shall be on this basis.

Tender evaluation for works shall be conducted on a commercial (price) and technical terms with an agreed evaluation criteria and scored assessment between the two areas. Commercial and technical evaluations shall be conducted independently of each other to ensure the principles of VfM and fairness are upheld. The combined score between commercial and technical evaluations will determine the successful bid.

In the case of a tender process for procurement of works which has not been preceded by a separate pre-qualification process, technical and quality considerations as well as the current workload of the tenderers must be examined.

Prices for individual items in a tender must be examined and compared with the prices submitted for the same item in each of the other tenders. The tendered prices for individual items should also be compared with the prices for those items in the pre-tender estimate.

TEC shall prepare a detailed Tender Evaluation Report which clearly sets out the specific reasons why a particular tender is being recommended for award of the contract for submission to the Procurement Team.

2.7.5 Domestic Preference. For goods and works procured under ICB, the RDA may exercise the option of allowing local tenderers a domestic preference of a maximum of 10%. If the option is used, the tender documents must state that a domestic preference for local tenderers applies. The tender document must also clearly set out the manner in which the domestic preference will be calculated prior to the comparison of tendered prices. The domestic preference does not apply to joint ventures of foreign and local contractor(s). Tenders will be expected to quantify the level of local workforce employed and the level of capacity building activity conducted in the execution of the contract. This should be considered as part of the evaluation criteria.

2.7.6 Post-Qualification of Tenderers. In circumstances where works contracts which are being procured under ICB, and bids have been invited but tenderers have not been prequalified, a post-qualification process shall be used to determine whether the tenderer whose bid has been determined to offer the lowest evaluated cost has the capability and resources to effectively carry out the contract as offered in the tender.

In a post-qualification process, the tenderer must prepare qualification and tender information in separate sealed envelopes and place both in an outer envelope for submission. At the tender opening, only the usual tender information is read out and recorded. The envelope containing qualification information remains sealed until after the tenders have been evaluated and the lowest evaluated tender price has been determined.

The criteria to be met for qualification shall have been set out in the tender documents, and if the lowest evaluated tenderer does not meet them, the tender shall be rejected. In such an event, the Procurement Team shall make a similar determination for the next-lowest evaluated tenderer and, if necessary, the subsequent lowest evaluated tenderer or tenderers, until a tenderer meets the qualification criteria set out in the tender documents.

2.7.7 Local Content. In order to support the principle of capacity building and ensure the maintenance of the BVI economy, there may be a need to measure local content as part of the evaluation criteria. The use of a weighted assessment that contributes to the overall commercial evaluation should be used to measure local content. When this is applied to tender submissions, then an explanation of the mechanism and weighting should be included in the Invitation To Tender Documentation. This should take into consideration, but not be limited to, elements such as local

subcontractors, employees, locally sourced goods and services. This can form up to 50% of the commercial evaluation criteria.

2.8 Extension of Tender Validity

Pursuant to sub-section 2.4.2 of this volume of this handbook, the evaluation, recommendation and notification of award of a contract should be completed before the expiration date of the tender validity as indicated in the tender documents. In exceptional circumstances when the original validity period has expired, and the process of evaluation, recommendation and award has not been completed, tenderers may be requested to extend the validity period of their tenders. Such a request must be made of the Agency in writing before the expiration date.

The extension being requested should be carefully calculated to ensure that it is for the minimum period required to complete the process.

If the contract will be a fixed-price contract, any request for second or subsequent extensions should include a mechanism which allows tenderers to make a separate incremental adjustment to the originally quoted prices to reflect any changes in the cost of price inputs to the contract during the period of the extension. The tenderers shall not be requested or permitted to change the originally quoted price or other conditions of their tender.

Tenderers may refuse to agree to extend the tender validity period without forfeiting their tender security but if they agree to the extension which is requested, they must extend their tender security to cover the extended period of tender validity.

2.9 Award Criteria

Award of the contract, within the period of the validity of tenders, to the tenderer who meets the appropriate standards of capability and resources and whose tender has been determined to:

- (a) be substantially responsive to the tender documents;
- (b) scored highest in the TEC; and
- (c) scored highest in the commercial evaluation.

A tenderer shall not be required, as a condition of award, to undertake responsibilities for work not stipulated in the tender documents or otherwise to modify the tender as originally submitted.

2.10 Award of Contract

All procurement will be approved by the Board. The task may be delegated down to the Agency Staff, but the responsibility and accountability remains at the Board level. The delegated approval thresholds and authority for contract awards can be found at the Appendixes 1A and 1B to this Volume of the Handbook.

2.11 Notification and Publication of Award

Within one (1) week of receipt of the approval of award of a contract from the relevant Award Approval Authority, the Procurement Team shall prepare and issue a Letter of Acceptance which notifies the successful tenderer that his offer has been accepted. The Letter of Acceptance constitutes the formation of a contract until the formal Contract Agreement is signed by both parties. Simultaneously, the Procurement Team shall advise the unsuccessful tenderers in writing of the

results of the tender. The Procurement Team shall return their tender securities immediately after the contract has been signed.

Within two (2) weeks of receipt of the approval of award of a contract from the relevant Award Approval Authority, the Procurement Team shall prepare and transmit a Contract Award Summary to the competent designated authority for publication in the news media and on the appropriate RDA website.

The information contained in the Contract Award Summary shall include:

- The name and number of the contract;
- The method of procurement;
- The name of each tenderer that submitted a tender;
- The name of the winning tenderer, price and the duration and summary scope of the contract awarded.

2.12 Rejection of All Tenders

Tender documents shall contain a provision that the authority may reject all tenders. Rejection of all tenders is justified when there is lack of effective competition, or tenders are not substantially responsive or when the submitted prices are substantially higher than the pre-tender estimate and the existing budget.

If all tenders are rejected, the authority may at its option, review the causes justifying the rejection and consider making revisions to the conditions of contract, design and specifications, scope of the contract, or a combination of these, before inviting new tenders.

All tenders shall not be rejected, and new tenders invited on the same tender and proposed contract documents solely for the purpose of obtaining lower prices. If the lowest evaluated responsive tender does not exceed the pre-tender estimate by a significant margin, the Agency may seek to negotiate with the lowest evaluated tenderer to try to obtain a satisfactory contract through a reduction in the scope and/or a reallocation of risks and responsibility which can be reflected in a reduction of the contract price. If these negotiations would result in major modifications to the scope of the contract, re-tendering may be the more appropriate option.

2.13 Contract Documents

The following documents constitute the contract and are to be taken as mutually explanatory of each other. For the purpose of interpretation, they are listed in order of priority:

- The Contract Agreement
- The Letter of Acceptance
- The Letter of Tender
- The Particular (Special) Conditions of Contract
- The General Conditions of Contract
- The Specifications

- The Drawings
- Bills of Quantities, Schedules and any other documents forming part of the Contract.

2.14 Signing of Contract

Following completion of all the requirements of the Letter of Acceptance, the Agency will arrange with the successful tenderer to sign the Contract Agreement, a blank copy of which was included in the tender documents.

The Contractor should be allowed a reasonable amount of time to peruse the contract before being asked to sign it.

Each signed contract agreement must be registered with the Registrar's Office of the Virgin Islands at Road Town, Tortola and copies of the signed Contract Agreement must be delivered to each of the following persons:

- The Contractor;
- The Chair of the Board;
- The CEO;
- The CFO;
- The Agency Internal Auditor;
- The Attorney General;
- The Accountant General; and
- The Auditor General.

2.15 Commencement of the Contract

Under the terms of most internationally acceptable conditions of contract, the contract may not commence until the following are completed.

2.15.1 Signed Contract. The Contract Agreement has been signed by both parties and if required approval of the Contract has been received by the relevant Approval Authorities.

2.15.2 Access to and Possession of the Site. Except otherwise specified in the Contract Data, effective access to and possession of the site (for Works contracts) has been given to the Contractor together with such permits and or approvals required for the commencement of the works.

2.15.3 Advance Payment. The Contractor has received the Advance Payment provided that the corresponding acceptable Bank Guarantee has been delivered by the Contractor to the authority.

The Contractor is usually allowed a period of twenty-eight (28) days after receipt of the Letter of Acceptance to provide the Agency with the Performance Security. The Agency should not return the Contractor's tender security until an acceptable form of Performance Security has been received. However, absence of the Performance Security during the twenty-eight (28)-day period does not delay the Commencement of the Works.

| APPENDIX 1A: SUMMARY OF PROCUREMENT REQUIREMENTS: WORKS AND NON-CONSULTING SERVICES | | | | | | | | |
|--|---------------------------------|----------------------------|------------------------------|---|-------------------------|-------------------------------------|--|--------------------------|
| Type of Contract | Category of Contract | Value Range (US\$) | Method of Procurement | Advertising Requirement | Qualification By | Minimum Classification Grade | Minimum Tender Preparation Period (Weeks) | Recommendation By |
| Simple Purchase Order/Petty Contract | Small Petty Contract | >2,000 but ≤ 10,000 | DC/Shopping | None | CRCS | CRCS – Grade 5 | Not Applicable | Procurement Team |
| Petty Contract | Small Petty Contract | >10,000 but ≤ 50,000 | DC/Shopping | None | CRCS | CRCS – Grade 5 | Not Applicable | Procurement Team |
| | Intermediate Petty Contract | >50,000 but ≤70,000 | LCDB | None | CRCS | CRCS – Grade 5 | Not Applicable | Procurement Team |
| | Large Petty Contract | >70,000 but ≤100,000 | LCDB | Invitation | CRCS | CRCS – Grade 5 | 2 | Procurement Team |
| Intermediate Contract | Intermediate Contract – Level 1 | >100,000 but ≤500,000 | NCB | Website & Newspaper, Online Media | CRCS | CRCS – Grade 4 | 4 | CEO |
| | Intermediate Contract – Level 2 | >500,000 but ≤2,000,000 | NCB | Website & Newspaper, Online Media | CRCS | CRCS – Grade 3 | 4 | CEO |
| Large Contract | Large Contract – Level 1 | >2,000,000 but ≤10,000,000 | ICB | Website, Newspaper, Online Media, Foreign Press | Pre-Qualification | CRCS – Grade 2 | 6 | CEO |
| | Large Contract – Level 2 | >10,000,000 | ICB | Website, Newspaper, Online Media, Foreign Press | Pre-Qualification | CRCS – Grade 1 | 6 | CEO |

APPENDIX 1B: SUMMARY OF PROCUREMENT REQUIREMENTS: GOODS

| Type of Contract | Category of Contract | Value Range (US\$) | Method of Procurement | Advertising Requirement | Qualification By | Minimum Classification Grade | Minimum Tender Preparation Period (Weeks) | Recommendation By |
|--------------------------------------|-----------------------------|-----------------------|-----------------------|--|----------------------------|------------------------------|---|-------------------|
| Simple Purchase Order/Petty Contract | Small Petty Contract | >2,000 but ≤ 10,000 | DC/Shopping | None | CRCS | CRCS – Grade 5 | Not Applicable | Procurement Team |
| Petty Contract | Small Petty Contract | >10,000 but ≤ 50,000 | DC/Shopping | None | CRCS | CRCS – Grade 4 | Not Applicable | Procurement Team |
| | Intermediate Petty Contract | >50,000 but ≤75,000 | Shopping | None | CRCS | CRCS – Grade 4 | Not Applicable | Procurement Team |
| | Large Petty Contract | >75,000 but ≤100,000 | LCDB | Invitation | CRCS | CRCS – Grade 3 | 2 | Procurement Team |
| Intermediate Contract | Intermediate Contract | >100,000 but ≤250,000 | NCB | Website & Newspaper, Online Media | CRCS | CRCS – Grade 2 | 4 | CEO |
| Large Contract | Large Contract – Level 1 | >250,000 but ≤500,000 | ICB | Website & Newspaper, Online Media, Foreign Press | Optional Pre-Qualification | CRCS – Grade 1 | 6 | CEO |
| | Large Contract – Level 2 | >500,000 | ICB | Website, Newspaper, Online Media, Foreign Press | Optional Pre-Qualification | CRCS – Grade 1 | 6 | CEO |



Recovery and Development Agency Procurement Handbook

PROCEDURES FOR THE PROCUREMENT OF CONSULTING SERVICES (Volume 3)

10 October 2018

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LIST OF ABBREVIATIONS

| | | |
|------|---|--|
| AGO | - | Auditor General's Office |
| CFO | - | Chief Finance Officer |
| CMS | - | Contract Management System |
| CQS | - | Consultants Qualifications |
| CRCS | - | Contractors Registration and Classification System |
| DC | - | Direct Contracting |
| EOI | - | Expression of Interest |
| FBS | - | Fixed Budget Selection |
| GOVI | - | Government of the Virgin Islands |
| ICB | - | International Competitive Bidding |
| ITC | - | Instructions to Consultants |
| LCDB | - | Limited Competitive Domestic Bidding |
| LCS | - | Least Cost Selection |
| LOI | - | Letter of Intent |
| NCB | - | National (Domestic) Competitive Bidding |
| QBS | - | Quality Based Selection |
| QCBS | - | Quality and Cost-Based Selection |
| REOI | - | Request for Expressions of Interest |
| RFP | - | Request for Proposals |
| SSS | - | Single Source Selection |
| STD | - | Standard Tender Documents |
| TEC | - | Technical Evaluation Committee |
| TOR | - | Terms of Reference |
| VI | - | Virgin Islands |

1. INTRODUCTION

This volume of the Handbook describes the various procedures which apply to the selection and engagement of consultants by the Procurement Team of the Recovery and Development Agency (RDA). While the specific rules and procedures may vary depending on the particular case, the primary considerations which should guide each process are:

- economy and efficiency;
- quality of the services provided;
- eligibility and qualification;
- transparency in selection; and
- development of local (national) consultants.
- capacity building of the Government of the Virgin Islands (GOVI), including the Ministries.

The process of selecting a consulting firm is usually carried out by evaluating a limited number of proposals submitted by a short-list of consulting firms which have expressed an interest and possess the relevant qualifications and experience. Selection is made from the results of a limited competition among qualified firms which are capable of providing the services required by the assignment. There are six (6) main methods of selecting consultants. These are Quality and Cost-Based Selection (QCBS), Least Cost Selection (LCS), Fixed Budget Selection (FBS), Quality Based Selection (QBS); Consultants Qualifications (CQS); and Single Source Selection (SSS). With the exception of SSS, all include a competitive process.

1.1 Methods of Selection

In engaging a consultant, the RDA Procurement Team must select an appropriate method of selection depending on the type and scope of consulting service which is to be provided. It should also consider whether the participation of foreign consultants will enhance the quality of the deliverable while adding value in an economic, efficient and transparent manner. Depending on the circumstances, one of the following methods of selection should be appropriate for engaging a consulting firm to provide consultancy services. (*The procedures for the selection and engagement of individual consultants are presented separately in Section 3 of this volume*).

1.1.1 Quality and Cost-Based Selection (QCBS). QCBS uses a competitive process among firms which are short-listed to submit proposals. The process takes account of the quality of the proposal and the cost of the services in the selection of the successful firm. Under QCBS, short-listed firms submit separate technical and financial proposals for evaluation. Only the financial proposals of firms whose technical proposals achieve a pre-determined minimum technical score are opened.

The quality of each technical proposal and cost of each financial proposal are given relative weights in a formula which then calculates the combined score for each proposal which met the minimum technical score requirement. The firm whose proposal obtained the highest combined score is then invited to negotiate non-monetary aspects of the proposal. Once agreement with that firm is reached, a recommendation for the award of a contract to that firm is made.

The relative weights to be given to the quality and cost shall be determined for each case depending on the nature of the assignment. (*It should be noted however that experience has shown that*

technical score should not be given a relative weight of less than 0.75 or more than 0.85 in order for QCBS to achieve the desired balance between obtaining high-quality services while providing an effective constraint on cost.)

1.1.2 Least Cost Selection (LCS). LCS also uses a competitive process among firms which are short-listed to submit proposals. The process also takes account of the quality of the proposal and the cost of the services in the selection of the successful firm. Under LCS, short-listed firms submit separate technical and financial proposals for evaluation. Only the financial proposals of firms whose technical proposals achieve a pre-determined minimum technical score are opened. Of those firms, the one which submitted the financial proposal with the lowest cost is then invited to negotiate non-monetary aspects of the proposal.

Once agreement with that firm is reached, a recommendation for the award of a contract to that firm is made. Once firms achieve the pre-determined technical score for quality, then they compete only on cost. It is therefore important to choose an appropriately high pre-determined minimum technical score when this method of selection is used.

1.1.3 Fixed Budget Selection (FBS). FBS also uses a competitive process among firms which are short-listed to submit proposals. Under FBS, the Request for Proposals (RFP) stipulates the available budget and requests the consulting firms to provide their best technical and financial proposals in separate envelopes, within the budget.

The consulting firm which has submitted the highest ranked technical proposal among those whose financial proposals fall within the indicated budget shall be selected and invited to negotiate a contract. Once agreement with that firm is reached, a recommendation for the award of a contract to that firm is made.

This method of selection is appropriate only when the assignment is simple and can be precisely defined so that the budget can be appropriately fixed.

1.1.4 Quality Based Selection (QBS). In QBS, the RFP may request submission of a technical proposal only (without the financial proposal), or request submission of both technical and financial proposals at the same time, but in separate envelopes (two-envelope system). The RFP shall provide either the estimated budget or the estimated time of key experts, specifying that this information is given as an indication only and that consultants shall be free to propose their own estimates.

If technical proposals alone were invited, after evaluating the technical proposals using the same methodology as in QCBS, the consultant with the highest ranked technical proposal shall submit a detailed financial proposal and a final cost is negotiated.

If consultants were requested to provide financial proposals initially together with the technical proposals, safeguards shall be built in to ensure that the financial proposal of only the selected firm is opened and the rest returned unopened, after the negotiations are successfully concluded.

QBS is an appropriate method of selection for the following types of assignments:

- complex or highly specialised assignments for which it is difficult to prepare precise terms of reference (TOR) which define the required input from the consultants, and for which the consultants must demonstrate innovation in their proposals;

- assignments that have a high downstream impact and in which the objective is to have the best experts participate because the highest quality outcome is paramount; and
- assignments that can be carried out in substantially different ways, such that it will not be meaningful to compare technical proposals.

1.1.5 Consultants Qualifications (CQS). In this method of selection, information on the experience and qualifications of consulting firms is solicited through a Request for Expressions of Interest (REOI) or by invitation as may be needed, from at least three qualified firms under Contractors Registration and Classification System (CRCS). Firms having the required experience and competence relevant to the assignment shall be assessed and compared, and the best qualified and experienced firm for the type of assignment shall be selected.

Only the selected firm shall be asked to submit a combined technical and financial proposal and, if such proposal is responsive and acceptable, be invited to negotiate a contract. Both technical and financial aspects of the proposal may be negotiated. The minutes of negotiations should be prepared and signed by both parties.

If the negotiations with the highest ranked consultant fail, the next ranked consultant should be invited for negotiations.

CQS is suitable for small assignments where the need for issuing an RFP, and preparing and evaluating competitive proposals is not justified.

1.1.6 Single Source Selection (SSS). SSS is not a transparent method of selecting consultants because the successful consultant is selected and engaged without any competition. There are few checks and balances on the quality and cost of such an assignment and there is a high risk of the occurrence of undesirable practices under SSS. It should therefore be used only in exceptional cases.

Strong justification for using SSS shall be required and each proposed case must be reviewed and examined in the context of the overall interests of the assignment/project, and the RDA's responsibility to ensure economy and efficiency and provide equal opportunity to all qualified consultants.

SSS may be appropriate in the following cases, and only if it presents a clear advantage over competition:

- for tasks that represent a natural continuation of previous work carried out by the firm and the selection of the firm for the original assignment was carried out in a competitive process;
- for very small assignments; and
- in circumstances where only one firm is qualified or has experience of exceptional worth for completing the assignment successfully.

For QBS, CQS and SSS, there is no formal process for public opening of technical and financial proposals. However, for QCBS, LCS and FBS where cost is a factor in the evaluation, there is a formal administrative process for opening technical and financial proposals as described in sub-sections 2.6 and 2.8 of this Handbook.

1.2 Eligibility and Qualification Requirements

Consultants seeking to participate in RDA's procurement opportunities must meet eligibility and qualification requirements.

A Contract Management System (CMS) has been created by the RDA, in line with the Public Finance Management Regulations requirements for the pre-qualification of contractors and the maintenance of a list of pre-qualified contractors for the procurement of services including works. CMS includes an electronic CRCS which based on various qualification criteria, grades and classifies contractors to undertake work of varying types, levels of cost and complexity. CRCS is administered by the Procurement Team.

Consultants should submit information on their qualifications as well as their general and regional experience in order to be registered under CRCS. Procuring Entities should utilise the services of consultants which are registered in the CRCS except in circumstances where there are no consultants registered in that category of consulting expertise.

1.3 Conflict of Interest

Consultants are usually engaged to provide professional services which include the need to give objective, and impartial advice. The interests of the people of the BVI should be paramount, without any consideration for future work. In undertaking any assignment for which they have been engaged, consultants must avoid conflicts with other assignments and their own corporate interests. Consultants shall not be hired for any assignment that would be in conflict with their prior or current obligations to other clients, or that may place them in a position of being unable to carry out the assignment in the best interest of the of the people of the BVI. Consultants shall not be hired when the following circumstances exist:

- Conflicting relationships which occur when the consultant has a close business or family relationship with a GOVI or RDA official who is involved in the preparation, evaluation or supervision of the assignment or the contract for the assignment.
- Conflict between consulting activities which occurs when the consultant who provides services for a consulting services assignment seeks to provide goods, works or non-consulting services or vice versa for the same project.
- Conflict among consulting assignments which occurs when a consultant is engaged to undertake an assignment the objective or results of which conflict with another assignment which was or is being undertaken by the same consultant. By the same token, a consulting firm may not participate in more than one proposal which is submitted for evaluation, except as a sub-consultant.

1.4 Unfair Competitive Advantage

Fairness and transparency in the selection process require that consultants or their affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to the assignment in question. To that end, the Procurement Team shall make available as part of the contents of the request for proposals, all information that would give any such consultant a competitive advantage. If the information is not provided to all competing consultants, the consultant who benefitted from having the unfair competitive advantage must be disqualified from participating in the selection process and should not be awarded the resulting contract.

1.5 Types of Contracts

There are different types of contracts which may be used to engage the services of a consulting firm. The type of contract which is selected depends on the scope, duration and the desired outputs of the assignment. The three main types are Lump Sum Contracts, Time-Based Contracts and Percentage Contracts.

1.5.1 Lump Sum Contracts. This type of contract is used mainly for assignments in which the scope and the duration of the services and the required output of the consultants are clearly defined. For example, it is widely used for simple planning and feasibility studies, environmental studies, detailed design of standard or common structures, and preparation of data processing systems. Payments are linked to outputs (deliverables) such as reports, drawings, bills of quantities, bidding documents, and software programs. The contract shall include a fixed price (including reimbursable expenses) for the activities to be carried out by the consultant and shall not be subject to any price adjustment, unless the duration of the assignment exceeds eighteen (18) months. In such cases, a price adjustment provision commencing in the nineteenth month is written into the contract initially. Lump sum contracts are easy to administer because they operate on the principle of fixed price for a fixed scope, and payments are due on clearly specified outputs and milestones.

1.5.2 Time-Based Contracts. This type of contract is appropriate when it is difficult to define or fix the scope and the duration of the services, either because they are related to activities carried out by others for which the completion period may vary, or because the input of the consultants required for attaining the objectives of the assignment is difficult to assess. It is widely used for complex studies, supervision of construction, advisory services, and most training assignments. Payments are based on agreed hourly, daily, weekly, or monthly rates for experts (who are normally named in the contract) and on reimbursable items using actual expenses and/or agreed unit prices.

1.5.3 Percentage Contracts. Percentage contracts are commonly used for procurement and inspection agents. Percentage contracts directly relate to the fees paid to the consultant to the estimated or actual project construction cost, or the cost of the goods procured or inspected. The fee is calculated as a percentage of the estimated/actual cost. The contracts are negotiated on the basis of market norms for the services and/or estimated person-month costs for the services, or competitive bids. It should be borne in mind that in the case of architectural or engineering services, percentage contracts implicitly lack incentive for economic design and are hence discouraged. Therefore, the use of such a contract for architectural services is recommended only if it is based on a fixed target cost and covers precisely defined services (but does not include works supervision).

1.6 Other Important Provisions

1.6.1 Payment. Payment provisions, including amounts to be paid, schedule of payments, and payment procedures, shall be agreed and finalized during contract negotiations. Payments may be made at regular intervals (as under time-based contracts) or for agreed outputs (as under lump sum contracts). Payments for all advances (for example, for mobilisation costs) shall be secured by an advance payment security or guarantee, except in the case of small and very small contracts. If the amount of the advance is ten (10) percent of the contract amount or less, the Agency may decide not to require an Advance Payment Security or Guarantee, in which case this should be specified in the draft sample contract which is issued as part of the RFP.

Payments shall be made promptly in accordance with the contract provisions. To that end, only disputed amounts must be withheld, with the remainder of the invoice paid in accordance with the contract.

The contract shall provide for the payment of interest if payment is delayed by the RDA beyond the time allowed in the contract. The rate of interest shall be specified in the contract.

1.6.2 Securities and Liquidated (Delay) Damages. Proposal and performance securities are not recommended for consultants' services. They tend to increase the costs to the consulting industry without real measurable benefit and the cost of their inclusion is passed on to the Client. In addition, because the timely delivery of services of an intellectual and advisory nature is contingent in many ways upon actions by the Client, it is often difficult to prove that delays are the sole responsibility of the consultant, when there are delays. The inclusion of liquidated (delay) damages is not recommended as a provision in contracts for consulting services.

1.6.3 Professional Liability/Indemnity. The consultant is expected to carry out its assignment with due diligence and in accordance with prevailing standards of the profession. As the consultant's liability to the Recipient will be governed by the applicable law, the contract need not deal with this matter unless the parties wish to limit this liability. If they do so, they should ensure that (a) there must be no such limitation in case of the consultant's gross negligence or wilful misconduct; and (b) in other cases, the amount of the consultant's liability to the Client is the total value of the executed contract.

2. SELECTION PROCEDURES FOR FIRMS

2.1 General

Depending on the method of selection chosen, some or all of the information contained in Sub-sections 2.3 to 2.16 apply.

2.2 Pre-Proposal Actions

2.2.1 Cost Estimate (Budget). Preparation of a well-thought-through cost estimate is essential if realistic budgetary resources are to be earmarked. The cost estimate shall be based on an assessment of the resources needed to carry out the assignment: experts' time, logistical support, and physical inputs (for example, vehicles, equipment). In preparing the cost estimate, costs should be divided into two broad categories:

- (a) fee or remuneration (according to the type of contract used); and
- (b) reimbursable items.

If it is anticipated that there will be participation by foreign consultants, costs should be further divided into foreign and local costs. The cost of time inputs shall be estimated on a realistic basis for foreign and national experts. The RFP may indicate the estimated level of experts' time inputs (in the case of QCBS and LCS), or the estimated total cost of the contract (in the case of FBS and QBS), but not detailed estimates such as fees.

2.2.2 The Procurement Team. The Procurement Team is responsible for carrying out the procedures required for selecting and engaging a consultant. The Procurement Team should coordinate all aspects of the selection process in order to ensure consistency and avoid the dissemination of inaccurate or conflicting information to consultants.

2.2.3 Notification and Advertising. Except for Very Small Contracts, all procurement opportunities must be advertised as stated in Appendix 1. In addition, Large Contracts must be advertised in at least one international publication such as the United Nations Development Business Online.

2.2.4 Qualification of Consultants. All consulting firms which submit proposals must be registered on the CRCS before contract award. Consulting firms do not have to register until invited to submit a proposal, but registration will be a pre-requisite for actual award.

2.2.5 Contents of Invitation Notices. There are two types of invitations to provide consultancy services. These are Requests for Expressions of Interest (REOI) and RFP. The REOI is advertised to develop a short-list of consulting firms and only those firms which are short-listed are issued with RFP. REOI must contain the following information:

- Name and address of Agency
- Description of the consultancy services assignment
- Eligibility and Qualification requirements of firms
- Closing date, time and place of submission of Expressions of Interest (EOIs)
- Information on marking and sealing of submissions
- Name, telephone number and email address of Agency point of contact for the procurement.
- Information regarding the limitation on the number of consultants to be short-listed.
- Information advising that only short-listed firms will receive RFP including the TOR for the assignment.
- A disclaimer with respect to the costs of preparation of EOI.
- The Agency's right to terminate the process at any stage without incurring any liability to any consultant

RFP are comprehensive solicitation documents which include:

- Letter of Invitation
- TOR for the assignment
- Instructions to Consultants
- Sample form of the Contract for the assignment

2.2.6 Electronic Issue of Requests for Proposals. In certain circumstances, request for proposal documents may be issued electronically.

2.3 Expressions of Interest (EOI)

Solicitation of EOI is strongly recommended for assignments where an insufficient number of known qualified local or foreign firms are available to create a short-list of consulting firms from which to request the submission of proposals. REOI should contain the information indicated in Sub-section 2.2.5. The information requested shall be the minimum required to make a judgment on the firm's suitability and not be so complex as to discourage consultants from expressing interest. Not less than two (2) weeks from date of publication or posting on the Agency website shall be provided for submission of responses, before

preparation of the short list. Where sufficient known qualified local and/or foreign firms are available, a short-list may be created without soliciting EOI.

2.4 Short-listing of Consultants

The Procurement Team shall give first consideration to those firms expressing interest that possess the relevant qualifications. Short-lists shall comprise enough firms to ensure that there is meaningful competition for the provision of the proposed consultancy services but not so many as to make the process of evaluating proposals unduly burdensome.

The short-list should normally comprise consulting firms of the same category with similar business objectives, corporate capacity, experience and field of expertise, and that have undertaken assignments of a similar nature and complexity. The short-list shall not include Individual Consultants. If the same firm is considered for inclusion in short-lists for concurrent assignments, the Procurement Team shall assess the firm's overall capacity to perform multiple contracts before including it in more than one short-list.

For certain categories and estimated costs of assignments, the short-list may comprise entirely national consultants.

2.5 Preparation and Issuing of RFP

The RFP shall include (a) a LOI, (b) Instructions to Consultants and Data Sheet, (c) the TOR, and (d) the proposed type of contract. The Procurement Team shall use standard RFP with minimal changes as necessary to address assignment-specific conditions. This is to ensure that over time the consistency will improve the speed and quality of responses to the RFP. Any such changes shall be introduced only through the RFP data sheet. Recipients shall list all the documents included in the RFP.

2.5.1 LOI. The LOI shall state the intention of the Agency to enter into a contract for the provision of consulting services, the source of funds, the details of the Procurement Team and the date, time, and address for submission of proposals. It shall also instruct short-listed consultants to respond in writing advising whether or not they will be submitting proposals.

2.5.2 TOR. TOR shall define clearly the objectives, goals, and scope of the assignment and provide background information (including a list of existing relevant studies and basic data) to facilitate the consultants' preparation of their proposals. If transfer of knowledge or training is an objective, it should be specifically outlined along with details of number of staff to be trained, and so forth, to enable consultants to estimate the required resources.

The TOR shall list the services and surveys necessary to carry out the assignment and the expected outputs (for example, reports, data, maps, surveys). However, the TOR should not be too detailed and inflexible, so that they prevent competing consultants from proposing their own methodology and staffing. Firms shall be encouraged to comment on the TOR in their proposals. The RDA's and consultants' respective responsibilities should be clearly defined in the TOR.

It must be noted that TOR should be prepared by a person(s) or a firm specialised in the area of the assignment. The scope of the services described in the TOR must be compatible with the budget.

2.5.3 Instructions to Consultants (ITC). The ITC shall contain all necessary information that would help consultants prepare responsive proposals, and shall bring as much transparency as

possible to the selection procedure by providing information on the evaluation process and by indicating the evaluation criteria and factors and their respective weights and the minimum passing quality score. Consultants, however, shall be free to prepare their own estimates of experts' time to carry out the assignment and to offer the corresponding cost in their proposals.

When, under time-based contracts, the services are of a routine nature or do not require an innovative approach, the Procurement Team may require the consultants to include in their proposal the same level of experts' time inputs as indicated in the RFP, failing which their financial proposal shall be adjusted for the purpose of comparison of proposals and decision for award.

The ITC shall specify the proposal validity period, which should be adequate for the evaluation of proposals, decision on award and finalization of any necessary contract negotiations.

2.5.4 Sample Type of Contract. Sub-section 1.5 briefly outlines the three (3) most common types of contracts. Standard Forms of Contract with the minimum changes necessary to address assignment-specific matters should be used to ensure simplicity and increase submission quality improvement over time. Any such changes shall be introduced only through Contract Data Sheets or through Special Conditions of Contract and not by introducing changes in the wording of the General Conditions of Contract included in the Standard Forms.

2.6 Receipt and Opening of Proposals

Consultants must be allowed sufficient time to properly prepare their proposals. While the time allowed depends on the assignment, in no case should the preparation period be less than four (4) weeks and in most cases it should not exceed eight (8) weeks.

During the period of preparation, the firms may request clarifications about the information provided in the RFP. The Procurement Team shall provide these clarifications in writing and copy them to all firms on the short-list (who have indicated their intention to submit proposals). If necessary, the deadline for submission of proposals should be extended. Technical and Financial proposals must be submitted at the same time in separate sealed envelopes contained within a sealed outer envelope. No amendments to the Technical or Financial Proposal shall be accepted after the deadline, although amended proposals may be submitted before such deadline.

Proposals may be submitted by mail or by hand. Proposals which are submitted to the Procurement Team by courier must be deposited in the Tender Box by a nominated individual specified by the Procurement Team in accordance with Sub-sections 2.6.1 and 2.6.3 below.

2.6.1 Tender Box. Submitted proposals must be deposited into a tender box through a posting slot. The posting slot must be lockable so that no proposal or other document may be placed into the box without the document being registered by the Procurement Team's nominated individual. The Procurement Team will ensure that there will (at all times when proposals may be received) be a suitably nominated individual to open the slot to allow depositing of proposals and record postings.

The box should also be designed to have a lockable compartment from which the submitted documents may only be removed by the Procurement Team or their designated representative.

2.6.2 Location of Tender Box. The tender box must be located in the RDA office. The details of the location of the tender box must be clearly indicated in the LOI.

2.6.3 Recording of Submissions. All proposals submitted are to be recorded anonymously by a sequential numbering system. The date and time of receipt of each proposal is also to be recorded

on the outer envelope of each submission and initialled by the designated individual before being deposited in the tender box.

2.6.4 Closing of Submission of Proposals. On the date and time stipulated in the LOI for the closing of submissions, the Procurement Team or their representative shall ensure that the tender box is securely locked and relocated to the place stipulated in the RFP for the opening of the technical proposals.

2.6.5 Opening of Proposals. Proposals should only be removed from the box by the Procurement Team in the presence of the Tender Opening Committee and opened in accordance with the procedure described in Sub-Section 2.6.8.

2.6.6 Tender Opening Committee. The Tender Opening Committee will normally consist of:

- CFO;
- Members of the RDA Procurement Team;
- A member of the RDA Planning Team; and
- A member of the RDA Operations Team.

2.6.7 Record of Proposal Opening. A Proposal Receival Form must be prepared, and copies made available to all attending the opening of proposals. All proposals received after the deadline shall be declared late and rejected and promptly returned unopened.

2.6.8 Technical Proposal Opening Procedure. A member of the Procurement Team must open the outer envelopes and extract from the envelopes each technical and financial proposal. He/she must also open all the Technical Proposals received (only) and read aloud the names of the consultants that submitted proposals, the presence or absence of duly sealed Financial Proposal envelopes, and any other information deemed appropriate.

This information will be recorded on the Proposal Receival Form of Record and will be verified by all the members of the Proposal Opening Committee who will sign the form to so indicate. The Proposal Receival Form of Record must also list the names of all those present together with their signatures. It must be copied after the meeting and each member of the Committee as well as each signatory to the Proposal Receival Form of Record must be provided with a copy.

All Financial Proposals shall remain sealed and shall remain unopened with the Procurement Team immediately following the conclusion of the opening of technical proposals. The financial proposals shall remain in the custody of the Procurement Team until they are publicly opened after the evaluation of the technical proposals.

Once all technical proposals have been opened and announced they should be placed in a box or other container to the inside lid of which will be fixed a copy of the Proposal Receival Form of Record. This box will then be kept secured and separate to the financial proposals by the Procurement Team who will coordinate the Technical Evaluation process.

2.7 Clarification and Alteration of Proposals

Except as necessary for negotiations with the winning firm or for unavoidable replacement of key experts as necessitated by a request by the Procurement Team to extend the period of validity of the proposals, consultants shall neither be requested nor permitted to alter their proposals in any way after the deadline for the submission of proposals. While evaluating proposals, the evaluation shall be conducted solely on

the basis of the submitted technical and financial proposals, and shall not ask consultants for clarifications, except for perfunctory queries.

2.8 Evaluation and Comparison of Proposals

The evaluation of the proposals shall be carried out in two stages: first the quality, and then the cost. Evaluators of Technical Proposals shall not have access to the Financial Proposals until the technical evaluation is concluded. Financial proposals shall be opened only thereafter. The evaluation shall be carried out in full conformity with the provisions of the RFP.

2.8.1 Evaluation of Quality of Technical Proposals. Given the need for high quality services, the quality of the evaluation of technical proposals is paramount. The RDA shall evaluate each technical proposal using an evaluation committee. This team will be stipulated in the approved Business Case and must not consist of less than three members including qualified specialists in the sector of the assignment under consideration.

The technical evaluation shall take into account the criteria indicated in Sub-Section 2.8.1.1 below. The RFP shall describe each such criteria and sub-criteria along with their relative maximum scores and disclose the overall minimum technical score below which a proposal will be rejected as non-responsive. The indicative range for the overall minimum technical score is 70 to 85 on a scale of 1 to 100. The maximum score for each criterion and the minimum overall technical score shall be determined based on the nature and complexity of the specific assignment.

2.8.2 Criteria and Scoring. The criteria shall include: (a) the consultant’s relevant experience for the assignment, (b) the quality of the methodology proposed, (c) the qualifications of the key experts proposed, (d) transfer of knowledge, if required in the TOR, and (e) the extent of the participation of nationals among key experts in the performance of the assignment.

The recommended scoring ranges for criteria are indicated in the table below. The maximum score for the “Participation by national experts” as indicated below should not exceed ten (10).

| Criteria | Recommended Scoring Range |
|---------------------------------------|----------------------------------|
| Consultants specific experience | 0 to 10 |
| Methodology | 20 to 50 |
| Key Experts | 30 to 60 |
| Transfer of Knowledge | 0 to 10 |
| Participation by National Key Experts | 0 to 10 |
| Total | 100 |

The evaluation committee may further divide these criteria into sub-criteria, as necessary, pursuant to the nature of the engagement. For example, sub-criteria under methodology might be innovation and level of detail. The number of sub-criteria should be kept to the essential. The weight given to experience can be relatively modest since this criterion is already addressed in short-listing the consultant. More weight should be given to the methodology in the case of complex assignments.

Evaluation of only the key experts is recommended as the key experts will ultimately determine the quality of performance. Curriculum Vitae of key experts included in consultants’ proposals must be signed by an authorised officer of the firm and by the individual proposed.

Key experts must be rated pursuant to the following three sub-criteria, as relevant to the task for which they have been proposed:

- general qualifications: general education and training; length of experience, positions held, time with consulting firm as staff, etc.
- adequacy for the particular assignment: education, training, experience in the specific sector, etc.; and
- experience in the British Virgin Islands/Caribbean region: knowledge of the local language, culture, administrative system, government, etc.

The Evaluation committee must evaluate each proposal on the basis of its responsiveness to the TOR. A proposal must be considered unresponsive and rejected at this stage if it does not substantially satisfy the TOR or if it fails to achieve the minimum technical score specified in the RFP.

At the end of this process, the evaluation committee must prepare a Technical Evaluation Report on the quality of the proposals. The report must substantiate the results of the evaluation, including the relative strengths and weaknesses of the proposals. All evaluation records must be retained for a minimum period of five (5) years.

2.8.3 Opening of Financial Proposals and Evaluation of Cost. After the Technical Evaluation Report is completed, the Procurement Team shall inform consultants whose proposals did not meet the minimum qualifying technical score or were considered unresponsive to the RFP and TOR that their financial proposals will be returned unopened after the contract for the assignment has been signed with the successful consultant.

The Procurement Team shall simultaneously notify the consultants that have secured the minimum overall technical score of the date, time, and place set for opening the financial proposals. The opening date shall be set allowing sufficient time for those consultants to make arrangements to attend if they wish to. The financial proposals shall be opened in the presence of representatives of the consultants who choose to attend. Lack of attendance by any consulting firm which submitted proposals is not grounds for disqualification of that consultant's proposal.

The name of the consultant, the technical scores and the offered total prices shall be read aloud and recorded on a Financial Proposal Opening Form when the financial proposals are opened. The opening must be recorded, and minutes sent to all consultants whose technical proposals were considered responsive and achieved the minimum qualifying technical score.

Once all financial proposals have been opened and announced they should be placed in a box or other container to the inside lid of which will be fixed a copy of the completed Financial Proposal Opening Form. This box will then be kept secured by the Procurement Team or designated representative who will coordinate the process of the Final Evaluation Report.

The Evaluation committee shall then evaluate and compare the financial proposals in accordance with the following procedures. Prices shall be converted to United States dollars as stated in the RFP. This conversion shall be made by using the selling (exchange) rates for those currencies quoted by an official source which will be designated by the Authority in the RFP. The RFP shall specify the source of the exchange rate to be used and the date of that exchange rate, provided that the date shall not be earlier than four (4) weeks prior to the deadline for submission of proposals, nor later than the original date of expiration of the period of validity of the proposal.

For a time-based contract, any arithmetical errors shall be corrected, and prices shall be adjusted if they fail to reflect all inputs that are included in the respective technical proposals. For a lump-sum contract, the consultant is deemed to have included all prices in its financial proposal, so neither

arithmetical corrections nor price adjustments shall be made, and the total price included in the financial proposal shall be considered as the offered price.

The evaluation shall then be conducted in accordance with the method of selection below as had been indicated in the RFP. In these methods, cost is a factor in the evaluation; therefore, the financial proposals must be opened publicly.

2.8.4 QCBS. The financial proposal with the lowest offered total price may be given a financial score of 100 and other proposals given financial scores that are inversely proportional to their prices.

The total score shall be obtained by weighting the quality and cost scores and adding them. The weight for the “cost” shall be chosen, taking into account the complexity of the assignment and the relative importance of quality. The weighting must also depend on the degree of innovation sought.

Where, however, unusual approaches are sought, for instance to provide designs for a building of a type that is seldom required or where a wide variety of design solutions may exist, then the technical quality of the proposals should be accorded more importance. The greater the intellectual input required the more the evaluation should be weighted towards technical excellence. It must be noted however, that when the requirement for excellence in technical quality exceeds a certain level, the QBS method should be used.

As a general rule, the weighting for cost should normally not exceed thirty (30) points out of a total score of 100 nor should it be less than twenty (20) points out of a total score of 100. The proposed weightings for quality and cost and the method of calculation must be specified in the RFP. The consultant obtaining the highest total score must be invited for negotiations. It must be stressed that the cost cannot be negotiated as it is a factor in the evaluation.

QCBS is the most common method of selecting consultants mainly because of its wide application to a variety of consulting services such as procurement and inspection services, feasibility and other studies, supervision of construction of works and detailed engineering design services.

2.8.5 LCS. The manner in which the evaluation is carried out under LCS is identical to QCBS in terms of the administrative process, the requirement for technical proposals to achieve a minimum technical score and the opening of only the financial proposals of the consultants whose technical proposals achieved that minimum technical score.

The method differs from QCBS in that there is no weighting and combining of technical or financial scores. Of those consulting firms whose proposals achieved the minimum technical score, the firm with the lowest financial proposal cost must be invited for negotiations. It must be stressed that the cost cannot be negotiated as it is a factor in the evaluation.

In the LCS method, it is crucial that the minimum technical score is set sufficiently high to ensure that the successful consultant provides the required quality because once consultants achieve the minimum technical score, they compete only on price and the consultant with the highest technical score will not necessarily be the winner.

LCS is generally appropriate for selecting consultants for assignments of a standard or routine nature (audits, engineering design of noncomplex works, and so forth) where well-established practices and standards exist.

2.8.6 FBS. Under FBS, the RFP stipulates the available budget and requests the consulting firms to provide their best Technical and Financial Proposals in separate envelopes, within the budget.

The evaluation of all technical proposals shall be carried out first as in the QCBS method and the administrative process for submission and opening of technical and financial proposals is identical. When the financial proposals are opened, those that exceed the indicated budget shall be rejected.

The consulting firm which has submitted the highest ranked technical proposal among those whose financial proposals fall within the indicated budget shall be selected and invited to negotiate a contract. Those financial proposals which exceed the stipulated budget are rejected as unresponsive. Once agreement with that firm is reached, a recommendation for the award of a contract to that firm is made.

FBS is only appropriate for fairly simple assignments where TOR are clear, and the budget can be calculated with a high degree of precision seeing that there will not be any additional funds to pay for tasks which were not clearly understood

2.9 Negotiation and Award of Contract

Negotiations shall include discussions of the TOR, the methodology, the RDA/GOVI Ministry inputs, and special conditions of the contract. These discussions shall not substantially alter the original scope of services under the TOR or the terms of the contract, lest the quality of the final product, its price, and the relevance of the initial evaluation be adversely affected. Major reductions in work inputs should not be made solely to meet the estimated cost or available budget. The final TOR and the agreed methodology shall be incorporated in the "Description of Services" which shall form part of the contract.

The selected firm should not be allowed to substitute key experts, unless undue delays caused by the selection process making such substitution unavoidable or that such changes are critical to meeting the objectives of the assignment. If this is not the case and if it is established that key experts were included in the proposal without confirming their availability, the firm may be disqualified and the process continued with the next ranked firm. The key experts proposed for substitution shall have qualifications equal to or better than the key experts initially proposed.

Financial negotiations shall include clarification of the consultants' tax liability in the BVI (if any) and how this tax liability has been or would be reflected in the contract. Seeing that lump-sum contracts payments are based on delivery of outputs (or products), the offered price shall include all costs (experts' time, overhead, travel, hotel, etc.). Consequently, if the selection method for a lump-sum contract included cost as a factor in evaluation, the offered price shall not be negotiated. In the case of time-based contracts, payment is based on inputs (staff experts' time and reimbursable expenses) and the offered price shall include experts' rates, their time inputs and an estimation of the amount of reimbursable expenses.

When the selection method includes cost as a factor in evaluation, negotiations of experts' rates shall not take place, except in special circumstances, like for example, experts' rates offered are much higher than typically charged rates by consultants for similar services. Consequently, the prohibition of negotiation does not preclude the right of the Agency to ask for clarifications, and, if the fees are very high, to ask for their change. Reimbursable expenses are to be paid on actual expenses incurred at cost upon presentation of receipts and therefore are not subject to negotiations. However, if the RDA wants to define ceilings for unit prices of certain reimbursable expenses (like travel or hotel rates); they should indicate the maximum levels of those rates in the RFP or define a per diem rate in the RFP.

If the negotiations with the highest ranked consultant fail, the RDA must inform the concerned consultant in writing of all pending issues and disagreements, and provide them a final opportunity to respond in writing. Contract negotiations should not be terminated only for budget considerations. If there is still disagreement, the consultant shall be informed in writing of intention to terminate negotiations. Negotiations may then be terminated and the next ranked consultant invited for negotiations. Once

negotiations have commenced with the next ranked firm, however earlier negotiations must not be reopened. After negotiations are successfully completed, the Procurement Team shall promptly notify other firms on the short list that they were unsuccessful.

2.10 Award of Contract

All procurement will be approved by the Board. The task may be delegated down to the Agency Staff, but the responsibility and accountability remains at the Board level. The delegated approval thresholds and authority for contract awards can be found at the Appendix 1A and 1B to this Volume of the Handbook.

2.11 Notification and Publication of Award

Within one (1) week of receipt of the approval of award of a contract from the relevant Award Approval Authority, the Procurement Team shall issue a letter notifying the successful consultant that his offer has been accepted. The letter will constitute the formation of a contract until the formal Contract Agreement is signed by both parties. Simultaneously, the Procurement Team shall advise the unsuccessful consultants in writing of the results of the competition. The Procurement Team shall return their proposals immediately after the contract has been signed.

Within two (2) weeks of receipt of the approval of award of a contract from the relevant Award Approval Authority, the Procurement Team shall prepare and transmit a Contract Award Summary to the RDA Communications Team who will publish the information on the RDA website, GOVI website and other appropriate media platforms.

The information contained in the Contract Award Summary shall include:

- The method of selection;
- The names of all short-listed consultants;
- The name of the successful consultant and the total price, duration and summary scope of the contract awarded.

2.12 Debriefing

In the publication of contract award referred to in sub-section 2.11, the Procurement Team shall specify that any consulting firm wishing to ascertain the grounds on which its proposal was not selected, should request an explanation. The Procurement Team shall promptly provide in writing an explanation of why such proposal was not selected but shall not discuss or mention the contents of other competing proposals. Any consultant that requests a debriefing meeting shall bear all their costs of attending and participating in such a debriefing meeting.

2.13 Rejection of all Proposals and Re-invitation

The Agency will be justified in rejecting all proposals only if:

- all proposals are nonresponsive because they fail to respond to important aspects of the TOR or present major deficiencies in complying with the TOR; **or**
- all proposals fail to achieve the minimum technical score specified in the RFP; **or**

- if the offered price of the successful proposal is substantially higher than the available budget or a recently updated cost estimate.

In the latter case, as an alternative to re-invitation, the feasibility of increasing the budget, or scaling down the scope of services with the firm should be examined. However, any substantial reduction in the scope of services will not be acceptable and will require a re-invitation.

If cost is a factor in the evaluation for a time-based contract, the number of person-months proposed by the consultant may be negotiated, provided that it does not compromise quality or adversely affect the assignment. Even in such cases, the experts' rates shall not normally be negotiated.

If there is a need to re-invite proposals, the new process may include revising the RFP, including the TOR and the budget.

3. SELECTION PROCEDURES FOR INDIVIDUAL CONSULTANTS

3.1 Introduction

In certain circumstances, it may be more efficient and cost-effective to select and engage an individual consultant to carry out a consultancy services assignment. Individual consultants are employed on assignments for which:

- a team of experts is not required;
- no additional (home office) professional support is required;
- the experience and qualifications of the individual are the paramount requirement; and
- the estimated value of the contract and the financial risk resulting from inadequate performance are relatively low.

However, when several individual consultants with different skill-sets are working together on the same general assignment and coordination, administration, or collective responsibility may become difficult because of the number of individuals, it would be advisable to employ a firm.

It must be noted that consulting firms and individual consultants should not compete for the same consultancy services assignment as their methods for selection are too different to make meaningful comparisons during evaluation.

The value ranges in which the use of individual consultants is permitted are indicated in Appendix 1 - Summary of Procurement Requirements.

3.2 Advertising and Notification

When the Agency requires the services of an individual consultant it may be useful to advertise by publishing a REOI, particularly when there is a lack of knowledge of experienced and qualified individuals or their availability, or the services are complex, or there is potential benefit from wider advertising, or if it is a requirement of national law. It may not, however, be required in all cases, and should not take place for Very Small Contracts. All invitations for EOIs should specify selection criteria that are solely based on experience and qualifications. The suggested advertising media are indicated in Appendix 1 - Summary of Procurement Requirements.

3.3 Selection Criteria

Individual consultants are selected on the basis of their relevant experience, qualifications, and capability to carry out the assignment. They do not need to submit proposals and shall be considered if they meet minimum relevant requirements which shall be determined by the Agency and stated in the procurement plan. They must be assessed on the basis of their academic background and relevant specific experience, and, as appropriate, knowledge of local conditions, culture, administrative systems and government organization.

The selection must be undertaken by comparing the relevant overall capacity of at least three (3) qualified candidates among those who have expressed interest in the assignment or have been placed on a short list. Individuals selected to be engaged shall be the most experienced and best qualified, and shall be fully capable of carrying out the assignment.

3.4 Contract

The RDA shall negotiate and sign a contract with the selected individual consultant after reaching agreement on satisfactory terms and conditions of the contract, including reasonable fees and other expenses. The contract can be in the form of a letter-type agreement reflecting the agreed terms and conditions.

3.5 Single Source Selection of Individuals

Individual consultants may be selected on a single-source basis with due justification in exceptional cases such as:

- (a) tasks that are a continuation of previous work that the consultant has carried out and for which the consultant was selected competitively;
- (b) assignments with total expected duration of less than six (6) months;
- (c) urgent situations; and
- (d) when the individual is the only consultant qualified for the assignment.

The use of single source selection must be detailed in a written justification seeking approval from the Chair of the Board to proceed.

| SUMMARY OF PROCUREMENT REQUIREMENTS – CONSULTANTS | | | | | | | |
|--|---------------------------|----------------------------|--|--|-------------------------|--|--------------------------|
| Category of Contract | Value Range (US\$) | Method of Selection | Advertising Media Requirement - Firms | Advertising Media Requirement - Individuals | Qualification By | Minimum Proposal Preparation Period (weeks) | Recommendation By |
| Very Small Contract | >10,000 but ≤ 20,000 | SSS, CQS, IND | None | None | CRCS | 2 | Procurement Team |
| Small Contract | > 20,000 but ≤ 100,000 | CQS, FBS, LCS, QCBS, IND | Website & Online Media, Newspaper | Website & Newspaper | CRCS | 4 | Procurement Team |
| Intermediate Contract | >100,000 but ≤ 250,000 | FBS, LCS, QCBS, QBS, IND | Website, Online Media, Newspaper & Foreign Press | Website, Newspaper & Foreign Press | CRCS & REOI | 4 | CEO |
| Large Contract – Level 1 | > 250,000 but ≤ 500,000 | FBS, LCS, QCBS, QBS | Website, Online Media, Newspaper & Foreign Press | Not Applicable | CRCS & REOI | 4 | CEO |
| Large Contract – Level 2 | > 500,000 | QBS, QCBS | Website, Online Media, Newspaper & Foreign Press | Not Applicable | CRCS & REOI | 4 | CEO |